



FINANCIAL PLANNING
ASSOCIATION of AUSTRALIA



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

Email: superannuationobjective@treasury.gov.au

Dear Sir / Madam

Re. Legislating the objective of superannuation

The Financial Planning Association of Australia (FPA) and the Association of Financial Advisers (AFA) welcome the opportunity to provide input into Treasury's consultation on legislating the objective of superannuation.

Superannuation is a primary asset for most Australians. As one pillar of the retirement income system, superannuation performs a critical role in enabling people to achieve a dignified retirement and allows the government to provide more targeted support (including age pension, concessions, rebates, supplements, etc) for those in the community who are most in need.

Our associations support in principle the inclusion in the SIS Act of an objective of superannuation. The objective should be housed in the primary legislation for the superannuation system and encompass the following:

- appropriately reflects individual Australians' ownership of the funds within the system;
- maintain a high degree of flexibility in the government policy settings to support Australians' legitimate use of the superannuation system; and
- ensure Australian consumers are protected from all threats including inappropriate government use or policy settings, misconduct and fraud, for example.

Our associations provide the following feedback to improve the proposed objective of superannuation to ensure it fulfils its role in the retirement income system for all Australians, and maintains confidence in the system.

What is the purpose of having an objective of superannuation?

The consultation paper presents three questions that the proposed objective of super seeks to answer and clarify:

1. The purpose of super
2. How super delivers on its purpose
3. The place of super in the broader retirement income system.

However, a critical question that is not clarified by the proposed objective or presented in the consultation paper is:

What is superannuation?

This is a fundamental question for identifying a sound objective of superannuation as its answer requires a description of superannuation and the roles of the participants of the system.

So, what is superannuation?

While many consumers think of superannuation as an investment, superannuation is in fact a tax structure. It is, broadly, a legislated savings mechanism that legally compels working Australians to contribute a portion of their earnings each year into a personal account that receives favourable tax treatment, to be looked after by a trustee, beholden to regulatory obligations and oversight, and returned to the individual along with any investment earnings upon or during their retirement. (We note that there are limited circumstances where consumers may be permitted to access funds prior to reaching preservation age.)

Superannuation is a vital pillar in the retirement income system as it provides a tax-advantaged long term investment vehicle in return for preserving benefits until retirement.

The roles of the key participants in the superannuation system include:

- Consumers – it is Australians who are compelled by law to contribute what is effectively their own money into the system. (Note: ‘members’ is a term used by industry and government in relation to users of the super system.)
- Government – are the gatekeepers of the system (rather than its beneficiary).
- Trustees / superannuation funds – industry funds, private and public businesses, and self-managed superannuation funds are tasked with protecting and growing consumers’ funds and making them available for use in retirement (special circumstances apply for access to funds pre-retirement, including insurance benefits). They are the custodians of the superannuation system on behalf of the government (gate keepers) and Australians (its users).

The proposed objective does not appear to reflect these roles or clarify the ownership of Australians’ earnings in the super system. Government appears to be at the core of the proposed objective. However, Australians view superannuation as their money, their superannuation account, deducted from their income, which they were required to defer receiving from when they were working until their retirement.

The purpose of the objective of super should be to guide government and regulators to act in the best interests of Australians in forming policy and regulations for the superannuation system. At the fore of this must be recognition that the government are gatekeepers of Australians’ money and that consumers have, in good faith, contributed to the super system to save for their retirement.

The objective of super must ensure the system cannot be used for political purpose or gain.

According to Finder’s Consumer Sentiment Tracker, more than a third of Australians (33%) check their super less than once a quarter, and 1 in 10 (10%) never look at their balance.¹ The complexity of the system is a contributing factor to poor engagement. Our associations suggest a key purpose of defining an objective of superannuation must be to improve engagement by instilling a sense of consumer ownership of the system itself.

The objective of super must be consumer-friendly and be able to be used by all participants with a shared understanding of the system.

Feedback on the proposed objective of superannuation

The consultation paper presents the following proposed objective:

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



Preserve savings

restricts access to superannuation savings for a person's retirement only.



Government support

intends to encapsulate and highlight the superannuation system's interaction with the Age Pension pillar, as well as other government support.



Deliver income

emphasises the principle of superannuation – to provide income in retirement.



Equitable and sustainable

signifies that the system should provide similar outcomes for people in similar circumstances and government support should be targeted to those in need. Superannuation also needs to fit within the broader fiscal strategy.



Dignified

denotes the importance of financial security and wellbeing in retirement.

Preserve savings

The intent of the phrase 'preserve savings' is to ringfence Australians' superannuation savings from being used for any purpose other than to fund a person's retirement. This narrow term in the objective of superannuation may create access issues to funds and ignores key aspects of the superannuation system, such as:

- Insurance benefits issued from policies held with a superannuation account and paid prior to or during retirement in circumstances where an injury or illness has arisen and there is a consumer need to access the insurance funds; and
- Extenuating circumstances in which superannuation funds may be accessed before preservation age such as terminal illness or genuine financial hardship.

The above factors represent important exemptions that are currently permitted and allow access to a member's account prior to retirement. Whilst it is preferable that Australians do not experience the need to access their superannuation account prior to retirement age, it is a reality that some will, and for genuine reasons. The objective of super should not seek to prevent this genuine early access to super.

The term 'preserve' has specific meaning within the superannuation system which is not commonly understood by key participants of the system – Australian consumers. Preserve, preserved, preservation, and other like terms, all refer to money in superannuation savings that must be kept in a super fund until a condition of release occurs – e.g. accessing funds after retiring or reaching 'preservation age'. This is industry jargon and not commonly understood by users of the system.

An objective of superannuation must be consumer-friendly, jargon free, and meaningful for all participants of the system.

Our associations recommend the use of the all-encompassing phrase 'to protect savings'. The term 'preserve' should not be included in the objective of super and should be replaced with "protect".

The strength in the term 'protect' aims to ringfence Australians' savings from all threats including inappropriate policy settings, misconduct and fraud, for example. If Australians perceive that their personal super savings may be subject to political purpose, this may undermine their trust in the superannuation system and erode its effectiveness as a retirement savings structure, thereby reducing consumers' incentive to save for their retirement.

An objective that includes "to protect savings" should guide policy makers and regulators to consider the role of sustainable management of the superannuation system by all participants; to ensure that the policy settings are financially responsible with the aim of "protecting the savings of Australians".

Deliver income

Our associations have received mixed feedback on the inclusion of and singular focus on the term 'income' in the objective of superannuation.

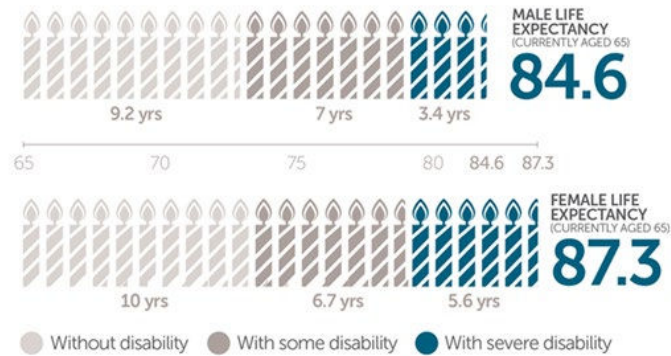
While the term 'income' does not adequately capture capital, insurance benefits, lump sum and other forms of payments from superannuation funds, from a consumer perspective, superannuation payments received during retirement are like a wage that is received during one's working life.

The use of alternative and/or additional terms would provide more accuracy to the specific types of funds consumers receive from their superannuation provider at various stages of their engagement with the system. Care must of course be taken to ensure the objective of superannuation is not weighted with industry jargon that consumers may not understand.

There is concern that basing the objective around 'delivering income' risks limiting the purpose of super to providing regular income payments in retirement as the only form of benefit payment permitted in the system. This could invite future policy restrictions on people accessing lump sums at, or in, retirement, or impact access to insurance benefits.

The retirement choices and priorities of Australians will vary significantly. Some consumers may plan to use at least some of their superannuation savings to upgrade a car, go on a trip, or help change their living arrangements at or in the lead up to retirement, for example. Equally, increasingly Australians are retiring prior to the repayment of their mortgages, and often rely upon access to superannuation savings to extinguish the remaining debt on their home. These types of priorities and choices are important to Australians and should be supported by a flexible and non-restrictive objective of superannuation.

The objective must also consider the three phases of retirement whereby the 'severe disability' or 'frailty' stage comprises 17%-25% of an average person's retirement, which can represent a significant portion of their retirement years.



Source: Australian Institute of Health and Welfare – selected health expectations by age 65, by sex, 2015.

For many Australians, superannuation must fund a move into residential aged care, which requires either a large lump sum or access to additional income. Insufficient superannuation savings reduces the ability for Australians to access appropriate care in later life to provide them with a dignified life in their care years. Many retirees may also have a need to spend money on important health related matters.

If an objective of superannuation is legislated, it must be flexible and non-restrictive to encourage Australians to engage with the system to save for all stages of retirement.

Dignified

The consultation paper suggests that ‘dignified’ is:

- “a qualitative measure that will require interpretation and may change over time to reflect society’s standards”;
- “denotes the importance of financial security and wellbeing in retirement”; and
- “recognises that individuals deserve a high-quality standard of living in retirement, as served by both the superannuation system and government support”.

As suggested above, what is considered to be a ‘dignified retirement’ may differ from person to person and would be very difficult to define in a way that accurately represents the range of Australians’ views, priorities, needs and choices. What is determined to be a dignified retirement is a personal choice and should not be defined by government.

Defining ‘dignified retirement’ risks the objective of superannuation creating restrictions in the system, which would be inappropriate.

The FPA and AFA oppose government defining a ‘dignified’ retirement.

Government support

There are three pillars to the Retirement Income System:

1. Superannuation
2. Age pension
3. Personal savings and investments outside superannuation.

Our associations appreciate the reasoning for the inclusion in the objective of superannuation of the concept of ‘government support’ as representative of the age pension pillar of the retirement income system.

However, this may raise consumer expectations that government support is available to all. Over time the need to access government support, particularly the age pension, is likely to decline as the superannuation system matures and account balances grow. It is important to be clear that government support is not available to all.

Representation of the 'personal savings' pillar in the objective of super would provide all participants a complete and shared picture of the role of super in the entire retirement income system. However, it may over-complicate the objective instead of simplify the system for participants, particularly consumers.

Equitable

Our associations have received differing views in relation to the inclusion of the term 'equitable' in the objective of super, versus the use of the alternative word - 'fair'.

Investigations show it is common to debate the use of the words equal, equitable and fair.

- Equal is defined as the same or exactly alike. In relation to a group of people, such as superannuation members, each person is different and treating everyone exactly the same in every situation does not always deliver the best outcome.
- Fair and fairness is based on circumstances where the treatment of a person or group of people is the same under a specific set of circumstances. This means that people get treated differently based on their circumstances; people (or a cohort of people with the same set of circumstances are treated differently to another cohort of people with a different set of shared circumstances). Something can be fair but unequal.
- Equitable relies on people getting what they need, even if it seems better or more than what someone else gets; it means something is fair to all parties, but not necessarily equal.

Importantly for determining an appropriate objective of superannuation, establishing what is fair is based on rules and standards; whereas determining what is equitable is subjective as it goes beyond rules and standards and requires judgement.

This implies that equitable provides flexibility but may pose a potential risk of mis-placed judgement being used in setting future government policy for the superannuation system.

The issue of 'equitable' plays out in any debate with respect to the extent of tax concessions that apply to the superannuation sector, and how this compares with government pension payments. It is important to ensure that this debate occurs with balance, where the reduced tax rate that applies to those who have saved to fund their retirement is seen in a fair light in the context of age pension payments that are made to those Australians who are unable to survive on their superannuation alone.

Sustainable

The consultation paper includes the following statement for 'equitable and sustainable':

"Superannuation also needs to fit within the broader fiscal strategy."

This statement undermines the intent of the superannuation system and exposes Australians' savings to potential misuse for political purposes based on any particular party's fiscal strategy. It is unclear as to the reasoning for proposing to include such a direct statement within the objective of superannuation specifically. The 'broader fiscal strategy' of any party in power should be captured under the broader fiscal objective of government and not specifically referenced under the objective of superannuation. There is no reference to timeframe in this statement, implying that it could be related to the government's short term fiscal strategy, rather than the country's long term fiscal strategy.

Australians contribute to super over the long-term in good faith as a means of building a 'safe' nest egg for retirement. This is not the government's money. The objective of super should not open the door for governments of the future to use it as a means to satisfy political agendas by allowing access to funds for other purposes.

As stated above, an objective that includes 'to protect savings' should ensure that the policy settings are financially responsible with the aim of 'protecting the savings of Australians'. That is, the policy settings:

- are fiscally responsible for the government under its broader long-term fiscal objectives;
- provide for cost-effective and efficient oversight for regulators; and
- require the system to be managed and operated by its custodians (superannuation funds) in a financially responsible way.

Savings cannot be 'protected' if there is not fairness and sustainability in the system.

A system designed to 'protect savings' must also be robust to demographic, economic and social change over both the short-term and the long-term.

Put another way, if a superannuation system is not robust to demographic, economic and social change, and is not managed in a financially responsible way, it will fail to 'protect savings'. If it fails to protect savings, it will be unable to deliver income for a dignified retirement.

The use of the term sustainable is not necessary or appropriate for inclusion in the objective of super. This should be replaced with the concept of 'protect savings'.

Ownership

The objective must include a clear statement about the owner of the money held within the superannuation system and that must be the Australian consumer.

The term 'members' is industry jargon that is not always readily understood by consumers.

The FPA and AFA recommend 'Australians' is an appropriate reference for the owners of the savings held within the superannuation system. For example, 'to protect Australians' savings'. Importantly, this helps to emphasise the fact that the super system exists for the benefit of Australians, who are the consumers of the superannuation system.

Alternative objective of superannuation

The consultation paper included the following alternative sentence structures for the objective of super using the government's proposed key concepts:

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

Our associations do not support either of the proposed alternative sentence structures as worded. Neither of these options adequately addresses the issues that we have raised above.

Measuring an objective of superannuation

Our associations question how an objective of superannuation would be or could be measured. This is critical in determining an appropriate objective.

We note the well-being measures and other indicators discussed in the Productivity Commission's 2016 study of superannuation efficiency and competitiveness and suggest these for Treasury's consideration. However, as previously stated, the FPA and AFA do not support the government defining what is a 'dignified retirement' for any purpose.

Conclusion

The FPA and AFA believe more work needs to be done to consider the following points to identify an appropriate objective of superannuation:

- Clearly establishing Australians as the owners of the funds held within the superannuation system (it is not government's money), to encourage Australians to take ownership of their super and aim to be self-supporting in retirement;
- Consumer test the proposed objective to ensure Australians understand its meaning and to limit the use of industry jargon and legally defined terms;
- That Australians' priorities and choices in how and when they access and use their superannuation savings are important and should be supported by a flexible and non-restrictive objective of superannuation; and
- It must be future-proof and protect consumers' savings from misuse in the immediate, short and long term.

The FPA and AFA would welcome the opportunity to work with Treasury to develop appropriate alternative wording of an objective of superannuation that addresses the above concerns. In the context of the establishment of an objective for superannuation, we recommend that consideration is given to the potential consequences for the sole purpose test (Section 62 SIS Act).

Thank you for the opportunity to make a submission to the Treasury on this important matter and we welcome further opportunities to provide feedback. If you have any questions, please do not hesitate to contact me on (02) 9220 4500 or sarah.abood@fpa.com.au.

Yours sincerely,



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