



31 March 2023

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

Submitted by email to: superannuationobjective@treasury.gov.au

Consultation Paper: Legislating the objective of superannuation

Dear Sir/Madam,

COTA Australia welcomes the opportunity to participate in this consultation process and contributing to the ongoing development of a comprehensive and sustainable retirement income system. We look forward to cooperating in the ongoing task of keeping the three pillars of the retirement system outlined by the Retirement Income Review (Government Support, Superannuation, Voluntary Savings, including the family home) in balance to ensure that all Australians can look forward to a dignified retirement.

General Comments

COTA provides the following comments across the four consultation questions and other matters:

- The proposed objective reinforces our view of the objective of the superannuation system in Australia and we support its implementation.
- The benefit of a properly defined legislated purpose for superannuation is that it will function as a guardrail for any future change to the retirement income system. The definition will be a lever to ensure all three pillars of the retirement income system (as discussed by the Government's Retirement Income Review in 2020) work together to provide the "dignified" retirement outlined in the consultation paper.
- This includes Pillar 1 (Government Support) discussed below and included in the objective along with Pillar 2 (Superannuation) to which the objective also relates. However, Pillar 3 (Voluntary Savings, including the family home) is not a feature of the objective. We recommend that Government should discuss the role it sees for Pillar 3 as part of the explanatory memorandum, so that when interpreting the objective of superannuation, the intended role of pillar 3 is clear. In addition, as discussed below it is

necessary for the objective to consider all three pillars when introducing the concept of 'cohesion' as outlined by the Retirement Income Review.

- Several commentators have recently put forward the argument that withdrawing funds from a superannuation account for the purpose of buying a first home supports the principle of achieving a “dignified” retirement. We are concerned that allowing withdrawals during the accumulation stage of superannuation will have an inappropriate impact on income in retirement. The explanatory memorandum should discuss the Government’s stance on the role of the third pillar of retirement incomes to ensure misinterpretation does not occur.
- The paper does not discuss the existing rules that allow for early access to superannuation and/or encourage downsizing the family home. It is important that these measures continue to be available to older people and that this is explicitly stated in the explanatory memorandum.
- We support the proposed approach to introduce the objective of superannuation into legislation. We note that the Superannuation Industry Supervision (SIS) Act is the main piece of legislation and that it may be most appropriate to update this legislation with the objective. However, we note if this approach were to be taken, the scope of the SIS Act for the purpose of the superannuation objective would need to be widened to cover all forms of superannuation. Alternatively, if our proposed statement of compatibility (see below) were adopted, a standalone piece of legislation may be more appropriate. Without something like the compatibility statements drawing reference to a standalone Act, there is a risk that it is forgotten and ignored in the coming years undermining the value of having the objective.

Accountability

Accountability is important to achieve the benefits of legislating an objective of superannuation. We recommend two accountability processes for consideration:

- The proposed legislation should require that any Bill coming (or subordinate legislation issued by the Minister) before Parliament that deals with Superannuation, even tangentially, must include a ‘Statement of Compatibility’ issued by the Government that details how the bill/subordinate legislation is consistent with the legislated ‘Objective of Superannuation’. While not preventing a Government or Parliament from taking action it felt necessary, the statement would require Government to consider its amendments and their potential impact on the objective in a transparent manner that would help facilitate debate and ensure the objective is upheld. A similar requirement is already in

place for Commonwealth legislation with respect to Human Rights that provides insights and a potential model.¹

- The proposed parliamentary scrutiny on its own will not ensure the transparent consideration of the impact of the proposed changes against the objective of superannuation. The addition of a compatibility statement would give the standing/select committee an improved ability to assess the impact of primary or subordinate legislation through its usual inquiry processes. Alternatively, this could be strengthened by the introduction of a joint committee specifically tasked with oversight of superannuation, similar to the existing processes for the joint parliamentary committee on human rights. If this were to occur consideration should be given to whether the committee had available to it the necessary independent financial advisors via the Parliamentary Budget Office, or if additional resources would be needed.
- Our second recommended accountability measure builds on a recommendation from the Productivity Commission from its Superannuation: Assessing Efficiency and Competitiveness report² in 2018, and the work of the Retirement Income Review in 2020³. We propose that a report on the superannuation system and an assessment against the objective of super should be conducted by an independent body once every 5 years.
- An obligation on trustees to consider their activities in accordance with the objective of superannuation should also be included.

Comments on the draft objective

We congratulate the Albanese Government on its important commitment to legislate “the objective of superannuation *as being* “to **preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way**” and offer the following commentary on the specific elements of the objective.

- It will be important to ensure that the meaning of ‘preserve savings’ intended in the consultation paper is carried through to the explanatory memorandum. Too often the focus in superannuation is on the accumulation of wealth and not on ‘deliver income’.

¹ <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/statements-compatibility>, accessed 27 March 2023

² See Recommendation 29, Ongoing Review of the Super System, regarding an independent review every five years of MySuper and choice outcomes tests and every ten years of the superannuation system including a review of criteria used to assess best in show products. Available at <https://www.pc.gov.au/inquiries/completed/superannuation/assessment/report/superannuation-assessment.pdf>

³ The Treasury, Retirement Income Review, Australian Government, 2020. Available at <https://treasury.gov.au/publication/p2020-100554>

- A focus on individuals drawing down capital to deliver income in retirement is, in our opinion, the critical emphasis and reason to legislate the objective of superannuation. We should not inadvertently create a definition that maintains the focus on developing a nest egg that ultimately transfers more funds at the point of a deceased estate than were in the account at the point of retirement. Mechanisms to provide for bequests and other distributions from an estate should be allowed but they should not be the focus of superannuation.
- While we are of the view that preserve savings can be appropriately defined, if that were not the case COTA would support its removal to maintain a focus on delivering income. This would ensure that all assessments against the objective were only able consider its role for income for a dignified retirement.
- The rationale for a ‘dignified retirement’ included in the consultation paper highlights that “individuals deserve a high-quality standard of living in retirement, as served by both the superannuation system and government support”. We would recommend that any definition of the term “dignified” also discusses the role of voluntary savings, including the family home so the Government’s intention is clear.
- The draft objective makes it clear that superannuation, when added to ‘government support’, should be sufficient for a dignified retirement. There are many individuals who are more reliant on government support than superannuation. To ensure these people are also able to have the dignified retirement being legislated the definition should refer to *adequate* Government support. Some government supports, such as the low rate of JobSeeker payments and rules such as liquid asset waiting periods, detract from the dignity of the retirement an older person might otherwise have had were they paid at a higher rate and such rules abolished. Similarly some would consider the role of tax concessions within superannuation to be another form of Government support, that should be benchmarked to provide adequate income. The proposed elements from the Retirement Income Review including government supports should ‘target those in need’ and should be ‘cost-effective for taxpayers achieving adequate outcomes’ are important when considering how the explanatory memorandum defines these concepts.
- COTA supports the inclusion of ‘equitable and sustainable’ in the objective of superannuation and notes the extensive discussion of the role of the Objective discussed in section 1C of the Retirement Income Review. We note however the Retirement Income Review discussed an element that the system should ‘provide similar outcomes for people in similar circumstances’. This aspect of equity, especially when thinking about the gender super gap, will be a necessary component of the how equitable is defined.
- We are dismayed however that the proposed concept of ‘cohesion’ has not be included in the definition and would suggest that this is added before equitable, so the definition reads ‘in a cohesive, equitable and sustainable way’. Cohesion embodies the important principle of making the superannuation system simple. COTA has long argued that if we are to empower members to understand and actively engage in their superannuation the system must be simple and easy to understand. The superannuation system should be

simple to use and easy to navigate (or in the words of the Retirement Income Review it 'should not be unnecessarily complex for consumers'). Cohesion also provides the concept of how the three pillars interact. It will be necessary for superannuation to consider its role, rather than operating as a standalone sector, as one of three pillars for retirement income.

- COTA notes that a number of alternative structures that discuss the bolded words and concepts of the proposed objective have been included in the consultation paper. The second alternative does not include reference to government support, and the first alternative does not include reference to preserve savings. References to government support and preserve savings (pending an adequate definition being agreed) are a critical element of legislating the objective of superannuation, that must be retained in any sentence structure.

COTA Australia has been a long term supporter of the need to legislate superannuation's purpose as being for retirement incomes. We thank the Albanese Government for the opportunity to discuss the proposed objective and look forward to reviewing the proposed amending legislation.

If COTA Australia can be of assistance during the post consultation processes leading up to the amending legislation being introduced, please contact me directly on 02 6154 9740 or psparrow@cota.org.au.

Yours sincerely,

A handwritten signature in dark ink, reading "Patricia Sparrow", with a long, sweeping horizontal line extending to the right.

Patricia Sparrow
Chief Executive Officer