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Sent by email: superannuationobjective@treasury.gov.au

Dear Director

Submission – Legislating the objective of superannuation consultation paper ('Consultation Paper')

Thank you for providing the opportunity to make this submission.

Superannuation by its very nature requires a long-term view. A long retrospective view (such as I have) can highlight repeated patterns of successes and failures in how policy has been developed and deployed and how members of funds have reacted. As I have worked in senior, member facing roles in 5 superannuation funds and within a superannuation peak body, the Australian Institute of Superannuation Trustees ('AIST'), I can offer insights from a strong member perspective as well as from a system-wide point of view.

Over this long term, members have consistently given the same feedback: 'Why does superannuation policy change so much? It worries me – especially on Budget Night!' Superannuation members could be justified in seeing superannuation as politically driven, thereby eroding trust and commitment to long term decisions. At system level, I have witnessed a lack of transparency regarding the effect of policy changes together with - at times - an erosion of member protections.

As the OECD notes, '... putting pension systems on a solid footing for the future will require painful policy decisions: either asking to pay more in contributions, work longer, or receive less pensions. But these decisions will also be painful because pension reforms are among the most contentious, least popular, and potentially perilous reforms.'¹ Indeed, rioting about pension 'reforms' is occurring in France while I write this submission.

The question underpinning this consultation should therefore be 'Will an objective put policymaking on a solid footing based on a clear direction (the 'objective') and a map of how to get there and

¹ OECD (2021), *Pensions at a Glance 2021: OECD and G20 Indicators*, OECD Publishing, Paris, <https://doi.org/10.1787/ca401ebd-en> [Accessed 30 March 2023]

show progress?' Then, accountability and transparency of Australian's superannuation policy-making can be improved and recurrent Budget night anxieties could be avoided.

An objective is a much needed first step

Setting a legislated objective for superannuation is an important and indeed, much needed step. An objective will provide an overarching view to a destination or, as the Hon Jim Chalmers MP, Treasurer has stated, 'Legislating super's objective will change that (navigating without a compass) because for the first time, we'll have a true north...'². To continue using this theme, a compass point to the superannuation objective will orient us to a destination, but it alone will not help us navigate the various obstacles and paths to be found in the landscape.

An objective without detail is insufficient



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An objective without detail such as definitions or measuring how well or otherwise we are reaching our system destinations:

- Will not provide accountability.
- Will not provide transparency.
- Will not aide certainty.

Australians deserve more, especially now that the superannuation system is maturing.

An objective might be seen as a 'vision statement' or a 'founding principle'. But a vision statement needs *key performance indicators* and definitions to assess whether the vision is being met.

Without indicators or definitions, there will be little certainty as to how the objective will drive policy development. The lack of defining the meaning of the objective runs the great risk that policy changes will not deliver a cohesive and navigated outcome. Such a lack begs questions such as:

- What does 'dignified retirement' mean?
- What does 'equitable for similar outcomes for people in similar circumstances' mean – for what age cohorts, employment trajectories or living settings?
- What does 'equitable' mean?

Without definitions and a means of road-testing proposals, members may rightly be anxious that with each successive government, concepts such as 'equitable' and 'a dignified retirement' will (once again) be re-defined and applied differently.

² The Hon Jim Chalmers as cited by Andres McKean, Financial Standard 20 Feb. 2023. Available at: <https://tinyurl.com/2p9h6d4a> [Accessed 30 March 2023]

Specifically, detailed indicators are needed to both underpin the objective as well as enabling the road testing of proposed policies before the policy is presented to Parliament or indeed to the public. While I was working at the Australian Institute of Superannuation Trustees ('AIST'), the need for key performance indicators at superannuation system level became clear.

The AIST-Mercer Super Tracker³ ('Tracker') was developed and has 10 key performance indicators to examine the system within Australia as well as to road test proposed policies to see how each indicator might look should the policy be implemented. Each of the indicators provides a starting point definition to, for example, 'fairness' within the superannuation system. The Tracker also includes a methodology for assessing possible policy impacts to assist close the superannuation gender gap.

Members' concerns about how policies are implemented without transparency drove my zeal for driving this concept! The Tracker is an example showcasing how key performance indicators could bring accountability, transparency, and greater stability to the development of superannuation policy. The Tracker has been used to road test 21 policy proposals to see whether the indicator scores would either be improved or be eroded⁴

Detail is needed to stop Australian's superannuation savings being used politically

The following past policy example highlights what did happen given that the Australian superannuation system does not have the navigational tool of defining and tracking 'equitable'.

Changes to the taper rate made in 2015-16 Budget

The Federal Government made changes within the 2015-16 Budget which increased the taper rate from \$1.50 to \$3.00. This had two key effects: one was to reduce the net Age Pension to many recipients and the other was to substantially drop the fairness score of the Tracker. Of the Tracker's ten key performance indicators, the fairness (or equity) score was the lowest. With the fairness score at that time being 7.6, the increase of the taper rate from \$1.50 to \$3.00 would further reduce the fairness score.

The Tracker defines 'fairness, taking into account the level of government support across income deciles.

Detail is needed to stop the so-called 'superannuation wars'

My long-view of superannuation's policy history has highlighted to me that the 'superannuation wars' have occurred because of the many exemptions, gaps and carveouts to superannuation legislation that have been gained (consistently) over many years. These exemptions, gaps and carveouts have not been in the best interests of Australian's superannuation savings.

A summary of such past and consistent behaviours gaining exemptions, gaps and carveouts has been nicely documented in a publication for AIST by Professor Thomas Clarke⁵. I am pleased to note that after a long and sustained period of advocacy against these exemptions, gaps and carveouts, some of them have been fixed.

³ AIST-Mercer Super Tracker tinyurl.com/43uszs33 [Accessed 30 March 2023]

⁴ AIST (2016), Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability. Available at: tinyurl.com/bdcupu2y [Accessed 30 March 2023] – see Appendix A.

⁵ Professor Thomas Clarke (2018), Serious failures in superannuation governance and critical omissions in superannuation regulation. Available at: <https://tinyurl.com/59e5yfnx> [Accessed 31 March 2023]

However, given the long-standing history of eroding good policy, I submit this underpins the need for more detail in terms of definitions and performance indicators to properly back-up the great step of having an objective.

Proposed policies should be thoroughly road-tested to minimise not properly protecting members

Given my comments immediately above regarding systemic and long-standing exemptions, gaps and carveouts, I strongly recommend that more is needed than the current policy development processes to properly implement the objective.

If we have an objective, definitions, and a means to road-test proposed policies such as may be done using (for example) the AIST-Mercer Super Tracker, then it is imperative that an independent body be tasked with overseeing this process before the policy is implemented.

To this end, I strongly support the concept of the Council of Superannuation Custodians raised in 2013⁶ in a Treasury consultation. The Terms of Reference for that Consultation included:

‘The Council would be charged with assessing future policies against the Charter and providing reports to be tabled in Parliament. ... By establishing an independent and robust institutional framework through which all future superannuation changes are measured, the Council and Charter would ensure that Australia’s superannuation system is enhanced and protected for generations to come.’

Australians need such a level of scrutiny to proposed superannuation changes. The proposed objective coupled with definitions, a means of road-testing policies against indicators, and an independent group to oversee this process prior to the proposal being implemented or being placed before Parliament will bring far greater certainty and protection to Australian’s retirement savings.

I now turn to addressing the specific Consultation questions.

1. What do you see as the practical benefits or risks associated with legislating an objective of Australia’s superannuation system?

Legislating an objective of Australia’s superannuation system is much needed. One of members’ greatest concern is the constant ‘tinkering’ with the system, frequently uncoupled without certainty regarding the consequences of the changes.

However, without providing detail to underpin the objective, the uncertainty regarding either the reason for, or the effect of, changes will remain obscure to members. This may not start new ‘wars’ but it will create ‘skermishes’ that governments will want to avoid.

To repeat my comment above, the compass of the superannuation objective will orient us to a destination, but it alone will not help us navigate the various hills and valleys of the landscape. Definitions and a means of road-testing proposed policies is needed to provide certainty, transparency and accountability. Additionally, an independent body needs to be charged with assessing proposals: I endorse the concept of the Council of Superannuation Custodians raised in the 2013 Treasury consultation.

⁶ Treasury Consultation (2013) Charter of Superannuation Adequacy and Sustainability and Council of Superannuation Custodians. Available at <https://tinyurl.com/mryrh4az> [Accessed 31 March 2023].

2. Does the proposed objective meet your understanding of the objective of the superannuation system within Australia?

I support the wording of the proposed objective.

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

I support that the objective should be enshrined within legislation. Given that there are many pieces of legislation dealing with superannuation, a separate piece of legislation dealing with the objective would place a proper focus on the objective.

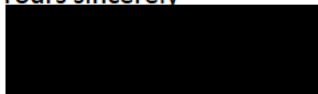
I recommend that such a separate piece of legislation establish a Council of Superannuation Custodians charged with developing definitions and a means of road-testing proposed policies prior to either implementing proposals or tabling Bills before Parliament.

As an alternative to the Council of Superannuation Custodians concept, the separate legislation could place an obligation on the Government of the day to make a Statement of Compatibility. This alternate process would be akin to that used to the process for the *Charter of Human Rights and Responsibilities Act 2006*. The Statement should include an assessment regarding how proposed policies might impact quantifiable goals that are set. Such a Statement would help demonstrate to Australians that there is a consistent approach being applied to the superannuation system. I submit that a Regulatory Impact Statement would not achieve such a result.

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

Legislating an objective - coupled with the establishment of the Council of Superannuation Custodians (with definitions and road testing policy capabilities) or the requirement to have a Statement of Compatibility – would give greater certainty to the development of superannuation proposals. The natural corollary should be that costs of policy development should be made more efficient.

Yours sincerely



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LL.B & winner of Money Management's Financial Services Woman of the Year 2017