File Name: 2016/17

21 October 2016

Superannuation Tax Reform
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

superannuation@treasury.gov.au

Dear Sir/Madam

Superannuation Tax Reform Package: Tranche 3

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission on tranche 3 of the superannuation tax reforms, announced in the 2016-17 Budget, as reflected in the following exposure draft legislation released on 14 October 2016:

- Schedules 3 and 10 of the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016* (the Bill).

We would welcome the opportunity to discuss our submission with Treasury, and potentially with the Australian Taxation Office (ATO), to ensure we have a common understanding as to the roles and responsibilities of superannuation funds and the ATO with respect to the implementation and administration of these new measures.

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. ASFA has also established a specific sub-group - ASP services – whose function is to identify, develop and implement operational efficiency improvements for the administration of superannuation funds and their members.

1. Non-concessional contributions (Schedule 3)

Funds have observed that the ‘bring forward’ rules appear to be complex and it may prove difficult to provide meaningful disclosure to members, both in PDSs and in giving information (and advice) verbally. There is considerable potential for members, call centre staff and even advisers to become confused and make mistakes in interpretation/application, which will cause errors and necessitate re-work.

We would also like to highlight the critical role that will need to be played by the Australian Taxation Office (ATO) in overseeing and monitoring the contribution caps, Division 293 and the $1.6m transfer balance cap across the industry. Funds can only administer the contribution caps at a fund level (hence the concept of fund capped contributions) as they have no visibility of members' contributions and balances in other funds

2. Release Authorities (Schedule 10)

We appreciated that the ATO consulted with the industry with respect to issues with respect to the administration of the Division 293 tax, through a half day workshop/roundtable in March 2016 and a follow-up meeting in June, and welcome the fact that the proposed measures largely reflect the outcome of that consultation. ASFA strongly supports the measures to streamline the release authority processes, in particular the aligning of the Division 293 tax and excess contributions tax processes and the establishment of a 'default' payment option.

Having said that, given the expected increase in the volumes of release authorities in future, it is imperative that the release authority process is taken further and extended to automating the process as soon as is practicable.

Until such time as release authorities are automated, funds have indicated that the seven day requirement for payment and notification to the ATO is too short a deadline for administrators, especially given the expected increase in the volume of release authorities to be processed due to the reduction in the Division 293 threshold and the contribution caps. While seven days may be achievable once release authorities are electronic, for as long as the process is still paper based this will necessitate a longer period – ideally 21 days.

We would welcome the opportunity to participate in any further consultation with respect to this measure.

3. Implementation costs and risks

Whilst broadly supportive of the superannuation reform tax package as a whole, it should be noted that the industry will incur considerable costs and risk in implementing these changes, in particular the new transfer balance cap and the changes to Transition to Retirement Income Streams (TRIS), which will be exacerbated by the truncated timeframe. While the release of draft legislation will assist in preliminary planning, funds will be unable to commit fully to implementation, especially finalising system design, until the legislation is passed and the requirements are finalised.

The scope of the necessary changes is quite extensive, including:

- updating administration systems to ensure compliance with the new requirements, in particular to build the new transfer balance cap measure and implement the proposed changes to TRIS
- update process and procedures, including ongoing monitoring, reporting to the ATO and disclosure to members
- revising member communication materials, in particulate to introduce the concept of the transfer balance cap, the changes to TRIS and the non-concessional contribution rules
- revising education and training materials and providing training to staff, including advisers and call centre staff
- updating of collateral material, such as web-sites and calculators
- dealing with, and providing advice to, members who are, or potentially may be, affected by

the new measures
- dealing with instructions from members who currently exceed the $1.6m balance transfer cap and need to make adjustments prior to the 1 July 2017 deadline.

Accordingly, in order to provide legislative certainty, it is critical that the Bill be introduced and passed as soon as possible.

Further to this, there are a number of consequential amendments that will need to be made to the *Superannuation (Industry) Supervision Regulations 1994* (SIS regulations). While some of these have been released in the form of exposure draft legislation, others have not yet been so published. Accordingly, if it were not possible to release the remaining amendments as exposure draft legislation in the immediate future, it would be highly desirable if an indication could be provided of the content and scope of the proposed amendments to the SIS regulations, possibly on the Consultation Hub on the Treasury website.

Given the truncated time frame for implementation, and the risks and costs involved, it is critical that a facilitative compliance approach be adopted, especially with respect to the new transfer balance cap measure, during the first year of operation.

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Should you have any queries with respect to this submission, please do not hesitate to contact me on (03) 9225 – 4021; 0431 490 240 or via fgalbraith@superannuation.asn.au.

Yours faithfully

Fiona Galbraith
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