

31st March 2023

The Director
Superannuation Insurance and Governance Unit
Member Outcomes and Governance Branch
Retirement, Advice and Investment Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Madam/Sir,

Re: Legislating the objective of superannuation – Consultation Paper

Please find enclosed my submission for the consultation on incorporating an objective for superannuation. This opportunity has been a useful experience in understanding the administration's thinking on the future of superannuation. As the industry grows in size and complexity, a clearly defined objective will serve as a useful guardrail to protect members' interests.

Whilst I am employed in the superannuation industry and am a member of ASFA, the opinions below are in my personal capacity and not endorsed by my organization or ASFA. I look forward to addressing any questions relating to my submission and appreciate the opportunity to participate in this democratic exercise.

Regards,

Satish Bhat Bantwal

1. What do you see as the practical benefits or risks associated with legislating an objective of Australia's superannuation system?

Legislation of an objective for Australia's superannuation system is primarily a long-overdue acknowledgement of the innovation unleashed into Australia's capital markets by this vital sector since inception. From its humble origins in the 90s, the industry has established itself as a transformational source of capital for generations to come. In turn, this has provided Australia with the financial cushion to support the retirement lifestyles of her citizens.

During the three decades since, federal governments of different political persuasions have legislated change in the administration of superannuation policy for funds as well as members, the latter primarily through taxation. Innovative fund structures and asset allocation strategies have been employed to meet the commonly understood societal goal of superannuation - supporting a dignified retirement.

Legislating an objective will seek to enshrine this goal, under law, to which all fund structures will need to measure up to. It will also provide the policy makers and regulators with the ability to determine if a fund structure or trustee is meeting this common goal for its members.

There are risks to legislating an objective to a sector that is as vital to the nation's interest as superannuation. Unless there is bipartisanship in the legislative effort, the attempt could either fail to provide this certainty or worse, be framed in accordance with the political ambitions of the government of the day. Even more important, a strict interpretation could fail to incorporate the changing expectations of future generations in their definition of a "dignified retirement".

2. Does the proposed objective meet your understanding of the objective of the superannuation system in Australia?

The proposed objective does not meet my understanding of the objective of the superannuation system in Australia.

In my opinion, the proposed objective conflates the *purpose* of superannuation with the *approach* that should be adopted. Citizens and the government support the objective of a dignified retirement through the superannuation system. This is achieved by preserving superannuation balances and foregoing its immediate enjoyment, in lieu of a long gestation period and a supportive tax structure upon exit. In essence, an asset-liability match using the individual's funds is the approach adopted to meet the end goal and reduce the public liability for the Age Pension.

The proposed objective however emphasises the restriction of access to superannuation savings. This focus could have been prompted by the data on early withdrawals permitted during the Covid epidemic that resulted in \$38 Bn being pulled out of super. It should be considered that such withdrawals were permitted under exceptional circumstances due to the loss of income.

The alternative wording of the objective which is more aligned to my understanding is –

"The objective of superannuation is to **deliver income** for a **dignified** retirement, alongside **government support**, in an **equitable** and **sustainable manner**."

In this objective, dignified retirement is taken to equate to the principle of **adequacy** in the 2020 Retirement Income Review (the Review) which noted that adequacy stood for a minimum standard of living in retirement (assuming such a standard is inflation-indexed).

Missing from the proposed objective is a reference to **cohesion**, which the Review included to mean an integrated approach to processes, mechanisms and incentives to smoothen consumption. This approach would cover compulsory superannuation as well as support for citizens who are not covered by compulsory superannuation. This principle enables well-designed incentives to citizens with superannuation balances thereby reducing the public pension impact, while robustly supporting those with low or non-existent super (e.g., through targeted subsidies).

In my opinion, the alternative wording along with a reference to cohesion is a more appropriate objective for the superannuation system.

3. Is the proposed approach to enshrining the objective in legislation appropriate? Are there any alternative ways the objective could be enshrined?

The approach to enshrine the objective in legislation is appropriate. However, I propose that any legislative change to the superannuation system is developed within the construct of the SIS Act, preferably within the concept of the best financial interests duty (BFID). Rather than a separate act, this approach would ensure the harmonization of the objective with other policy measures of the SIS Act.

Alternative approaches do exist, such as the prudential guidelines that can be issued by the regulator. Prudential guidelines function as quasi-legislative pronouncements and permit debate and advocacy between the government and industry. Further, it is possible to evangelize the objective through the various interactions between the government and superannuation stakeholders, such as the Fund trustees, industry advocacy groups and the wider public especially in the case of SMSFs.

These approaches however will not address the government's intent to hold all prospective policy changes in the superannuation system to a common yardstick. If the superannuation stakeholders do not have a clear and binding obligation to consider the alignment between their charter and the objective, they would not see the merits of applying this test for their members' interests. Alternatively, multiple interpretations of an "objective" will flourish in the industry.

4. What are the practical costs and benefits of an alternative accountability mechanisms to the one proposed?

In my opinions, accountability through existing policy development and parliamentary scrutiny serves as the optimal accountability mechanism for the future reviews of the objective. This way, all industry stakeholders could provide their assessments in future proposals impacted by the legislated objective. This policy dialogue can also be supplemented through regulatory guidelines and interpretations by the judicial system in pronouncements relating to the superannuation system.