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

By email: SuperannuationObjective@treasury.gov.au

Dear Sir/Madam,

Legislating the objective of superannuation - August 2023

CPA Australia represents the diverse interests of more than 170,000 members, working in over 100 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest.

The superannuation system's fundamentals are proposed to be secured by setting an objective for superannuation. The objective is intended to benchmark the system's performance and guide future policy making, enabling a discussion about what means and incentives are required to reach the objective. The exposure draft *Superannuation (Objective) (Consequential and Transitional Provisions) Bill 2023* (the "exposure draft" or "ED") sets out the objective to codify a shared purpose of superannuation.

However, superannuation is not the only element of the broader retirement savings system and should not be viewed separately from the rest of Australia's retirement income system. Therefore, a vision for Australia's retirement income system should be stated clearly before an objective of superannuation can be established. It should give a clear purpose and goals that cover not only superannuation but also the Age Pension; income, savings and assets outside of superannuation; care and residency options in retirement; and how goals for retirees who use or intend to use these can be accomplished[1]. These preferred objectives align with the OECD three-tiered pension system framework.

The Exposure Draft Explanatory Materials (EM) of the ED acknowledge this at paragraph 1.5:

> *The three pillars of the retirement income system – superannuation, the Age Pension and private savings – work together to support Australians in retirement. The superannuation system plays a central role, through the compulsory savings of individuals' income during their working life, and then through the drawdown of these assets to fund their retirement.*

In February of this year, Treasury issued the consultation paper *Legislating the objective of superannuation – February 2023* (the "consultation paper") which mentioned three drafting principles (p.10), the third being the question of '[the] place of superannuation in the broader retirement income system'. In our submission, we noted at the time that the preferred objective for superannuation proposed in the consultation paper – presented unchanged in the ED – with a main focus on the interaction between the superannuation system and

[1] For further details, see CPA Australia's policy statement on retirement income.

government support, is not compatible with this principle and the three-pillar framework, as it does not fully recognise the third pillar: voluntary savings.

Additionally, in our submission, we noted our concerns that the Government's announcement of the *Better Targeted Superannuation Concessions* measure –an extra 15 per cent tax on notional superannuation earnings calculated on overall personal balances above $3 million – may have been premature, in the context of this proposal. We felt at the time that the objectives of superannuation and retirement savings should have been defined first, and that any changes to superannuation thereafter should be consistent and holistic. We stand by our comments from that submission, noting that the changes proposed in that announcement – which include the unprecedented taxation of unrealised capital gains; the anomalous abandonment of threshold indexation; and the uncertain treatment of compliant superannuation funds with investment strategies which presently have little need for additional liquidity under the current rules – are large impacts which would have benefited from the additional scrutiny provided under an objective of superannuation.

We also note that any changes to superannuation thresholds must not proceed in isolation. These changes must be considered as part of a broader discussion regarding superannuation tax, concessions provided, and the complexities created by the myriad of caps, thresholds and limits currently in place. Any discussions regarding superannuation reform must also consider the interaction with the tax and transfer system.

Noting that superannuation is a complex policy area that must be navigated carefully, we stand by our earlier recommendations in response to the consultation paper and recent policy announcements – including our preference for the second alternative wording of the objective as proposed in the consultation paper:

> *The objective of superannuation is to* ***support savings*** *to* ***deliver income*** *for a* ***dignified*** *retirement, in an* ***equitable and sustainable*** *way.*

In response to this exposure draft, we make the following additional recommendations:

1. The objective must support aspirational savings in addition to preservation of retirement savings

2. Benefits payable from superannuation for death, illness and injury must be acknowledged as a first resort, not a 'last resort', and subsidiary objectives should be drawn up to support management of risk and consumption smoothing

3. The compliance of future superannuation reforms with the legislated objective must be periodically assessed – by a body such as the Australian National Audit Office – and reported on as part of the Intergenerational Report.

We acknowledge the valuable contribution to this submission by members of CPA Australia's Retirement Savings Centre of Excellence.

If you have any queries with respect to this submission, please do not hesitate to contact Richard Webb, Senior Manager, Financial Planning and Superannuation Policy on 03 9606 9607 or richard.webb@cpaaustralia.com.au.

Yours sincerely

Elinor Kasapidis
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Attachment

Introduction

CPA Australia supports the legislation of an objective of superannuation.

More broadly, we support the formulation of an objective of the retirement income system in Australia, and point out that an objective of superannuation must form part of this larger context. An objective of superannuation also cannot form a substitute for a broader objective of the retirement income system.

Further details are provided below.

Objective wording

Preserve savings

We agree that superannuation should be preserved for retirement, which aligns with the Sole Purpose Test, and should not be used for other purposes, such as early release to fund housing or for medical procedures, except in exceptional circumstances, as explained at paragraph 1.30 of the EM.

However, 'preserve savings' could be interpreted as only preserving the savings from compulsory superannuation, particularly when considering that only government support (but not the third pillar of the retirement savings system) is mentioned.

Encouraging or incentivising people to contribute voluntarily to superannuation above the minimum of the compulsory Superannuation Guarantee is not present in the text. Further, there is no encouragement in the proposed objective to build self-provision in retirement, as envisaged by then Treasurer John Dawkins (Dawkins 1992) upon the legislation of the Superannuation Guarantee:

> *The increased self-provision for retirement will permit a higher standard of living in retirement than if we continued to rely on the age pension alone. The increased self-provision will also enable future Commonwealth Governments to improve the retirement conditions for those Australians who were unable to fund adequately their own retirement incomes. …Lastly, self-provision will increase the flexibility in the Commonwealth's budget in future years, especially as our population ages and will increase our national savings overall.*

There is also no acknowledgement of the economic and social benefits derived from compensating people for foregoing their employment income after locking it away for many years prior to retirement. Superannuation has been historically framed as a social contract between the government and the community to give up access to wages and income for increased savings in retirement. However, it is not visible from the proposed objective that this is the case.

Most Australians aspire to, and expect to be able to maintain, a reasonable standard of living in retirement above what can be provided by the Age Pension. However, there is no suggestion in 'preserve savings' that this aspiration is supported.

We also note our support for exceptional circumstances which are affirmed at paragraph 1.30 of the EM with some considerable reservations. One such exceptional circumstance is, we consider, fundamental: The role of superannuation in the death or disability of a fund member. Paragraph 1.32 of the EM specifies grounds for release of superannuation as a last resort in the situations of permanent and temporary incapacity (including insurance payments), terminal medical conditions, compassionate grounds for specific expenses, and severe financial hardship.

We have significant concerns that the role of insurance, and the linked roles of death, disability and terminal illness conditions of release, are minimised by the treatment of this as a 'last resort'. Insurance is a vital part of superannuation, and we believe that Australians rely on the insurance benefits obtained with their fund membership, in many cases to the exclusion of all other sources. We note that various commentators (recently NMG Consulting 2022, Cain 2020 and AdviserVoice 2020) have written about the underinsurance problem in

Australia and consider that this problem would be exacerbated in the absence of insurance benefits in superannuation.

We also note that death is not mentioned in paragraph 1.32 at all. We consider this a troubling omission.

Australians view benefits payable from superannuation for death, illness and injury to be very much a first resort, not a 'last resort'. We strongly recommend that the EM be amended to ensure that this is clear.

Deliver income

CPA Australia supports the notion of the superannuation system 'delivering income'. However, returning to our previous comments regarding preservation, there is no recognition of the role of superannuation in accumulating savings during an individual's working life. Superannuation is not just about delivering income. It is about smoothing income and consumption through an individual's working life and in retirement to maintain their standard of living in retirement.

We strongly support encouraging income streams in retirement. However, it must be recognised that consumption will vary throughout retirement and retirees will continue to need access to lump sum benefits to pay for one-off expenses ranging from holidays to necessary home renovations, or replacing the family car, and as they age, increased health and age care costs. It also must be recognised that today's retirees have been provided with updates throughout their working lives in their superannuation statements which show account balances, rather than retirement income amounts. We agree that 'delivering income' should primarily require the payment of income in retirement. However, it should not prohibit access to lump sums altogether.

Dignified

As identified in the EM at paragraph 1.40, 'dignified' is a subjective concept. However, paragraph 1.38 states that:

> *'dignified' denotes a standard of financial security and wellbeing in retirement which allows the person to participate economically and socially in their community*.

We suggest that this attempts to create both an objective standard and a subjective value, or judgement, of personal comfort. We do not agree that this word can be both objective and subjective without confusion arising. Does this equate to *maintaining* one's standard of living in retirement, or obtaining a standard of living *higher* than what could be obtained from the Age Pension alone? Could this accommodate the seemingly perverse outcome of having a higher standard of living in retirement that what one had during their working life? How would this be compatible with community expectations or individual aspirations to maintaining one's standard of living in retirement?

Our view is that 'dignified' should be about maintaining a reasonable standard of living in retirement, which requires a comparison between pre- and post-retirement replacement rates. Importantly, what is an adequate level of retirement savings needs to be considered, which should then be benchmarked back to the identified objective of the retirement savings system.

Government support

The EM suggests at paragraph 1.43 that government support will continue to substitute or complement an individual's superannuation and private savings. However, this is contradicted by Australia's three pillars model, which identifies the Age Pension, i.e., government support, as a safety net to provide a minimum level of income in retirement. Further, previous government policy, as demonstrated by Treasurer Dawkins's speech quoted above (Dawkins 1992), was for superannuation to deliver higher levels of retirement income than what could be delivered by the Age Pension alone. This was also recognised by the Financial System Inquiry (Murray et al. 2014), which recommended superannuation should 'provide income in retirement to substitute or supplement the Age Pension'.

As the SG system matures, reliance on the Age Pension will reduce as self-provision in retirement improves. Therefore, it is reasonable to conclude that over time superannuation will substitute, or at least supplement (rather than complement), the Age Pension, consistent with the view reached by the Financial System Inquiry.

Equitable and sustainable

We agree with the premise that the superannuation system should operate in an equitable and sustainable way to provide stability and confidence in the system.

Beyond a certain level of superannuation savings or income in retirement, government support through tax concessions is not necessary or appropriate. However, the level of total government support must be considered over both an individual's working life and in retirement, subject to reasonable limits which do not compromise adequacy.

Alternative wording

Notwithstanding our earlier comments regarding the need to first identify the objective of the broader retirement savings system, in response to the February consultation paper and the drafting principles used, we believe the second alternative wording proposed would have been more appropriate:

> *The objective of superannuation is to* ***support savings*** *to* ***deliver income*** *for a* ***dignified*** *retirement, in an* ***equitable and sustainable*** *way.*

However, to address many of the issues we have identified we would continue to strongly support the inclusion of a set of subsidiary objectives, particularly around recognising the importance of consumption smoothing and managing risk, both during one's working life as well as in retirement.

Accountability

For the objective of superannuation to be effective there must be a commitment from all governments to recognise the objective and develop policy or make legislative change that is consistent with the objective.

To this end, we support the proposal for a 'Statement of Compatibility' to be included in all superannuation and related legislation. This would operate in a manner consistent with the Statement of Compatibility with human rights, which is required to be included in all relevant legislative bills and instruments.

However, it is important to note that there is no mechanism to hold governments to account if future legislative changes are not compatible with the objective, or to prevent future governments from amending or removing the objective altogether.

To facilitate independent monitoring and review, we would support the compliance of future superannuation reforms with the legislated objective be periodically assessed and reported on as part of the Intergenerational Report. This was recommended by the Senate Economics Legislation Committee review of the *Superannuation (Objective) Bill 2016* (Senate Economics Legislation Committee 2016) and would occur every five years.

Finally, the Australian National Audit Office could also be tasked to review the government's compliance with the legislated objective and the statements of compatibility.

References

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