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ASFA Pre-Budget submission for the 2016/2017 Budget

February 2016

The Association of Superannuation Funds of Australia (ASFA)

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About ASFA
ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system so people can live in retirement with increasing prosperity. We focus on the issues that affect the entire superannuation system. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90 per cent of the 14 million Australians with superannuation.

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Executive summary

Superannuation plays a crucial role in coping with Australia's ageing population. It is the primary retirement savings vehicle, and for most households it represents the most significant asset aside from the family home. It is central to the Australian Government's fiscal sustainability not just for the Budget forecast period but for the Budget 40 years from now.

Superannuation is a major part of Australia's three pillar retirement income system—with the Age Pension as the first pillar, and with compulsory and voluntary superannuation savings as the second and third pillars. These interconnected pillars have improved income adequacy and dignity in retirement and have played a key role in the strength of Australia's retirement income system.

Tax concessions for voluntary contributions and for income streams in retirement play crucial roles in both the accumulation of retirement savings and during the retirement phase in ensuring adequacy of retirement incomes and reducing calls on the Federal Budget. Over 10 per cent of employer contributions are salary sacrificed and almost all of the around $45 billion a year of personal contributions are attracted by the tax concessions for investment earnings within superannuation funds.

ASFA considers that there is no need for significant changes to policy settings for superannuation or the retirement income system more broadly. Superannuation plays a unique and central role for Australians in their retirement and is part of the fabric of Australian society. It is the envy of both developed and developing countries, with high coverage rates across the labour force, and it also plays a leading part in addressing the consequences of underinsurance through providing group insurance.

Superannuation funds under management have grown from $140 billion in 1992 to $2 trillion today. As a result, Australia is better prepared to deal with an ageing population than most, if not all, developed countries. This is particularly important given the projected doubling of aged care and health care costs between now and 2054/2055.

Despite the system not yet reaching full maturity, the cost to the Age Pension in the Federal Budget is already being substantially reduced by $7 billion per year, with this amount growing as average retirement balances increase. In particular, an Australian's reliance on the full pension has fallen from 44 per cent in 2000 to 25 per cent in 2013, while self-funded retirees has risen from 22 per cent to 32 per cent over the same time period.

The public pension system currently costs around 3 per cent of gross domestic product (GDP) compared to an Organisation for Economic Co-operation and Development (OECD) average of 6.3 per cent.

Superannuation is also providing a fiscal buffer against the growing cost to the government of health and aged care costs. Superannuation's role in reducing these costs to the Budget will become more substantial as the population ages. It is important that these benefits are considered on the context of policy settings affecting budgets 40 years from now.

We are consistently ranked by the *Melbourne Mercer Global Pension Index* and by the OECD as one of the best retirement income systems in the world in terms of adequacy, sustainability and integrity.

The impact on the Australian economy is overwhelmingly positive. Australia's savings rate has increased as a result of the introduction of compulsory superannuation, providing a domestic pool of capital, thereby reducing reliance on international capital markets and lowering the cost of investment. The investments Australians hold are now more diversified through the professional management of savings in superannuation.

The Financial System Inquiry (FSI) identified the objective of the system, stating its purpose is "To provide income in retirement to substitute or supplement the Age Pension".

In this regard, superannuation is boosting incomes and providing a lifestyle in retirement that is better than that which can be sustained on the Age Pension alone. To live comfortably, the minimum a couple needs is $58,915 per year (as at the September quarter 2015), and the Age Pension alone does not deliver anything near this.

Without compulsory superannuation, around 50 per cent of couples and over 70 per cent of single persons would have incomes in retirement no greater than a $1,000 or so a year in addition to the Age Pension.

With compulsory superannuation, a single person who is on average earnings of $70,000 per year will retire with around $425,000 in today's dollars, and have an income in retirement that would be nearly 90 per cent higher than the Age Pension only.

The superannuation system is working well: it is reducing the cost of the Age Pension; reducing the cost of health and aged care for the government through enabling retirees to maintain private health insurance and pay contributions towards the cost of health and aged care; and delivering better lifestyles in retirement for many Australians than that afforded by the Age Pension.

While in the context of the broader tax reform conversation, ASFA has discussed the importance of ensuring equity, adequacy and sustainability in the system with the need to consider policies such as a $2.5 million cap, lifetime concessional and non-concessional contributions caps, the following submission focusing on policy changes required to address immediate challenges.

These challenges include the need to assist with achieving greater adequacy of retirement incomes for those impacted by broken work patterns, such as women who retire on half the amount of superannuation as men.

The submission also outlines the need to enhance adequacy through the current enforcement of the Superannuation Guarantee (SG), arrangements to deal with unpaid obligations when an employer becomes insolvent, and reuniting lost and unclaimed superannuation balances with account holders. In addition, ensuring the system is sustainable through ongoing funding of the SuperStream Network Gateway Governance and the timely consideration of complaints by the Superannuation Complaints Tribunal (SCT).

Summary of key recommendations

In situations where income is replaced as a result of a workplace or legislative entitlement to receive a salary or wage, such as paid parental leave, salary continuance payments or worker's compensation, it would be consistent, and appropriate, if the SG were to apply to such payments.

Recommendation 1:
ASFA recommends that the Superannuation Guarantee should apply with respect to all substantive income replacement payments.

The annual concessional contribution cap can be overly restrictive for members who are attempting to 'catch-up' by making additional superannuation contributions when their circumstances permit.

Recommendation 2:
ASFA recommends that the annual concessional contribution caps be amended to enable people with broken working patterns to be able to catch-up their concessional superannuation contributions.

The superannuation system needs to reflect and cater for the reality of the gender pay gap between women and men, and for those with low incomes more generally.

Recommendation 3:
ASFA recommends that the Low Income Super Contribution (LISC) scheme should be retained permanently.

The existence of the $450 per month threshold for the payment of SG penalises low income earners, those who are permanent part-timers and those with multiple jobs, who receive little or no SG contributions.

Recommendation 4:
ASFA recommends removing the $450 a month threshold for the Superannuation Guarantee.

ASFA considers that the SCT be provided with sufficient resources to permit the timely consideration of complaints, including dealing with any current backlog of complaints.

Recommendation 5:
ASFA recommends that:

a) the amount of funding allocated to the SCT from the ASIC component of the 2016/2017 supervisory levy should be separately identified

b) Treasury and ASIC should urgently review the SCT's funding needs to ensure it is adequately resourced to address its workload and meet its statutory objectives.

Given recent changes to superannuation reporting requirements that have enhanced the Commissioner's information about superannuation accounts, ASFA considers that the Australian Taxation Office (ATO) should be empowered to initiate the repatriation of lost member accounts rather than just respond to member requests. Such a change would be consistent with the policy objective of reducing the number of unnecessary accounts within the superannuation system.

Recommendation 6:
ASFA recommends that priority be given to amending the *Superannuation (Unclaimed Money and Lost Members) Act 1999* so as to permit the Commissioner of Taxation to pay unclaimed money to a complying superannuation plan where the Commissioner is satisfied as to the identity of the lost member account owner and that the person holds an account in the proposed destination fund.

While interest will be paid at the Consumer Price Index (CPI) rate on amounts held by the ATO, for a member invested in a fund's default investment option, based on long term average investment returns, it is probable that for account balances greater than $2,000 the member would be significantly better off financially were the account balance to remain invested with the fund.

Recommendation 7:
ASFA recommends that the further increase in the threshold to $6,000, at which small lost and inactive accounts are transferred to the ATO, not be put into effect.

The Australian National Audit Office (ANAO) has found that audits undertaken by the ATO have a success rate in excess of 70 per cent in identifying SG obligations.

The ANAO has also noted that most of the compliance resources of the ATO's Superannuation Business Line are dedicated to addressing employee notifications of potential SG non-compliance. While some audits are conducted by the Superannuation Business Line, the number is small.

Recommendation 8:
ASFA recommends that the Australian Taxation Office be provided with an additional $10 million a year to conduct Superannuation Guarantee audits of businesses.

The treatment of unpaid superannuation in the case of an employer insolvency or bankruptcy is currently subject to a complex combination of legislative provisions.

In ASFA's view, there is merit in reviewing the treatment of unpaid SG entitlements in insolvency or bankruptcy, with the objective of considering how to achieve the maximum possible recovery on behalf of affected employees. ASFA estimates that it would cost around $150 million per year to include unpaid SG in the Fair Entitlements Guarantee administered by the Australian Government, with around 55,000 individuals affected.

Recommendation 9:
ASFA recommends that unpaid SG entitlements be included in the definition of unpaid employment entitlements for the purposes of the Fair Entitlements Guarantee.

Since 2014, the ATO has been governing the SuperStream gateway network. The responsibility for this is scheduled to move to the private sector in 2016.

Given the number of APRA-regulated superannuation funds and SMSFs involved, ASFA considers that a redistribution of the existing supervisory levies paid by APRA-regulated funds and SMSF to funding for a Gateway Network Governance Body presents the most practical, transparent, cost effective and least disruptive collection mechanism for supporting this change.

Recommendation 10:
ASFA recommends that that funding for an industry-run Gateway Network Governance Body be provided out of supervisory levies paid by APRA-regulated funds and SMSFs for 2016/2017 and subsequent years.

Improving the adequacy of the system

ASFA believes that retirement income policy should be designed to ensure that as many people as reasonably possible have an adequate income in retirement. Retirement savings adequacy continues to be a concern for many Australians. While account balances are growing as the superannuation system matures, many people will still retire with inadequate superannuation savings to fund the lifestyle they want in retirement. Most people retiring in the next few years will rely substantially on the Age Pension to fund their retirement as they have inadequate superannuation savings. However, as the compulsory system matures more individuals will retire with significant superannuation balances. This will both decrease reliance on the Age Pension and increase overall retirement income.

Adequacy of retirement savings and retirement income is a particularly big issue for women. Women on average tend to live longer in retirement than men but often retire with less retirement savings than men. Women still lag substantially when it comes to average account balances at all ages. Not increasing the SG to 12 per cent would tend to reinforce the gender gap, as women on average tend to rely more on SG contributions than do men, who are more likely to make voluntary contributions to superannuation.

Already, the superannuation system is delivering substantial benefits to retirees and the proportion of retirees with significant superannuation balances will increase in the future as the system matures. This will both lift the living standards of retirees and decrease the cost to government of providing Age Pensions.

As shown by Table 1, average superannuation balances have already reached significant levels. The median figures (where 50 per cent of the group have a balance below the figure and 50 per cent have more) are lower but are substantial.

Table 1: Superannuation balances and coverage by age and gender

	2014		
	% with super	Super balance of those with super	
		Mean	Median
Men			
15-19	31.5	$1,640	$1,000
20-24	83.2	$8,869	$4,800
25-34	91.7	$34,657	$24,783
35-44	93.1	$99,932	$61,571
45-54	94.0	$188,468	$114,749
55-64	90.0	$315,430	$180,000
65+	77.2	$405,685	$200,000
Total	84.3	$129,879	$50,000
Women			
15-19	32.2	$1,405	$520
20-24	83.7	$6,399	$4,000
25-34	83.5	$27,643	$18,000
35-44	89.6	$58,890	$35,052
45-54	88.8	$118,608	$65,000
55-64	87.5	$172,094	$87,000
65+	53.1	$238,748	$93,000
Total	80.1	$75,248	$30,000

Source: Superannuation account balances by age and gender, ASFA.

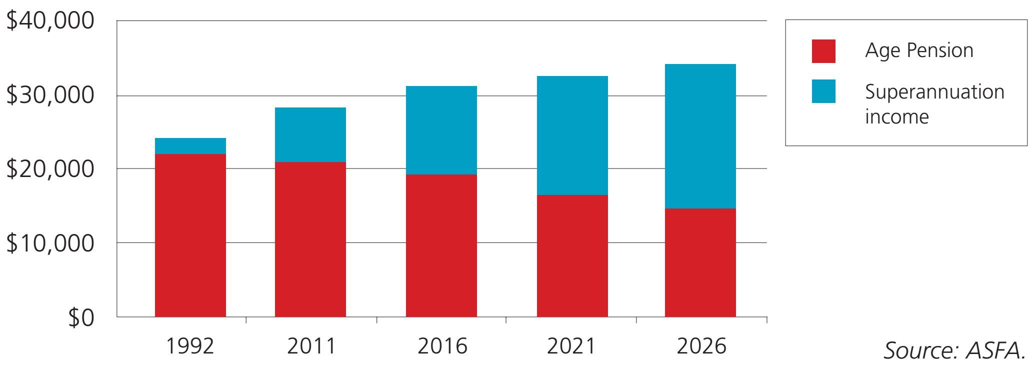
As shown by Table 2, also drawn from the *Household, Income and Labour Dynamics in Australia (HILDA) Survey*, the superannuation balances of those recently retired have reached a level where a substantial proportion of recent retirees are solely or substantially self funded.

Table 2: Superannuation coverage and balances of recent retirees

	% with super	Super balance of those with super	
		Mean	Median
Men			
<60	*66.4	$249,324	$150,000
60-64	*79.3	$450,748	$480,000
65-69	67.9	$345,758	$200,000
70+	47.2	$424,423	$420,000
Total	66.0	$381,984	$300,000
Women			
<60	70.3	$252,046	$125,000
60-64	69.4	$432,838	$250,000
65-69	41.0	$369,099	$250,000
70+	58.6	$549,637	$200,000
Total	60.1	$367,707	$200,000

As a result of the increasing maturity of the compulsory superannuation system and individuals making voluntary contributions supported by tax concessions, average retirement incomes are projected to rise with less reliance on the Age Pension in both relative and absolute terms.

Average retirement income at Age Pension eligibility age (in today's dollars)



Source: ASFA.

As indicated by Table 3, superannuation savings are not being dissipated at the time of retirement. Individuals with substantial superannuation balances roll them over into retirement income streams of some sort.

Table 3: Use of super balance at retirement

	Assets $billion (2013-14)	Number of members
Lump sums	9	224,000
Phased drawdown rollovers	46	156,000
Total	55	381,000

Source: Rice Warner.

While considerable progress has been made in regard to improving the adequacy of retirement incomes, there are a number of further measures that can be taken to improve the retirement income adequacy of those who for a variety of reasons have low superannuation balances.

A number of these measures were set out in the ASFA Submission to the Senate Economics Committee inquiry into the economic security of women in retirement. The main recommendations are set out below.

Make Superannuation Guarantee payable on income replacement payments (parental leave/salary continuance/ workers' compensation)

In situations where income is replaced as a result of a workplace or legislative entitlement to receive a salary or wage, such as paid parental leave, salary continuance payments or worker's compensation, it would be consistent, and appropriate, if the SG were to apply to such payments.

Recommendation 1:
ASFA recommends that the Superannuation Guarantee should apply with respect to all substantive income replacement payments.

Amend annual concessional contributions caps

The annual concessional contribution cap can be overly restrictive for members who are attempting to catch-up by making additional superannuation contributions when their circumstances permit.

Options for ameliorating the restrictions imposed by the annual concessional contribution cap include:

1. a lifetime cap on concessional contributions
2. a permanent higher annual concessional contributions cap (one and a half or two times the annual contributions cap) for those aged 50 or more (regardless of their superannuation balance). The Henry Review recommended twice the annual contributions cap for those over 50 years of age
3. a permanent higher annual concessional contributions cap for those aged 50 years and over who have a small superannuation balance (under a prescribed amount). By way of a hypothetical example, for the 2015/2016 year a person aged 50 with total superannuation balances of less than $500,000 could have a concessional contribution cap of $50,000.

Recommendation 2:
ASFA recommends that the annual concessional contribution caps be amended to enable people with broken working patterns to be able to catch-up their concessional superannuation contributions.

Retain the LISC

The single most effective, equitable and targeted measure to address the issue of people with low incomes is the LISC.

Given that a flat rate of tax applies to superannuation contributions, without the LISC the tax paid on superannuation contributions versus personal income is as follows:

- superannuation contributions: every single dollar of concessional contributions is taxed at 15 per cent in the fund
- personal income:
    - zero—on incomes up to $18,200
    - 19 per cent—only that income that is in excess of $18,200, up to $37,000 (which is where the LISC currently cuts out).

At the very least individuals with an effective marginal tax rate of zero with respect to their personal income should not be required to pay tax at a higher rate on their 'concessional' superannuation contributions than would apply to their personal income.

Taxing people on lower incomes at a higher rate of tax with respect to their superannuation contributions, compared to the level of tax they would pay if the amount were received as personal income, has the effect of significantly reducing their superannuation account balances.

The LISC currently benefits approximately 3.2 million Australians on low and modest incomes. The introduction of the LISC substantially increased the amount of tax assistance for people earning less than $37,000 a year. For a person earning just $37,000 a year, aged 30 and retiring at aged 65, if the LISC applied over their working life it would boost their superannuation balance, in today's dollars, by around 20 per cent, from $200,000 to $240,000.

There are notable differences in the average balances for men and women, particularly for younger women in age groups where they are most likely to have spent time out of the paid labour force due to family responsibilities. As a result, women are far more likely to have incomes around the $30,000 a year level, and therefore be eligible to receive a LISC, than are men.

Given all of the above—the LISC should be retained permanently.

As it is paid directly to the superannuation accounts of those people who have low incomes, the LISC is an especially well targeted measure. The mechanism to administer the LISC has been developed and utilised successfully for a number of years. The ATO determines the amount, if any, to which an individual is eligible and remits it directly to the individual's fund to be allocated to the member's account.

Given this, the LISC is an ideal mechanism that could be extended to provide 'top up' payments to the superannuation of individuals with low incomes, who would not be in a position to make additional contributions themselves.

Recommendation 3:
ASFA recommends that the Low Income Super Contribution (LISC) scheme should be retained permanently.

The existence of the $450 per month threshold for the payment of SG penalises low income earners, those who are permanent part-timers and those with multiple jobs, who receive little or no SG contributions.

ASFA estimates that around 250,000 individuals, the majority of them women, would benefit from the removal of the threshold through higher retirement savings. The cost to employers and the Federal Budget would be modest. On the assumption that the 250,000 persons missing out on superannuation contributions because of the $450 per month threshold have average relevant wages of $3,000 a year the total wages bill for them would be $750 million per annum. Superannuation payments at the rate of 9.5 per cent would amount to some $70 million a year. This compares to a total wages bill for the economy of around $600 billion a year.

The impact on the Federal Budget would be negligible as most of the individuals benefiting from removal of the threshold would be on a zero or 15 per cent marginal personal tax rate. There could be increased expenditure on the low income earners superannuation tax rebate but we estimate it would be less than $5 million a year.

Recommendation 4:
ASFA recommends removing the $450 a month threshold for the Superannuation Guarantee.

Providing adequate funding for the SCT

Timely and efficient dispute resolution in regard to decisions and conduct of trustees and insurers of superannuation funds is important for the effective operation of the superannuation system and for consumer confidence in the system. While the SCT does not have an unlimited jurisdiction to deal with all superannuation-related matters, it can deal with many of the issues that are raised by superannuation fund members and potential beneficiaries of superannuation death benefit payments.

In this context, ASFA considers that the level of funding provided to the SCT on an ongoing basis should be adequate to ensure that it can effectively deal with the volume of complaints received, within an appropriate timeframe and ensure sustainability of the system.

The SCT received an additional funding allocation in the May 2013 Budget, which allowed it to establish a 'Special Projects Complaints Resolution Team' to address a specific backlog of unresolved complaints. While the SCT has reported good progress in addressing that specific backlog, it has noted that funding to support that team was for a two-year period (2013/2014 – 2014/2015) only.

Notwithstanding the outcomes of this special project, ASFA members continue to raise with us their concerns regarding the time taken for the SCT to resolve complaints, which raises an obvious inference regarding the adequacy of the SCT's ongoing funding.

In this respect we note that ASFA members are reporting increased activity within some parts of the legal profession such that fund members are being actively encouraged to pursue litigation in respect of a benefit entitlement (particularly in relation to claims for insured disablement benefits) instead of following their fund's usual benefit claim and complaints process. Where a member engages legal representation and pursues a claim through the courts, the costs involved may in some cases represent a material portion of any benefit ultimately paid out. In contrast, there is no charge to a member to take a complaint to the SCT.

One of the reasons cited by some legal practitioners and law societies for the increased trend toward litigation is the time taken for fund members to achieve a resolution of their complaint through the SCT.

ASFA accordingly considers that the SCT be provided with sufficient resources to permit the timely consideration of complaints. In this context, ASFA considers that the SCT should be provided with a specific Budget allocation (rather than having its funding included in the overall amount provided to ASIC) and for this amount to be sufficient to deal with any current backlogs of complaints and to allow timely consideration of future complaints that are received.

Recommendation 5:

ASFA recommends that:

- the amount of funding allocated to the SCT from the ASIC component of the 2016/2017 supervisory levy should be separately identified
- Treasury and ASIC should urgently review the SCT's funding needs to ensure it is adequately resourced to address its workload and meet its statutory objectives.

Small 'lost' and inactive superannuation accounts and unclaimed monies

As a result of decisions by the current and previous government, the threshold below which small lost superannuation accounts are required to be transferred to the ATO has been increased from $2,000 to $4,000 from 31 December 2015, and will further increase to $6,000 from 31 December 2016.

The stated aim of the measure is to protect the real value of these small transferred accounts, however ASFA is concerned about the impact on adequacy.

ASFA considers that there is considerable doubt about the merit of both the recent increase and the foreshadowed further increase in the threshold. While the aim of protecting account balances may be appropriate for account balances under $2,000, there is far less certainty about the need for such protection under the proposed higher thresholds.

While interest will be paid at the CPI rate on amounts held by the ATO, for a member invested in a fund's default investment option, based on long term average investment returns, it is probable that for account balances greater than $2,000 the member would be significantly better off financially were the account balance to remain invested with the fund.

A further concern is that these higher account balances are more likely to hold insured benefits. There is also an increased likelihood that the member has consciously maintained an otherwise inactive account for the explicit purpose of retaining insurance through that account. A significant number of superannuation funds, under their partial portability rules, have a 'retained balance' threshold—generally around $5,000—which insured members avail themselves of in order to retain insurance cover through their account. Some funds will also allow members to let their account balance fall below the threshold before they require them to top up the account in order to retain the insurance cover.

While the ATO is active in identifying and contacting account owners and encouraging them to consolidate these lost accounts with their other superannuation holdings, it would appear from discussions with the ATO that only a small percentage of these account holders follow through with the necessary action to enable the Commissioner to consolidate these amounts.

Given recent changes to superannuation reporting requirements that have enhanced the Commissioner's information about superannuation accounts, ASFA considers that the opportunity should be taken to amend section 24G of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* to empower the Commissioner to initiate the repatriation of lost member accounts. Such a change would be consistent with the policy objective of reducing the number of unnecessary accounts within the superannuation system.

Recommendation 6:
ASFA recommends that priority be given to amending the *Superannuation (Unclaimed Money and Lost Members) Act 1999* so as to permit the Commissioner of Taxation to pay unclaimed money to a complying superannuation plan where the Commissioner is satisfied as to the identity of the lost member account owner and that the person holds an account in the proposed destination fund.

Recommendation 7:
ASFA recommends that the further increase in the threshold to $6,000, at which small lost and inactive accounts are transferred to the ATO, not be put into effect.

Enforcement of the Superannuation Guarantee

The non-payment of SG contributions by employers is a critical issue impacting on the retirement outcomes of Australians.

Recent reports prepared by Tria Investment Partners show an increase in SG non-compliance, and the significant impact that this can have on the adequacy of retirement outcomes of affected employees. In particular:

- SG non-compliance was assessed to be a $2.5 billion per annum problem in the 2014 Tria report, rising to $2.6 billion per annum in the 2015 Tria report
- the number of Australians affected by SG non-compliance is growing. The 2014 Tria report found that around 650,000 Australians—6.5 per cent of the workforce—were affected by SG non-compliance annually
- the impact on Australians affected by SG non-compliance is significant. The 2014 Tria report found that Australians affected by non-compliance lost an average of $3,750 per annum in SG contributions—9 months' worth for someone on average weekly earnings, more for low income earners
- the cumulative impact of this loss on Australians' retirement outcomes is also substantial. An average 25 year old impacted by SG non-compliance for five years loses 14 per cent of their retirement income—$8,000 per annum. ASFA estimates show that for a 25 year old, a one-off loss of $4,000 in superannuation contributions could equate to a loss of over $14,000 at retirement, in today's dollars.

SG non-compliance is clearly a serious issue, and one which represents a significant risk to the retirement security of a large number of Australians.

In this context, ASFA considers that dealing with SG non-compliance should be more highly prioritised within the ATO and that the relevant areas within the ATO be more appropriately funded. We support the recommendations made by the ANAO in its recent report on promoting compliance with SG obligations.

In encouraging compliance, the ATO has predominantly focused on communicating recent legislative changes affecting SG. While there is a need for ATO communications to emphasise employers' obligations under the SG scheme and the implications of non-compliance, messaging by the ATO should not convey the impression that employers' SG obligations have in any way been diminished.

The ANAO audit report notes that most of the compliance resources of the ATO's Superannuation Business Line are dedicated to addressing employee notifications of potential SG non-compliance. While some audits are conducted by the Superannuation Business Line, the number is small when compared to those undertaken by the Small Business and Individual Taxpayer business lines.

The ANAO found that audits undertaken by the three business lines have in excess of 70 per cent success rate in identifying SG obligations. Accordingly, the ANAO recommended that to improve the effectiveness of the ATO's SG compliance activities, the Superannuation Business Line should better align its SG compliance strategy with the compliance activities undertaken by other relevant business lines.

Recommendation 8:
ASFA recommends that the Australian Taxation Office be provided with an additional $10 million a year to conduct Superannuation Guarantee audits of businesses.

Superannuation payments owed by insolvent employers

The Fair Entitlements Guarantee (FEG) provides for the government to pay an 'advance' on account of 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.

The treatment of unpaid superannuation in the case of an employer insolvency orbankruptcy is currently subject to a complex combination of legislative provisions, including the *Superannuation Guarantee (Administration) Act 1992*, the *Corporations Act 2001*, the *Bankruptcy Act 1966*, and the 'director penalty notice' provisions of the *Taxation Administration Act 1953*.

The types of employee entitlements currently covered by the FEG are limited, and do not include unpaid superannuation contributions. Unpaid SG was also excluded from the General Employee Entitlements and Redundancy Scheme (GEERS), which was a precursor to the FEG.

In ASFA's view, there is merit in reviewing the treatment of unpaid SG entitlements in insolvency or bankruptcy, with the objective of considering how to achieve the maximum possible recovery on behalf of affected employees. Superannuation payments owed by insolvent employers can have a major impact on adequacy. ASFA estimates that it would cost around $150 million per year to include unpaid SG in the FEG, with around 55,000 individuals affected.

Recommendation 9:
ASFA recommends that unpaid SG entitlements be included in the definition of unpaid employment entitlements for the purposes of the Fair Entitlements Guarantee.

Funding of SuperStream governance arrangements

Since 2014, the ATO has been governing the SuperStream gateway network. However from 2016, it is intended that the gateway will be operated by the industry.

Over the last few months, ASFA, along with other stakeholders, has had discussions with the ATO on the establishment of an industry-run Gateway Network Governance Body (GNGB).

Funding has been provided for the establishment of the GNGB. However, there is also the need for ongoing funding for its day to day operations and ensuring the sustainability of the system.

Given the number of APRA-regulated superannuation funds and SMSFs involved, ASFA considers that a redistribution of the existing levies paid by APRA-regulated funds and self-managed superannuation funds (SMSFs) to the GNGB presents the most practical, transparent, cost effective and least disruptive collection mechanism. As part of the benefits will flow to SMSFs they should incur an appropriate share of the costs and consideration should also be given to how gateways can contribute.

This mechanism will ensure that the government delivers on its commitment to a self-regulated, industry funded governance body and there is an effective transfer of governance and risk from the government to industry.

We seek provision for this ongoing funding in the determination of the APRA and SMSF levies for 2016/2017 and subsequent years.

Recommendation 10:

ASFA recommends that that funding for an industry-run Gateway Network Governance Body be provided out of supervisory levies paid by APRA-regulated funds and SMSFs for 2016/2017 and subsequent years.