



21 June 2013

The Treasury
Attention: Charter Group
Langton Crescent
PARKES ACT 2600

Email: supercharter@treasury.gov.au

Dear Madam/Sir,

Charter of Superannuation Adequacy and Sustainability and Council of Superannuation Custodians

The Self Managed Superannuation Funds Professionals' Association of Australia (SPAA) welcomes the opportunity to make a submission in relation to the development of the Charter of Superannuation Adequacy and Sustainability and Council of Superannuation Custodians.

The consultation questions are discussed in detail in the [Attachment](#).

About SPAA

SPAA is the peak professional body representing the SMSF sector throughout Australia. SPAA represents professionals, irrespective of their personal membership and professional affiliations, who provide advice to individuals aspiring to higher levels of participation in the management of their superannuation savings. Membership of SPAA is principally accountants, auditors, lawyers, financial planners and other professionals such as actuaries.

SPAA is committed to raising the standard of professional advice and conduct in the SMSF sector by working proactively with Government and the industry. In doing so, SPAA has contributed to SMSF advisors providing a higher standard of advice to SMSF trustees. This in turn has enabled trustees to make more informed decisions addressing the adequacy, sustainability and longevity of their own retirement savings. SMSFs offer trustees greater control and flexibility and have become an integral part of the Australian Superannuation landscape by providing significant and viable options for managers, business owners, executives and retail operators alike.

We would be happy to provide further information or to discuss any questions you may have about this submission with you.

Yours sincerely

Andrea Slattery
CEO



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Mrs. Andrea Slattery
Chief Executive Officer

Mr. Graeme Colley
Director, Technical and Professional Standards



Question 1: What is your view of the core principles outlined above?

We support that the principles of certainty, adequacy, fairness and sustainability should be fundamental to the development of the Charter.

Question 2: Are there any additional principles that are important in setting retirement income policy?

The continued adherence to the three pillar retirement income system of the Age Pension, mandatory contributions and voluntary contributions should be a core principle of the Charter. The three pillar system has been the basis of Australian retirement income policy and has served Australia well in creating a leading retirement income system. Having it enshrined in the core principles of the Charter will ensure that the three pillar retirement system will be a fundamental aspect of the Charter and the Council's work in guaranteeing the long-term success of the superannuation system.

Question 3: What safeguards can be placed on changes in the superannuation system to promote certainty?

To promote certainty, systematic changes to superannuation should only occur after consideration by the Council and extensive consultation with the public, including the superannuation industry and superannuation fund members. Proposed changes to the superannuation system should occur without any surprises to the industry and public. Rather, a dialogue between Government and stakeholders should take place. Changes to superannuation should be phased in over years, not weeks or months. Longer implementation time frames would allow for greater, more purposeful consultation.

Also, it is important that where changes are made to the superannuation system, the changes do not affect superannuation fund members retrospectively. Where changes have retrospective effects, they undermine the existing plans of superannuants which have been made on the basis of existing settings. This has a detrimental effect on certainty and confidence in superannuation as superannuants saving for retirement have their plans and strategies undermined by legislative change. Ensuring that changes do not have retrospective effects will engender greater certainty and increased confidence in the superannuation system.

Minor changes to the superannuation system (such as minor legislative fixes) should also undergo extensive consultation to ensure industry and superannuation members have an opportunity to appropriately liaise with legislators to shape changes to the superannuation system. This process should begin with consultation on policy options, not just draft legislation. Longer and more extensive consultation would allow the superannuation industry and fund members to better understand changes and plan for and adapt to proposed changes. However, we would not expect the Council to be involved with minor legislative fixes.

Question 4: How should the Charter reflect procedural fairness, including providing adequate notice of future changes and an open and transparent consultation process?



As discussed above, we believe that more extensive and timely consultation would alleviate many of the problems the superannuation system encounters with having to respond to constant change and change on short-notice.

The Charter could specify that the Council has the role of overseeing and monitoring timeframes mandated for superannuation changes. That will allow for consultation on both the policy behind proposed changes and legislative implementation. It will also allow for implementation timeframes which allow the superannuation industry and fund members time to adjust to the proposed change.

Question 5: What would be appropriate benchmarks for measuring the adequacy of the superannuation system?

SPAA supports the continuing use of average weekly ordinary time earnings (AWOTE) replacement rates as a measure of adequacy of the superannuation system. As an alternative a present value of estimated reasonable expenses in retirement could also be used.

Question 6: What principles would support fairness in the distribution of government assistance in the retirement income system and how should they be incorporated into the Charter?

We believe it is important that the desire for fair or equitable provision of government assistance through the retirement income system, whether through the Age Pension or superannuation tax concessions, be balanced against the need to provide incentives for voluntary savings and continued participation in the workforce. The importance of needing to provide incentives for voluntary savings and longer participation in the workforce is driven by Australia's demographic shifting towards an older population and higher age-dependency ratio.

A key function of superannuation tax concessions is providing an incentive to save for retirement. It is widely accepted that most people are myopic in their consumption decisions and tend to under save due to inconsistent preferences over time. Further, policy biases such as the perception of double taxation on saving and availability of the Age pension also deter people from saving for retirement. Accordingly, it is important to provide people with incentives through tax concessions for superannuation to save for retirement.

There are other important reasons for having tax incentives for superannuation. Concessional taxation of superannuation contributions compensates taxpayers for having income 'locked-in' to superannuation and deferring consumption – this applies equally to both mandatory and voluntary contributions. The tax concessions also compensate for investment risk, and provide incentives to work.

We believe that the Charter needs to reference the need to balance the equity of the retirement income system with the need to provide incentives for voluntary saving (and



concessions for mandatory superannuation) in order to safeguard the primacy of superannuation tax concessions in Australia's retirement income system.

Question 7: What limits could be placed on government assistance and how should this be measured?

We believe that the current policy settings of a means-tested Age Pension and contribution cap restricted superannuation tax concessions are appropriate limits for government assistance to be provided through the retirement income system.

SPAA views the concessional and non-concessional contribution caps as the primary mechanisms for ensuring equity in the superannuation system.

Question 8: How should the costs and benefits of the superannuation system be measured?

SPAA believes that the current method of measuring the value of the superannuation tax concessions is biased against the superannuation tax concessions and misinforms policy decisions regarding the concessions. The fiscal cost of the superannuation incentives has been a reoccurring policy issue under the current Government, and any policy decisions should be made with reference to accurate information and costings.

We believe that the current methodology of measuring the concessions as tax expenditures using a comprehensive income benchmark is misleading and biased against the concessions. This method results in any derivation from income being taxed at the relevant taxpayer's marginal tax rate via the concessions being a tax expenditure. This does not focus on the future taxation of earnings or benefits and does not account for the superannuation system's purpose of providing retirement incomes.

While this is theoretically correct under a comprehensive income benchmark, it does not account for future savings to Government from reduced age pensions expenditures or tax revenue derived from earnings of superannuation investment or benefits which are taxed on withdrawal. We believe this skews the debate regarding the level of concessionality and the appropriateness of concessional taxation of superannuation contributions as an incentive for people to save for their retirement.

Further, the short-term budget forecast figures that use four year estimates for changes to the concessions, and similar focus of the Tax Expenditure Statements on single income years are inappropriate for assessing the superannuation concessions. These short-term costings create myopic views of the superannuation tax concession which often support arguments to reduce the concessions. We believe the Council could ascertain longer-term forecasts to properly assess the proper policy settings for the superannuation tax concessions

SPAA recommends that an expenditure tax benchmark be used to estimate the cost of the superannuation tax concessions. An expenditure tax benchmark would be more appropriate for estimating the superannuation tax concessions as the expenditure tax



benchmark focuses on the provision and taxation of superannuation benefits, rather than the tax forgone for the concessions.

An expenditure tax benchmark – either a pre-paid or post-paid benchmark – will result in the tax expenditures of the superannuation tax concessions being far lower than what they are estimated to be under the comprehensive income tax. This was illustrated in the Australia’s Future Tax System Retirement Income Consultation Paper, which showed that under a pre-paid expenditure tax benchmark the superannuation tax concessions for 2007-08 were a cost of \$4.6 billion compared to \$26 billion under the comprehensive income tax benchmark.

Besides measuring the superannuation tax concessions fiscal cost with an expenditure tax benchmark, SPAA also suggests that the concessions should not be assessed as part of Australia’s tax system as pure tax expenditure but should be evaluated within the context of Australia’s three pillar retirement income system.

This measurement would see the fiscal cost of the superannuation tax concessions evaluated with the costs of providing the age pension and superannuation guarantee. It would be a more holistic approach to assessing the cost of the retirement income system, rather than just measuring the tax cost of the concessions. Analysis has been undertaken by Mercer, which shows that the total government retirement income support (through tax concessions and the age pension) by an individual across their lifetime is generally constant across income cohorts.

We believe this approach to assessing the superannuation tax concessions would result in a more robust approach to superannuation tax concessions and foster better policy outcomes for Australian’s saving for their retirement.

Question 9: How should the Charter take into account the goal of administrative simplicity and balance this against other objectives such as fairness and sustainability?

Simplicity of the superannuation system must be a factor that is considered by the Charter and taken into account by the Council in its assessment and recommendations. The Charter should not attempt to rank or balance the goal of administrative simplicity against other objectives of the system, as such an exercise requires evaluating policy trade-offs in the context of the relevant change. However, simplicity should be regarded as an important goal by the Charter as it is a significant factor in building public confidence in the superannuation system.

We believe that it is enough that the Charter contemplates the need for simplicity in balancing the objectives of superannuation policy. This should ensure that it is a factor that is paid real consideration to by the Council in evaluation of superannuation policy.

Question 10: What weight should be given in the Charter to the considerations below?



- **Recognising the inherent trade-offs involved in retirement income policy.**
- **Considering the interactions between the superannuation system and other elements of Australia's retirement income system, for example, other savings vehicles and government support such as the Age Pension.**
- **Recognising the intergenerational costs and benefits of superannuation savings and tax concessions.**

We believe that the Charter should give prime consideration to recognising the intergenerational costs and benefits of superannuation savings and tax concessions. This should rank as the top priority of the Charter as the prime goal of the superannuation system is to provide adequate retirement incomes and reduce the long-term government cost of supporting retirement incomes.

The interactions of the superannuation system with other parts of the retirement income system and other savings vehicles should rank equally with the trade-offs inherent to the superannuation system. These considerations should follow on from the prime policy goal of the superannuation system and are equally important in assessing and forming superannuation policy.

Question 11: How would the Charter reflect the impact of superannuation changes on the broader economic environment?

The Charter should recognise the superannuation systems importance as part of Australia's financial system and its importance as part of the Australian economy in its mission statement. This would provide important context to interpreting the principles of the Charter resulting in the Council's work being conducted with the superannuation systems place in the broader Australian economy reflected.

Question 12: Should the Charter be a policy document, or be enshrined in legislation?

The Charter should be established as a policy document at first. When the Charter is finalised and its goals and functions are certain, then the Charter could possibly be enshrined in legislation.

Question 13: Should the Council also be able to examine and report on issues on its own initiative?

Yes. SPAA would support the Council to be able to examine, consult and report on issues on its own accord. This would provide the Australian retirement income system with an independent body that can investigate policy issues and focus on longer term needs of the superannuation system.

Also, the Council could consult with the industry and fund members as to what the public would like the Council to focus on. This could be conducted in a similar fashion to how the Inspector General of Taxation consults with the public on its forward work program.



Question 14: What powers should the Council be given in order to effectively carry out its role?

The Council should be able to:

- Consult with the public.
- Commission independent research.
- Examine and report on issues independently.
- Make policy recommendations.
- Report every three years to Parliament.
- Draw on support from Treasury or the Parliamentary Budget Office.

Question 15: Should the Council have the capacity to recommend policy changes?

Yes. However, policy recommendations made by the Council should only follow on from consultation with the superannuation industry and public.

Question 16: How should the Council be assembled to adequately reflect the wide range of community views on superannuation?

The council should be assembled to reflect community views by appointing members that:

- Have a track record of independence.
- Have a track record of excellence in superannuation or a related field.
- Not currently represent or have a strong affiliation with a sector of the superannuation industry.
- Exercise their role in a personal capacity, not on behalf of an organisation. The Council's chair must be independent and should be an ex Federal Court or High Court Judge
- The committee should comprise a minimum of four members plus a chair with a maximum of six plus a chair.
- The committee should have a rotation policy.

Question 17: How would the work of the Council relate to the activities of existing bodies?

Existing consultative forums should continue their existing functions. The Council should focus on long-term policy issues concerning the superannuation system. The lack of long-term policy focus is the problem which gives rise to proposed amendment which suffer from short-termism. The Council should step into this long-term focus role in order to help depoliticise superannuation and promote confidence and certainty.

Smaller, contained issues should be able to be referred to the smaller, existing consultative bodies.



Question 18: Will the establishment of the Council require changes to the role or structure of existing superannuation oversight bodies?

No. As above, these bodies should continue to focus on smaller, contained issues while the Council has a wider and more long-term policy focus.

Question 19: What structure and supporting legislation is necessary to ensure the Council operates at arm's length from Government?

Legislation should not be required to ensure that the Council operates at arm's length from Government if the Council is made up of independent parties that are not politically aligned. However, it may be more appropriate to establish any "safeguard" structures after the Charter and Council are established.