SUBMISSION

Supplementary ASFA Pre-Budget Submission for the 2020-21 Budget

24 August 2020

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Via email: prebudgetsubs@treasury.gov.au

Dear Sir/Madam

Supplementary Pre-Budget Submission

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the invitation of the Government. The submission builds on the earlier submission of ASFA, focussing on the impacts of the COVID-19 pandemic on the economy, employment and financial markets and the implications for retirement income policy.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its $2.7 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing almost 90 per cent of the 16 million Australians with superannuation.

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If you have any queries or comments in relation to the content of our submission, please contact Ross Clare on (02) 8079 0809 or by email rclare@superannuation.asn.au or Glen McCrea on (02) 8079 0808 or by email gmccrea@superannuation.asn.au.

Yours sincerely

Glen McCrea

Deputy CEO and Chief Policy Officer

Introduction

The need for the Superannuation Guarantee (SG) to reach 12 per cent through the legislated schedule for increases from 2021 to 2025 has been heightened by COVID-19 related impacts on superannuation balances, employment and superannuation contributions.

As at 9 August, superannuation funds had received 3.0 million initial applications for early release and a further 1.1 million repeat applications. A total of $32.2 billion had been applied for with $31.1 billion paid. By 31 December 2020 the total amount paid out could be around $45 billion in regard to a total of around 5.5 million applications.

The majority of applications have been made by people under 35 and typically by people employed, or formerly employed, in industries and professions most affected by the COVID-19 related downturn in economic activity. Over 500,000 individuals have been estimated to have completely emptied their superannuation account through early release.

The COVID-19 related reductions in employment have disproportionately impacted on the young and those on lower incomes. While the young may have a substantial period of years before retirement to make up for lost contributions they also miss out on the benefits of the compounding of investment returns over many years.

Reinforcing public confidence in the retirement income system – the current settings are working

ASFA considers that given substantial changes to the taxation of superannuation and the provision of the Age Pension in recent years there should now be a period of consolidation to allow the various changes to be bedded down. Stability in policy settings is also crucial in regard to retirees and those approaching retirement being confident to spend and thereby support activity in the economy. Higher taxes and/or lower Age Pension benefits is not an appropriate prescription for boosting economic activity and lowering unemployment.

The validity of current settings is also confirmed by budget outcomes and impacts on retirement incomes. For instance, the May 2016 Budget changes have reduced the overall amount of tax concessions for superannuation contributions and investment earnings by around $2.5 billion a year. As well, there has been a substantial change in the distribution of the tax concessions by income tax rate band. Going forward, the reduction in contribution caps will limit balances that can be accumulated, further decreasing the proportion of the tax concessions benefitting upper income earners.

ASFA is conscious that the COVID-19 pandemic has drastically changed the way in which the Government will view the Retirement Income Review (RIR) report (particularly as the terms of reference were drawn up in a different health, social and economic context). A thorough consideration of how the COVID-19 pandemic will impact on the future of Australia's retirement system, as well as the broader themes of the RIR report, will require time for deep consideration.

Recommendation 1
ASFA recommends that the Superannuation Guarantee be gradually increased to 12 per cent, as currently legislated

Changes to the nature of work in Australia and how superannuation policy settings should be adjusted in response to those changes

Developments in employment and economic activity flowing from the impact of the COVID-19 pandemic have highlighted the role of the gig economy and the challenges faced by many gig economy workers. For instance, security contractors hired through very basic electronic platforms, including WhatsApp, have played a central role in quarantine hotel arrangements.

Other gig economy workers have experienced substantial downturns in hours worked. While some delivery services have expanded, other transport gig economy workers have not done as well, including many who rely on apps and the like to get customers for car transport services.

While the gig economy has provided some workers with better pay and flexibility, for many it has eroded conditions and pay, including superannuation.

The gig economy is becoming more pervasive. Over the last three years the number of gig economy workers is estimated by ASFA to have increased from around 100,000 to up to 500,000. At least some web-based platforms have been growing fast and platforms are expanding to encompass a wider variety of professions and industries.

The rise of the gig economy is leading to shifts in the structure of the Australian labour market. A larger proportion of people have some form of independent work arrangements, such as independent contracting, where workers generally are not be covered by the SG.

More specifically, the rise of the gig economy is being accompanied by an increase in the proportion of workers who could best be described as 'dependent contractors' – that is, workers who are engaged under a commercial contract for services, but who have little discretion in regard to how they carry out their role and have work arrangements that (in a variety of ways) resemble those of an employee. Developments in the economy as a result of the COVID-19 pandemic have made conditions for contractors more challenging and will have increased the proportion of dependent contractors who have little control over their working arrangements. Having an ABN and being willing to work for a lower hourly rate should not be sufficient grounds for being considered to be self-employed and not subject to the SG.

With respect to 'dependent contractors', greater certainty around the application of the legislative framework to gig economy workers could be achieved through legislative change that introduces a new category of worker subject to SG arrangements.

Recommendation 2
ASFA recommends the Government amend the current legislative framework in order to include dependent contractors within the scope of the Superannuation Guarantee

Removing the $450-a-month threshold

ASFA has long advocated removing the $450-a-month earnings threshold for payment of the SG. The impact of COVID-19 restrictions on employment in industries where casual and part-time employment is common reinforces the need for removing the threshold. Developments in wages and employment mean that employees affected by the $450-a-month threshold have been doubly disadvantaged.

In the June quarter 2020 wage movements on average were negative in: construction; accommodation and food services; arts and recreation; and transport. Each of these sectors has relatively high levels of casual and part-time employment.

The largest decreases in employment and hours worked have been: accommodation and food services; arts and recreation; retail; and construction. Women and those aged under 30 have been the most impacted. In all these categories casual and part-time work is common.

The existence of the threshold penalises low-income earners, permanent part-time and casual workers, and those with multiple jobs who receive little or nothing in the way of SG contributions. It especially affects gig economy workers and those on 'zero hour' contracts.

The existence of the threshold results in lower superannuation balances at retirement for those affected, generally the most vulnerable members of the Australian labour force. For example, consider the case of a part-time cleaner, who holds multiple jobs, none of which pays more than $450-a-month. It is possible their annual income from such work is $20,000 a year but in this case they miss out superannuation contributions of $1,900. By way of contrast, a part-time employee earning the same amount from one employer receives the benefit of such contributions. Over a period of years the amount of superannuation contributions and earnings foregone can be considerable.

Analysis undertaken by the Treasury estimates that around 240,000 women and 160,000 men are affected by the $450-a-month threshold. Further, Treasury estimated that around 40 per cent of those affected were aged under 25 and two-thirds aged under 35. Missing out on employer contributions also means that those affected miss out on substantial compounding investment earnings.

Given the disproportionate number of women affected, abolishing the $450-a-month threshold would help redress the imbalance between men and women in average retirement balances.

The cost to employers and the Commonwealth Budget would be modest, estimated by the Treasury to be less than 0.1 per cent of the national wage bill. ASFA estimates that the impact on employers would amount to approximately $95 million in total a year. With respect to the Budget, the reduction in revenue would be around $25 million.

Recommendation 3
ASFA recommends the $450-a-month threshold for payment of Superannuation Guarantee contributions be removed

Superannuation payments owed by insolvent employers

The Fair Entitlements Guarantee (FEG) provides for the Commonwealth to pay an 'advance' on certain unpaid 'employment entitlements' in cases where an individual's employment ended in circumstances connected with the insolvency or bankruptcy of their employer, and the individual cannot obtain payment of their entitlements from other sources. However, the types of 'employee entitlements' currently covered by the FEG are limited and do not include unpaid superannuation contributions.

There has been a number of high profile cases in recent years, including restaurant groups, where businesses have become insolvent and there are unpaid superannuation contributions.

While the provision of JobKeeper payments to businesses that have experienced a downturn in revenue have kept many businesses solvent, once the JobKeeper program ceases there is likely to be a substantial increase in the number of insolvencies. This is likely to be particularly the case for Victoria, where the reintroduction of an extensive range of restrictions has meant that many businesses will have no trading revenue for an extended period of time.

Changes to reporting requirements for employers and superannuation funds have given greater visibility for the Australian Taxation Office to unpaid employer contributions and greater attention is being given to contributions in arrears. However, it is likely that there will be continuing cases where there are unpaid contributions when businesses become insolvent. Greater visibility to unpaid employer contributions will be of only limited assistance where the employers do not have any financial capacity to pay given COVID-19 impacts on their businesses.

In ASFA's view, there is merit in reviewing the treatment of unpaid SG entitlements in insolvency/bankruptcy, with the objective of considering how to achieve the maximum possible recovery on behalf of affected employees. ASFA estimates that on a regular ongoing basis it would cost around $150 million per year to include unpaid SG in the FEG, with around 55,000 employees a year benefitting. In 2021-22 as a result of COVID-19 related insolvencies the figures might be more like $600 million and 220,000 employees.

Recommendation 4
ASFA recommends unpaid Superannuation Guarantee entitlements be included in the definition of unpaid 'employment entitlements' for the purposes of the Fair Entitlements Guarantee

Measures that would increase the productivity of the superannuation sector and the economy more broadly

In light of the current economic challenges, there is a clear need to develop solutions to challenges that will be present in a post-COVID-19 world. This includes creating productivity gains by cutting red tape to reduce the cost burden on specific industries and the economy more generally.

ASFA has been working closely with its members to establish a six-step plan to improve post-COVID-19 productivity and efficiency.

The specific measures proposed are:

- change the default communication medium from paper to electronic
- make advice more accessible and affordable for members
- centralise data reporting by funds rather than having reporting to multiple agencies and departments
- address issues inhibiting superannuation fund mergers
- make it easier for members to make a contribution and to claim a tax deduction
- ensure greater stability in policy settings.

Further details of the proposals are contained in a document that has been published by ASFA: https://www.superannuation.asn.au/ArticleDocuments/265/060820-Improving-productivity-within-superannuation.pdf.aspx?Embed=Y

Recommendation 5
ASFA recommends that its proposals to improve the productivity of superannuation administration be adopted