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By email: superannuationobjective@treasury.gov.au

Objective of Superannuation

The FSC welcomes consultation on articulating and enshrining the objective of superannuation. The FSC supports the Government enacting a clear and concise statement of the objective of superannuation.

The objective of superannuation should have a long-term focus and not be driven by short-term influences, such as the current tax debate. The FSC supports removing this consultation from the distorting effect of the tax debate and ensuring that any definition of the objective has bi-partisan support and is enduring.

A short statement of the system's objective would meaningfully inform debate between the public, policy-makers and stakeholders and be durable over time. The FSC is of the view that a clear statement should not require the support of subsidiary objectives, however, the FSC would support context being provided to assist interpretation of the statement in the explanatory memorandum to the stand-alone bill.

The FSC also recommends the objective is enshrined in stand-alone legislation, rather than in existing superannuation law, as the former provides a single reference point for relevant future changes to superannuation, tax or social security policy.

Please contact me with any questions in relation to this submission on (02) 9299 3022.

Yours sincerely,



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Senior Policy Manager

1. OBJECTIVE OF SUPERANNUATION

The FSC proposes the following objective of superannuation:

To deliver dignity and independence for all Australians in retirement by providing replacement income that is adequate to provide a comfortable standard of living.

This proposed objective is orientated towards the outcome the system is designed to achieve – retirement income that is adequate to affords Australians dignity in retirement – rather than the means by which it is achieved.

A long-term focus

The proposed objective is intended to promote a long-term focus and deter the current debate around changes to the tax treatment of superannuation from being instrumental in determining what the objective of the superannuation system should be.

It would be a poor public policy outcome should the superannuation system be viewed through the current short-term fiscal pressures facing the Commonwealth, particularly should this come at the expense of superannuation savings and create or increase the burden for future taxpayers.

Interpreting the proposed objective

The FSC supports a short, concise explanation of the objective of superannuation and does not support supplementary objectives being added to the principle objective.

Consistent with our recommendation that the objective of superannuation should be enshrined in a stand-alone bill, however, the FSC envisages the explanatory memorandum to that bill providing context on the meaning of the principle objective. This will assist the objective remain enduring and relevant.

The FSC outlines below factors that should feature in the explanatory memorandum to allow future governments and stakeholders interpret the objective.

a) Adequate and comfortable

The FSC supports the objective recognising a direct link between wage replacement during retirement and an individual's pre-retirement income. This will ensure the system also retains a meaningful connection to wages growth and provides for an adequate income, rather than simply act as a safety net.

A distinction from the FSI recommendation is therefore that the FSC proposal does not limit superannuation to providing a replacement or supplement for the age pension. The FSC is of the view the objective of the superannuation system should be aspirational and that adequate replacement income must reflect reasonable community standards.

The FSC defines adequate as 65 per cent of an individual's pre-retirement income, including the age pension, up to twice average weekly ordinary time earnings. Comfortable is therefore a measure of comfort relative to the individual who was contributing to the system, not a single global figure.

The FSC's measure of adequacy is consistent with the recommendations of the Senate Select Committee inquiry into superannuation and living standards in retirement. The FSC also submits that the objective should recognise that many households may need to rely on a single

retiree's superannuation savings to support the retirement of a couple and the impact that permanent disablement or the premature death of one member of a couple may have on superannuation savings.

b) Dignity and independence

Whilst the age pension will remain an important safety net for retirees and likely continue to form part of the retirement income of a majority of Australians for the medium term, the FSC is of the view that the superannuation system should be aspiring to ensure as many people as possible achieve an adequate and self-funded retirement.

The superannuation system should also assist retirees manage other costs that arise in retirement, such as aged care and health costs, as well as the cost of securing adequate insurance coverage, and not be limited to only replacing the cost of the age pension to the Commonwealth.

Community expectations are for a dignified retirement with superannuation income that supplements or replaces the age pension safety net. The FSC is strongly of the view that the objective of the superannuation should not, in any manner, limit or discourage retirement savings that are in excess of what is necessary to end age pension reliance.

Recommendation: The Government enshrine a concise objective in legislation, with the explanatory memorandum to the bill providing context to assist stakeholders interpret the objective.

2. ENSHRINEMENT

The FSC proposes enshrining the objective of superannuation in a stand-alone 'Objective of Superannuation Act'.

There are practical difficulties arising from the alternative (enshrinement in existing superannuation legislation), including:

1. The numerous superannuation, social security and tax laws across which the 'superannuation system' is built; and
2. The potential impact of enshrinement on traditional approaches to statutory interpretation, including its possible interaction with the sole purpose test.

It is important that the objective should not address, or impact upon, the currently legislated best interest duty provided for in the *Superannuation Industry Supervision Act 1993*. The best interest duty is already enshrined in law and its meaning is established and well understood for superannuation trustees.

The FSC instead recommends stand-alone legislation as a suitable alternative - the 'Objective of Superannuation Act'.

Stand-alone legislation would hard code an agreed definition and place an obligation on the relevant Minister to make a 'statement of compatibility' with the objective of the system when legislation is introduced that impacts on the superannuation system.

The Act would not prescribe what information is necessary for a statement of compatibility, but leave this for the Minister to determine. This places the onus on external stakeholders to assess the robustness of a statement of compatibility and publicly hold the Government to account for unpersuasive statements.

The *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) (HR Act) provides precedent for this approach. The HR Act requires MPs and Senators to make statements of compatibility regarding legislation introduced to parliament that may impact on human rights. A statement of compatibility is not enforceable through the judicial system, but demonstrates that human rights issues have been considered. The HR Act also establishes a parliamentary committee with authority to scrutinise bills for human rights implications, however we do not propose this being applied in this case.

The FSC also supports a periodic review of the superannuation system against the objective as outlined in the propose legislation with a view towards ensuring stability and certainty in the policy settings between reviews. The FSC envisages this would appropriately be integrated with the five-yearly intergenerational report.

Recommendation: Enshrinement occurs through a stand-alone bill, rather than through existing superannuation law.