

# SUBMISSION

Submission to Senate  
Economics Legislation  
Committee –  
*Superannuation  
(Objective) Bill 2023*

---

09 February 2024

**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](http://www.superannuation.asn.au)

ABN 29 002 786 290 CAN 002 786 290

File: 2024/04

Mr Alan Raine  
Committee Secretary  
Senate Economics Legislation Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Via email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

09 February 2024

Dear Mr Raine

**Superannuation (Objective) Bill 2023**

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the *Superannuation (Objective) Bill 2023* (the Bill).

**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 \$3.6 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.

\*\*\*\*\*

If you have any queries or comments in relation to the content of our submission, please contact Harvey Russell, Senior Policy Advisor, on 02 8079 0803 or by email [hrussell@superannuation.asn.au](mailto:hrussell@superannuation.asn.au).

Yours sincerely

Julian Cabarrus

Director – Policy Operations, Member Engagement & External Relations

## Executive Summary

ASFA welcomes introduction of the *Superannuation (Objective) Bill 2023* and the opportunity to provide feedback on the Bill to the Committee.

*ASFA has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers.*

*We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians.*

ASFA is strongly committed to formalising an objective for superannuation in legislation that reflects the core purpose of the system in providing an adequate income to ensure all Australians achieve a comfortable or dignified standard of living in retirement. ASFA is pleased the proposed objective is aligned to the direction of ASFA's advocacy on this issue in recent years and reflects feedback from ASFA through the consultation process.

The draft objective places preservation, retirement income, equity, sustainability and a dignified retirement at its centre while recognising the ongoing role of the Age Pension. This formulation can underpin much needed policy stability and help anchor future policy debates in ensuring the age pension remains affordable, that superannuation savings are preserved to retirement, and that the system delivers in an equitable manner for low-income earners and individuals with interrupted work patterns, including women who have taken time out of the paid workforce to provide unpaid care to others.

ASFA supports the passage of the legislation as drafted. ASFA proposes that additional clarification be incorporated in the Explanatory Memorandum (EM) to confirm beyond doubt that the objective of superannuation operates in a complementary fashion with, and does not limit, core trustee obligations such as the best financial interests duty and sole purpose test. There are also opportunities to clarify the intent or application of concepts used in the objective, including as they relate to benefits to members and the system more broadly through group insurance in superannuation.

The proposal comes at an important time in the evolution of Australia's world class retirement savings system. Australia arguably has the leading Defined Contribution system in the world, underpinned by the Superannuation Guarantee (SG), strong long-term investment returns to members and a comparatively low cost to government on an international basis.<sup>1</sup>

The Government's recent Intergenerational Report (IGR) highlighted the crucial role played by Australia's superannuation system in supporting the living standards of future generations of retirees and in easing the future cost burden of the Age Pension. In coming decades superannuation will be an important source of intergenerational fairness, ensuring younger generations do not face higher tax burdens to finance increasing expenditure on the Age Pension. In 2002 when the first IGR was published, expenditure on the Age Pension was projected to reach 4.6 per cent of GDP by 2041-42. That figure is now expected to drop to 2 per cent of GDP by 2062-63 as the superannuation system matures (with members benefitting from a 12% SG contribution rate for the course of their working life), highlighting its considerable contribution to the sustainability of the retirement income system.

The introduction of a legislated objective for superannuation has been under consideration for several years. Throughout this period ASFA has engaged positively and constructively with the proposals put forward. ASFA considers that now the appropriate time to finalise the objective in law, delivering policy stability for the

---

<sup>1</sup> [ASFA research note](#) *The cost of pensions across advanced economies, February 2023*

superannuation system and increased trust and confidence for consumers. It is now over thirty years from the introduction of the SG and the proposed objective has the potential to secure the success of the system.

## General Discussion

ASFA has long advocated for the formalisation of an objective for super in legislation. ASFA's proposed definition includes the following elements: adequacy/comfortable standard of living; superannuation as one of the three pillars of the system; income provision; and all Australians:

*"To provide an adequate income to ensure all Australians achieve a comfortable standard of living in retirement, supplementing or substituting the Age Pension."*

The construction of the objective in the Bill is broadly consistent with ASFA's formulation, although it explicitly incorporates other elements which were examined in the Retirement Income Review. This includes a specific focus on preservation, equity and sustainability. ASFA supports the addition of these concepts in the drafting.

With respect to the various elements of the proposed objective, ASFA provided substantial comments in its [submission](#) to the consultation paper in March 2023. Certain key points are reiterated within our response below.

### Context on the broader benefits of the superannuation system and the proposed objective

Importantly, as part of the discussion on the broader benefits of super, the Explanatory Memorandum (EM) reflects ASFA's position and feedback on insurance in super, highlighting the importance of the role group insurance plays in the system and that access to insurance through super is consistent with the objective.<sup>2</sup>

ASFA considers there is an opportunity to articulate, in the EM, how insurance in superannuation can support the specific elements of 'equity' and 'sustainability,' in a manner consistent with preserving savings (EM paragraph 1.24) and delivering income (EM paragraph 1.26). Our suggestions in this regard are outlined in the relevant sections below.

The Explanatory Memorandum accompanying the Exposure Draft legislation, which was consulted on in September 2023, included a statement which helpfully supported the stability of the existing framework of the superannuation system: *"the objective of superannuation does not change the legal or regulatory environment for these broader benefits of the superannuation system."*<sup>3</sup> ASFA recommends it is reinserted to provide appropriate assurance regarding the existing benefits of the system and how they interact with the concepts discussed in the objective.

### Key concepts within the objective

**'Preserve savings'** – ASFA supports the inclusion of a reference to preservation in the drafting of the objective. Preservation is an important principle attached to the bargain superannuation members make when making contributions. The existing preservation rules have generally operated to maintain the integrity of the system over time and are appropriately linked to the sole purpose and ancillary purposes of superannuation outlined in section 62 of the *Superannuation Industry (Supervision) Act 1993* (SIS).

ASFA is supportive of the statements made in the EM which confirm that the objective does not change the existing principle that recourse to early release of super should only occur in exceptional circumstances. It is appropriate that members maintain recourse to early release for genuine financial hardship. As ASFA has

---

<sup>2</sup> Explanatory Memorandum to the Bill; paras. 1.20-1.21

<sup>3</sup> Para 1.29 of the Exposure Draft Explanatory Memorandum (consultation August-September 2023)

stated in previous submissions, under a legislated objective for superannuation any significant relaxation of the preservation rules, including the early release provisions, would not be appropriate.

Given the need to ensure alignment of the objective with the sole purpose test, it would be helpful for the EM to explicitly state that the objective does not limit the payment of benefits to beneficiaries upon the death of the member prior to retirement. This is a core purpose of superannuation under the sole purpose test. However, it is not currently reflected in the commentary surrounding the objective.

**‘Dignified’** – in the context of delivering income for a dignified retirement, this feature of the objective should be both aspirational and capable of recognising different needs and circumstances of retirees, given it refers to adequacy of retirement incomes. This concept addresses living standards in retirement and the extent to which these align with community expectations. On living standards, ASFA has developed a range of income benchmarks for retirees including the *ASFA Comfortable Retirement Standard*. While not all people will have an income throughout retirement that is at, or above, the comfortable level, ‘ASFA Comfortable’ is a widely used benchmark for income adequacy derived from detailed analysis of retirees’ spending patterns (see Appendix A for more on the Comfortable Standard).

ASFA acknowledges the EM defines ‘dignified’ as “a standard of financial security and wellbeing in retirement which allows the person to participate economically and socially in their community.” ASFA does not disagree with this characterisation however it considers the description in the February 2023 Consultation Paper, which referred to ‘a high-quality standard of living in retirement,’<sup>4</sup> is attuned to the aspirational nature of Australia’s retirement system and its participants. ASFA encourages government to consider broadening the description in the EM to reflect this.

**‘Deliver income’**- ASFA has consistently argued the focus on delivering income in retirement is an important element of an objective for superannuation. The sole purpose test states, amongst other things, that ‘benefits’ are to be provided in retirement. It is therefore important that the form in which income is provided to individuals (or how they may receive a source of income after qualifying to access benefits), and how income is to be applied once it is received, is not prescribed by the objective.

There is a necessary economy of language used in the drafting of the legislative provision of the objective. Therefore, it is important the EM reflects the ability to receive a lump sum is aligned with superannuation law. This will also ensure there is no confusion about the ability to pay death benefits prior to retirement. ASFA is pleased the EM reinforces that “some (individuals) may elect to receive their superannuation as a lump sum” and “superannuation savings belong to the member, and the objective is not prescriptive on what must happen with this income.”<sup>5</sup>

However, ASFA suggests greater clarity on this matter in the EM, including an acknowledgement that not all members who choose a lump sum will do so for the purposes of drawing income. Additionally, it would be helpful (at para 1.27) for the EM to be updated to acknowledge the objective should not be prescriptive on what must happen with a member’s ‘benefit and/or income drawn from that benefit.’

**‘Equitable’** – distributional equity is central to the stability and integrity of the retirement system and therefore an important concept for the objective, capable of promoting confidence and public support. Equity suggests there should be equality of opportunity in accessing the retirement income system and a relatively even distribution of government support for individuals’ retirement incomes across workers, within and across generations.

---

<sup>4</sup> Legislating the objective of superannuation, consultation paper February 2023; pages 10-11

<sup>5</sup> Explanatory Memorandum paras 1.26 and 1.27

From an international perspective, OECD data suggests government support via Australia's retirement income system appears fairer across different income levels than in many other comparable countries.<sup>6</sup> See Appendix B. And changes introduced in recent years have also sought to make the distribution of government support within the retirement system more equitable (for example - the introduction of the Transfer Balance Cap and the removal of the \$450 per month income threshold for SG eligibility).

However, equity amongst income cohorts could be further improved. ASFA has consistently argued equity should be at the forefront of superannuation system reform, suggesting equity measures at the top end (including with respect to very large balances) should be accompanied by measures to improve the position of those on lower incomes and/or with interrupted time in the paid labour force, especially women.<sup>7</sup> Equity measures should therefore be reinvested in the system rather than diminishing its total value over time.

In recent submissions,<sup>8</sup> including its 2024 pre-Budget submission, ASFA has recommended the introduction of SG on paid parental leave in order to reduce the retirement savings gap between females and males, and increasing the upper threshold for the Low Income Super Tax Offset (LISTO) to \$45,000 (a maximum LISTO of \$700 per year) to provide a more appropriate tax incentive for low-income earners.<sup>9</sup>

ASFA also considers that the provision of insurance benefits for those whose working life is impacted by serious disablement is an important means of delivering equitable outcomes to those most in need. This could be noted for clarity in the EM as an enhancement to paragraphs 1.20-1.21.

**'Sustainable'** – superannuation should be, and is, robust to demographic and economic change and it should be cost effective in meeting its objective. As mentioned above, the 2023 Intergenerational Report (IGR) highlighted the crucial role played by Australia's superannuation system in supporting the living standards of future generations of retirees and in easing the future cost burden of the Age Pension. Importantly, superannuation will be a critical source of intergenerational fairness, ensuring younger generations do not face higher tax burdens to finance increasing expenditure on the Age Pension.

In 2002 when the first IGR was published, expenditure on the Age Pension was projected to reach 4.6 per cent of GDP by 2041-42. That figure is now expected to drop to 2 per cent of GDP by 2062-63 as the superannuation system matures (with members benefitting from a 12% SG contribution rate for the course of their working life), a considerable contribution to the sustainability of the retirement income system. The cost of the superannuation tax concessions will rise but only modestly by 2062-63, mainly due to the higher rate of SG so critical to achieving adequacy in retirement. Australia's aggregate fiscal cost of retirement income provision (taking into account superannuation tax concessions and age pension expenditure) is at the low end of the OECD nations, at just a fraction of current and projected government expenditure on retirement income in the USA, UK, Japan and other European nations.

Additionally, from a fiscal perspective, insurance through superannuation reduces the social security costs of supporting underinsured individuals.<sup>10</sup> ASFA considers the EM should be adjusted to clarify that the capacity of insurance in superannuation to alleviate costs to the Government arising from underinsurance is a relevant consideration in assessing sustainability.

---

<sup>6</sup> OECD 2018, OECD Pensions Outlook 2018: based on a measure of estimated tax benefits as the present value of taxes saved over a lifetime, as a percentage of the present value of contributions, the tax benefits are similar for average, low and high income-earners.

<sup>7</sup> ASFA, Media release "ASFA calls on Government to close retirement savings gender gap," 7 March 2023

<sup>8</sup> ASFA, *Pre-Budget submissions 2023 and 2024*

<sup>9</sup> Note: ASFA is broadly supportive of the proposal (now in draft legislation) to introduce an additional 15% tax on the earnings of superannuation balances above \$3 million. ASFA had previously argued for the removal of concessional tax treatment for balances in excess of \$5m.

<sup>10</sup> Deloitte and ASFA Report, *The Future of Insurance Through Superannuation*, 2022

## Statement of compatibility

ASFA considers the introduction of the objective provides an important opportunity to achieve policy and regulatory stability for the superannuation system. We have been consistently supportive of a robust accountability mechanism to ensure the demonstration of positive alignment of future legislation with the objective.

The Bill proposes a statement of compatibility with the objective of superannuation must be prepared for a Bill or regulation that relates to superannuation (unless an exception applies). This is an appropriate mechanism to ensure the objective contributes to achieving long-term stability in policy settings as well as promoting trust and confidence in the system. Given the complexity of considerations relating to policy making in this area, the process of formulating the statement (and the information to be included) should not be prescribed. Some judgement on the part of the member of Parliament or rule-maker introducing the legislation will be required.

However, given the importance of distributional equity in the system, it is expected that an evidentiary lens would be applied to substantiate the policy effectiveness of changes that may impact equity across different member groups. Where appropriate, the compatibility statement could incorporate the option of commissioning modelling to assess the impact of proposed policy changes on members' superannuation savings, particularly for low-income members and women.

Under the Bill the key concepts of the objective are considered under the statement of compatibility, but "there may be times when there are trade-offs between the key concepts within the objective."<sup>11</sup> This is important given policy proposals may naturally give greater weight to certain key concepts over others.

Given the objective is intended to operate alongside the core trustee obligations under superannuation legislation, it would be preferable if the commentary supporting the statement of compatibility contained a statement requiring the drafter to acknowledge that the "objective complements core trustee obligations under superannuation legislation such as the best financial interests duty, the sole purpose test and the retirement income covenant."

As an additional accountability measure, ASFA has previously recommended the periodic review of policy decisions by considering their alignment (or compatibility) to the objective following their implementation. Periodic reviews of this nature could be incorporated into the IGR process produced by the government every five years. The IGR assesses the long-term sustainability of current government policies and how changes to Australia's demographics may impact on economic growth, the workforce and public finances over the next 40 years. This falls within broad remit of the IGR and would add value to its conclusions. Alternatively, the Government could perform a separate review in tandem with the IGR process.

---

<sup>11</sup> Explanatory Memorandum; para 1.54

## Appendix A - The ASFA Retirement Standard

ASFA publishes annual budgets for various categories of Australians to fund their needs in their post-work years. The Retirement Standard provides budgets for both a modest and comfortable standard of living for singles and couples. Although no two individuals have identical expenditure patterns, many stakeholders benefit from having standardised benchmarks in this area. As a result, the standard can be used to inform judgments about what is an adequate level of income in retirement and what level of savings is required to fund adequate retirement incomes.

The composition of expenditure in the Retirement Standard budgets reflects actual retiree spending patterns. Data comes from a range of sources including ABS data, data from the HILDA Survey and focus group feedback. The Standard is regularly updated and reviewed with budgets updated quarterly to reflect changes to CPI and the methodology for deriving the budgets is subject to rigorous periodic review.

The Modest budget benchmark is considered a better retirement lifestyle than could be attained on the Age Pension alone, however, a modest retirement lifestyle will still only be able to allow a retiree relatively basic activities.

At present, the ASFA Comfortable benchmark (which assumes home ownership) is \$50,981 for singles per year and \$71,724 for a couple. The most recent update of the ASFA Comfortable standard can be accessed via this link: <https://www.superannuation.asn.au/resources/retirement-standard/>

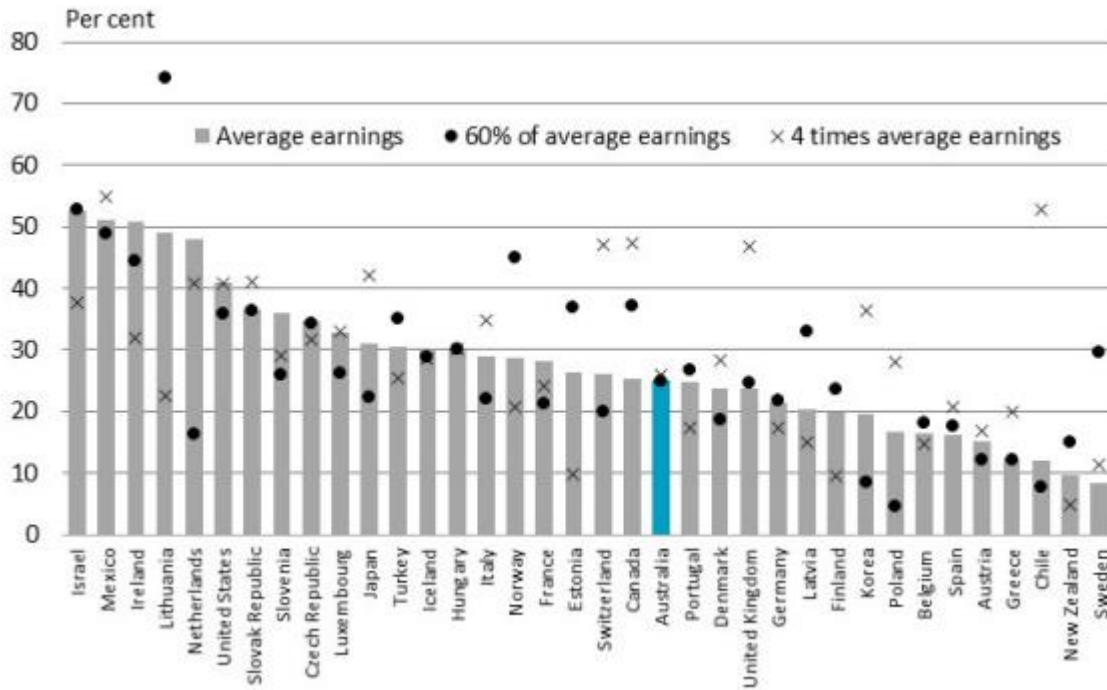
Not all retirees will have income in retirement at or above the ASFA Comfortable level, however evidence suggests this level is what a majority of the Australian community wants and needs.

A recent ASFA survey of consumers demonstrates that the ASFA Retirement Standard closely reflects the community's expectations of their retirement spending needs. The majority of respondents considered they would need annual expenditure consistent with, or exceeding, the ASFA Comfortable budgets to maintain their desired living standard in retirement.



## Appendix B - Overall tax benefit for individuals by income level

Present value of taxes saved over a lifetime, as a percentage of the present value of contributions



Source: OECD Pensions Outlook 2018