

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

Mercer Consulting (Australia) Pty Ltd  
ABN 55 153 168 140  
Collins Square  
727 Collins Street  
Melbourne, VIC Australia 3008  
GPO Box 9946 Melbourne VIC 3001  
T +61 3 9623 5464  
[www.mercer.com.au](http://www.mercer.com.au)

31 March 2023

Subject: **Legislating the objective of superannuation**

Dear Sir/Madam

Mercer welcomes the opportunity to comment on the Consultation paper entitled *Legislating the objective of superannuation* released by The Treasury on 20 February 2023. As we noted in our submission to the Retirement Income Review in February 2020:

“There is an urgent need to determine the objectives of the overall (retirement income) system as well as the objectives of each pillar. Agreed objectives would clearly assist in the development of long term public policies.”

We therefore welcome the current consultation on the objective of superannuation whilst also noting that it does not set out the objectives of each pillar within the retirement income system, which we recognise is a much larger task.

The structure of this submission is as follows:

- Who is Mercer?
- Our major recommendations
- Observations on the Consultation paper
- Recommendations to improve the final outcome
- An attachment which responds to the four Consultation questions

## Who is Mercer?

Mercer has 5,000 employees based in 43 countries and the firm operates in 130 countries. Mercer is a business of Marsh McLennan (NYSE: MMC), the world's leading professional services firm in the areas of risk, strategy and people, with 85,000 colleagues and annual revenue of over \$20 billion. Through its market-leading businesses including Marsh, Guy Carpenter and Oliver Wyman, Marsh McLennan helps clients navigate an increasingly dynamic and complex environment.

## Our major recommendations

Mercer's major recommendations are as follows:

- Mercer recommends that the *purpose* of superannuation should be legislated as distinct from the *objective* of superannuation. We believe that purpose implies a reason for existence and has a broader perspective than objective which has a focus on an achievement which can be measured. Furthermore, objectives may vary between individuals whereas the purpose of superannuation can remain consistent.
- The Explanatory Memorandum (EM) of any legislation submitted to Parliament relating to the purpose or objective of superannuation must recognise and endorse the current range of permitted benefits and services currently provided to members of superannuation funds and the desire for ongoing improvements in these outcomes.
- Following the passing of separate legislation enshrining the objective of superannuation, the SIS Act should be reviewed in its entirety to ensure that it remains fit for purpose. This Act is now more than 30 years old and was initially developed in an era when the Australian superannuation industry was very different from what it is today.

## Comments on the Consultation paper

### The proposed objective

#### *The focus*

Mercer endorses the focus of the purpose or objective being on retirement income, whilst not specifying the form of this benefit. It is critical that the framing of superannuation is focussed on the ongoing provision of benefits in retirement and not just the accumulation of dollars at retirement. In addition, we agree that the purpose of superannuation is not to meet other lifetime costs, as mentioned on page 10 of the Consultation paper, nor should it be used as the primary vehicle for estate planning.

#### *A dignified retirement*

Mercer also endorses the focus on a dignified retirement rather than the goal of a comfortable retirement or an adequate standard of living. In a civilised society it is important that we treat every individual with dignity, whatever their background or socio-economic class. Hence, the retirement income system should not have a particular income goal for everyone. Rather it should recognise the differences and enable the provision of a dignified retirement for all. This provision must include a safety net for the aged poor. This safety net is needed to combat poverty in old age and is primarily achieved through the Age Pension and not through superannuation, which is suggested on page 11.

### *Government support*

This desire to combat poverty amongst the aged recognises that it will be necessary for government support to be provided to some or many older individuals. The form of this support will go beyond the Age Pension, Commonwealth Rent Assistance, and the Home Equity Access Scheme, each of which are recognised in the Consultation paper. It also includes Home care packages and government support of aged care. These are all part of providing dignified retirement outcomes.

It is also important to recognise that government support for a dignified retirement includes the presence of taxation concessions for superannuation. There are several reasons for the ongoing provision of these concessions and these should be mentioned in the EM. These include that:

- taxing investment earnings means that the effective rate of tax on the real value of saving increases the longer an asset is held. This effect is more pronounced in superannuation as assets are normally held for a longer period.
- superannuation is a form of deferred income and that a person's retirement income is generally lower than their income while they were working.
- strong preservation rules exist in Australia for good reason. However, this means that individuals are generally unable to access their superannuation until age 60, at the earliest. This is very different from their other forms of savings which they can access, as and when needed.

### *Fairness*

Mercer also agrees that the system should be fair in that it delivers similar outcomes to those in similar situations. Unfortunately this does not occur in the current retirement income system due to different outcomes from the income and assets tests for the Age Pension. Hence an equitable outcome in the retirement income system is not possible without a review of the means tests.

### *Preservation*

Mercer strongly supports the need to preserve superannuation contributions and investment income until an individual retires or attains a certain age. The purpose of superannuation is not to provide funds for a range of lifetime financial needs such as housing, education or health apart from exceptional circumstances, as noted on page 10 of the Consultation paper.

### *Alternative wording*

It is also important for the wording of the objective to be simple to understand and to have very few qualifying phrases or clauses. Therefore, we are attracted to the first alternative listed on page 9 which removes the words "to preserve savings". Preservation is already a well-known feature of the Australian superannuation system and these words are unnecessary if the focus of the objective remains on the provision of income during retirement. If these words were to be excluded from the legislated purpose or objective, the importance of preservation should feature in the EM.

We do not support the second alternative as the term "to support savings" is vague and ill-defined. Further, the recognition of several forms of government support during retirement is important to retain in the wording.

## Recommendations to improve the final outcome

### Objective or Purpose?

As noted in the Consultation paper, the Financial System Inquiry recommended that the objectives of the superannuation system be enshrined in legislation and the Retirement Income Review recommended a particular objective for the superannuation system. However, there is a question as to whether the term used should be “objective” or “purpose”. Indeed, the Treasurer in his speech in releasing the Consultation paper seemed to use the two terms interchangeably and the Consultation paper notes on p4 that:

“legislating an objective of superannuation will provide stability and confidence ... that changes to superannuation policy will be aligned with the purpose of the superannuation system.”

So there seems to be some confusion between these two terms.

The Cambridge Dictionary defines objective as

“something you aim to do or achieve”

whereas it defines purpose as

“why you do something or why something exists”.

That is, purpose implies a reason for existence and has a broader perspective than objective which has a focus on an achievement which can be measured. We therefore believe that in the context of superannuation, “purpose” is a much better and broader term than objective which may vary considerably between individuals.

**Recommendation:** Mercer recommends that the *purpose* of superannuation should be legislated as distinct from the *objective* of superannuation.

### The sole purpose test, SPS 515 and the purpose of super

Section 62 of the SIS Act sets out the “core purposes” as well as the “ancillary purposes” of a regulated superannuation fund. In summary, these purposes include the provision of benefits:

- on the member’s retirement or the attainment of a certain age
- on the death of a member
- on the member’s cessation of work due to ill-health
- as approved by the regulator

APRA’s Prudential Standard SPS 515 represents APRA’s key focus on its regulation of superannuation funds. In particular, SPS 515 sets out the requirements for an RSE licensee to regularly assess the outcomes provided to members, including how these outcomes could be improved.

In light of SPS515, we believe that the legislated objective (or purpose) of superannuation must not reduce the range of benefits (such as the provision of insurance and lump sum benefits) that are

currently provided by superannuation funds and must not inhibit RSE licensees from improving these outcomes. This is the stated intention, as noted on p12, but given the limited wording in the proposed objective, it is critical that appropriate protection is included in the EM presented to Parliament.

**Recommendation:** The Explanatory Memorandum of any legislation submitted to Parliament relating to the purpose or objective of superannuation must recognise and endorse the current range of permitted benefits and services provided to members of superannuation funds and the desire for ongoing improvement in these outcomes.

Naturally, we would be very happy to discuss any of our comments with you and your team as you carefully consider these matters. Please not hesitate to contact us.

Yours sincerely,

A handwritten signature in dark blue ink, appearing to read 'Dr David Knox', with a stylized flourish at the end.

**Dr David Knox**  
**Senior Partner**

## Attachment: Mercer's responses to the four Consultation questions

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

The major benefit is that it sets a clear framework and direction of Australia's superannuation system; that is, a focus on the provision of income during the retirement years. We consider that to be a good outcome.

A secondary benefit is that it provides a broad framework to consider and test options for reform. However, it must be recognised that this benefit is somewhat limited due to the high-level nature of the proposed objective. That is, as proposed, there is no measurement to test options. Similarly, the terms "equitable and sustainable" can be interpreted in many ways and will not necessarily help to determine whether one option for reform is to be preferred over another option.

Mercer believes there are very limited risks in legislating an objective for superannuation providing the best financial interests duty for fund trustees remains. Therefore, it is important that this duty remains, following the passing any legislation related to the objective or purpose of superannuation.

However, there may be another risk in terms of the broader retirement income system. As noted in the Consultation paper there is a range of government support available to older Australians. It would be very beneficial for future policy development if the objective(s) of the overall retirement income system, including its various components, were to be defined. The passing of legislation relating to the objective (or purpose) of superannuation is likely to reduce the likelihood of this outcome.

### *Question 2: Does the proposed objective meet your understanding of the objective of the superannuation system in Australia?*

As noted earlier, Mercer would prefer to see the development of the objective (or purpose) of the overall retirement income system. However, within the constraints of superannuation (which represents only one pillar of the broader system), we believe that the proposed objective is broadly consistent with an appropriate purpose of superannuation.

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

Mercer supports the enshrining of the objective in a standalone piece of legislation and not as an amendment to existing legislation, such as the SIS Act, which is now 30 years old. In light of the significant development of the superannuation industry in the last 30 years, we believe it is appropriate for the SIS Act to be reviewed following legislation of the objective of superannuation.

**Recommendation:** Following the passing of separate legislation enshrining the objective of superannuation, the SIS Act should be reviewed in its entirety to ensure that it remains fit for purpose.

*Question 4: What are the practical costs and benefits of any alternative accountability mechanisms to the one proposed?*

As noted in our response to Question 1, we do not believe that the accountability mechanisms outlined in the Consultation paper will be very effective due to the very broad nature of the proposed objective. This comment does not imply that we would suggest a much more specific, detailed or lengthy objective. Rather, it needs to be recognised that a high-level objective is exactly that, and that it will therefore have limited value in assessing or reviewing policy proposals.