SUBMISSION

Submission to Treasury — Miscellaneous amendments to Treasury portfolio laws 2022

27 September 2022

The Association of Superannuation Funds of Australia Limited
Level 11, 77 Castlereagh Street
Sydney NSW 2000

PO Box 1485
Sydney NSW 2001

T +61 2 9264 9300
1800 812 798 (outside Sydney)
F 1300 926 484
W www.superannuation.asn.au

ABN 29 002 786 290 CAN 002 786 290

File: 2022/12

Director

Law Design Branch

Treasury

Langton Crescent

Parkes ACT 2600

Via email: miscamendments@treasury.gov.au

27 September 2022

Dear Sir/Madam

Miscellaneous amendments to Treasury portfolio laws 2022

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the consultation on miscellaneous amendments to Treasury portfolio laws 2022.

About ASFA

ASFA is a non-profit, non-partisan 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 $3.4 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 17 million Australians with superannuation.

Proposed amendments in relation to the First Home Super Saver Scheme

ASFA's submission is focussed on the proposed amendments to the First Home Super Saver Scheme (FHSSS) outlined in Part 3 of Schedule 1 to the draft *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Bill 2022*.

ASFA welcomes the decision to proceed with measures, proposed in the 2021-22 Budget, to improve the operation of the FHSSS and provide for some flexibility in response to changes in the individual's circumstances.

However, in doing so, we consider it important to avoid entrenching into the legislation rigid process steps that may impede the ability of the Australian Taxation Office (ATO) to design and implement a process that is efficient and cost effective for both the ATO and superannuation providers.

By way of example, where a release authority has been varied or revoked in relation to a FHSSS determination, an individual's 'entitlement to a credit' in relation to that release authority ceases. In this situation, FHSSS amounts that have been paid to and are and still held by the Commissioner under the determination must be repaid to superannuation providers (except in very limited circumstances). Under proposed new sub-sections 131-80(2) and (3), a mandatory exchange of notifications must occur between the Commissioner and a superannuation provider to determine whether the provider still holds a superannuation interest for the individual, into which the released amount can be repaid. Further, the notification from the provider to the Commissioner must be in the approved form, within 10 business days after receipt of the notification from the Commissioner.

We note that superannuation providers are already required, as part of their Member Account Attribute Service (MAAS) and Member Account Transaction Service (MATS) reporting, to notify the Commissioner of any changes in an individual's superannuation interest that would mean a provider is unable to accept the repayment amount. As a result, the process stipulated in proposed new sub-sections 131-80(2) and (3) appears unnecessary.

We recommend that proposed new section 131-80 is redrafted to allow utilisation of existing data exchanges between the ATO and superannuation providers, and that the language adopted in relation to processes as between superannuation providers and the ATO is non-prescriptive. This will better accommodate any future refinements to the ATO reporting regime and will ensure the cost impact on superannuation providers and the ATO is minimised.

In addition, we note that proposed new subsection 131-80(4) requires the Commissioner to make any repayment in respect of a varied or revoked release authority for a FHSSS determination within 60 business days of being advised by a provider that it still holds a superannuation interest for the individual. We submit that 60 days would appear to be an overly generous timeframe – particularly noting that superannuation providers are required to pay any amount required under a release authority to the ATO within 10 business days of its issue date.

It is important to minimise the time the individual's superannuation monies are 'out of the market', and accordingly we recommend that the timeframe for payment by the ATO be reduced to 10 business days.

Recommendations

Adoption of non-prescriptive language relating to processes

- Proposed new section 131-80 should be redrafted to allow utilisation of existing data exchanges between the ATO and superannuation providers, and the language adopted in relation to processes as between superannuation providers and the ATO should be non-prescriptive.

Timeframe for repayment by ATO in respect of a varied or revoked release authority

- Proposed new subsection 131-80(4) should be amended to require the Commissioner to make any repayment in respect of a varied or revoked release authority for a FHSSS determination within 10 business days of being advised by a provider that it still holds a superannuation interest for the individual.

*****

If you have any queries or comments in relation to the content of our submission, please contact Julia Stannard, Senior Policy Advisor, on (02) 8079 0838 or by email jstannard@superannuation.asn.

Yours sincerely

Julian Cabarrus

Director - Policy Operations, Member Engagement & External Relations