



CHARTERED ACCOUNTANTS  
AUSTRALIA • NEW ZEALAND

2 August 2017

Manager  
Accumulation and Savings Unit  
Retirement Income Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Submitted via email to [superannuation@treasury.gov.au](mailto:superannuation@treasury.gov.au)

Dear Sir/Madam,

## Submission – Housing Related Superannuation Measures

Chartered Accountants Australia and New Zealand welcomes the invitation to make a submission on the release of exposure draft legislation, regulations and related material on 21 July 2017 for the housing related superannuation measures.

**Please note: our submission responds solely to the issues raised in the exposure draft legislation and related material and does not imply our views on other aspects of the superannuation system or on any past or future policy proposals.**

We would be pleased to discuss any aspect of our submission.

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## Treasury Laws Amendment (Reducing Pressure on Housing Affordability) Bill 2017 – Schedule 1 – Exposure Draft

With some misgivings we support this First Home Super Saver Scheme because we believe that it may encourage younger Australians to save for their first home via tax concessions.

However our misgivings are two fold:

1. Incentives to encourage Australians to own their home, via tax breaks have often led to increasing house prices – a good example of this outcome is first home stamp duty concessions that state and territory governments have offered for many years
2. We note from the 2017 Federal Budget papers that this measure is expected to cost \$250 million over the forward estimates. We see no reason why the government could not also allow the use of other investment vehicles to implement this policy – for example, deposit accounts with approved deposit taking institutions, or managed funds. Our preference is to use other non-superannuation type vehicles. This is because this would remove the mixed messages this policy could imply. The superannuation system's purpose is to enable Australians save for their retirement income needs, not to permit it to be used to help with the buying of real estate.

In relation to the exposure draft legislation we note the following issues that we believe need to be addressed:

- Sole Purpose Test

As Treasury would be aware, Section 62 of the Superannuation Industry (Supervision) Act provides that superannuation funds must be operated for a least one core purpose and any number of ancillary purposes as detailed in that section.

We are of the view that the First Home Super Saver policy is currently not permitted by the existing wording of the Sole Purpose Test.

We would prefer a legislative amendment to solve this problem. However if the government is not prepared to make this change then, as a minimum, a legislative instrument issued by the Australian Tax Office and the Australian Prudential Regulation Authority as provided in sub-sub-paragraph 62(2)(b)(v) would be necessary.

- The exposure draft legislation contains no provisions to require a super fund to comply with an ATO release authority. While at a practical level we expect most super funds will comply, we believe an addition provision is necessary.

We believe the amending legislation should contain a provision that deems permission for First Home Super Saver withdrawals to be contained within a super fund's trust deed. Such a deeming clause may also, in part, help circumvent the Sole Purpose Test issue mentioned above

- If a person does not use the First Home Super Saver amounts within 12 months then those amounts can be re-contributed back into the super system as Non-Concessional Contribution and will be subject to the contribution caps in the normal way. Whilst this might appear to be the administratively simplest way of dealing with the issue, we believe this solution will still create administrative problems for super funds. Given these amounts have already been counted towards a person's Concessional and Non-Concessional Contribution Caps we believe it would be better that the re-contribution of these amounts should not be counted again against the caps as long as that contribution was made within a specified time period.

**Treasury Laws Amendment (Reducing Pressure on Housing Affordability) Bill  
2017 – Schedule 2 – Exposure Draft**

We support the *Contributing The Proceeds Of Downsizing To Superannuation* measure.

Our only concern with this policy relates to super fund members who contribute above the \$300,000 limit. In this instance, the excess amount would need to be withdrawn. However, unlike other excess contribution situations the proposals do not set out any penalty or consequence for the contributor for breaching the contribution cap. We cannot see a reason for a different approach and suggest that this needs to be corrected.

Should you require any further information or wish to discuss the contents of this submission, please contact Tony Negline, Head of Superannuation on 02 8078 5404 or by email at [tony.negline@charteredaccountantsanz.com](mailto:tony.negline@charteredaccountantsanz.com)

Yours sincerely,



**Liz Stamford FCA  
Head of Policy  
Leadership & Advocacy  
Chartered Accountants Australia and New Zealand**