



19 April 2024

Superannuation Efficiency and Performance Unit
Retirement, Advice and Investment Division
Treasury
Langton Crescent
PARKES ACT 2600

Email: yfys@treasury.gov.au

Dear Sir/Madam,

SMSF ASSOCIATION SUBMISSION

ANNUAL SUPERANNUATION PERFORMANCE TEST – DESIGN OPTIONS: CONSULTATION PAPER

The SMSF Association welcomes the opportunity to provide this submission in response to the Government's proposed reforms of the *Your Future, Your Super* performance test. Our response is limited to consultation question 34, and the application of performance tests to 'other products', namely self managed superannuation funds (SMSFs).

Extending the performance test to SMSFs

We do not support the introduction of a performance test for SMSFs. To do so would create unnecessary regulatory burden, red tape and add further cost to the system for all stakeholders, for little benefit.

Individual SMSFs are not marketed to the public and are closely held, private funds. Under superannuation law, all members of SMSFs are required to be a trustee of the fund, or a director where a corporate trustee is used.¹ Trust law duties as well as the covenants prescribed in statute² also apply. This includes the duty to act in the 'best financial interests of the beneficiaries.'³

Trustees are responsible for administering the fund and its investment strategy⁴. This includes formulating, documenting and regularly reviewing a compliant investment strategy which considers the risk, composition, diversification, returns and liquidity of the fund's investments⁵. Direct control and responsibility to the management of fund investments lies with the trustees. As such, each SMSF will have bespoke investment strategies, driven by the unique needs and risk profiles of its members.

¹ *Superannuation Industry (Supervision) Act 1993* (Cth) s 17A.

² *Ibid* s 52B.

³ *Ibid* s 52B(2)(c).

⁴ *Ibid* s 52B(2)(f).

⁵ *Ibid*.

⁶ *Superannuation Industry (Supervision) Regulations 1994* (Cth) r 4.09.



Trustees can regularly review the fund's investments, investment strategy and its performance, often in real time. They can also enter the market in real time to acquire or dispose of specific investments.

Many SMSF trustees will be supported by one or more professional advisers, such as financial advisers and stockbrokers. These will provide a range of services which can include the ongoing management of investment portfolios, regular reviews, through to advice and recommendations.

Different investments, even within the same asset class may provide regular income, capital gains or a combination thereof. An investment time horizon must also be considered and will vary considerably as will the risk appetite of trustees and fund members.

The uniqueness and nature of SMSFs makes the benchmarking of individual funds challenging and of little value. The trustees existing duties and obligations require them to consider the needs of members and the fund's investment strategy. This coupled with the advice services they receive, and the statutory, professional and ethical duties imposed on those professionals, further safeguards the sector.

If you have any questions about our submission, please do not hesitate to contact us, and we thank you again for the opportunity to provide this submission.

Yours sincerely,

Peter Burgess
Chief Executive Officer

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.1 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.