

# SUBMISSION

Submission to Treasury –  
Miscellaneous  
amendments to Treasury  
portfolio laws 2024

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12 February 2024

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Director

Law Division

Treasury

Via email: [miscamendments@treasury.gov.au](mailto:miscamendments@treasury.gov.au)

12 February 2024

Dear Sir/Madam

### **Miscellaneous amendments to Treasury portfolio laws 2024**

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the draft legislation and regulations released as part of the consultation on miscellaneous amendments to Treasury portfolio laws 2024.

#### **About ASFA**

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.

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#### **Support for amendments to address issues in relation to successor fund transfers**

ASFA has a keen focus on matters that impact the outcomes achieved by individuals through the superannuation system, their experiences with the system, and issues that impede the industry's operational effectiveness.

There are instances where superannuation and/or taxation laws fail to address – or adequately address – the implications arising from a successor fund transfer (SFT).

Some issues are substantial and act as impediments to the completion of an SFT. In other cases, while the SFT is able to proceed, the application of the legislation prevents a seamless transition, creating confusion for transferred members and often requiring extensive communications from the transferor and transferee funds. These can lead to poor member experience and outcomes, creating the risk that individual fund members may disregard or misunderstand notifications about actions they may need to take in relation to their superannuation interest.

ASFA, in consultation with our members, has developed an extensive list of issues that detrimentally affect the outcomes and/or experience of individual fund members when they are transferred via an SFT, or increase the risk and cost associated with an SFT. We have, over recent years, raised these with policy makers and regulators. The proposed amendments to sections 68AAB and 68AAC of the *Superannuation Industry (Supervision) Act 1993* in the current consultation package address one of the issues we have identified.

We continue to see a need to address, as part of a focused package of reforms, other identified issues impacting SFTs. While not wishing to delay the amendment currently proposed, we would welcome the opportunity to discuss these with you further.

### **Proposed amendments to sections 68AAB and 68AAC**

With respect to the current consultation package, ASFA welcomes the proposed amendment to ensure that all members of regulated superannuation funds can automatically maintain their insurance following an SFT.

Following the 'Putting Members' Interests First' reforms in 2019, funds generally cannot provide insurance to a new member who is under age 25, or has a balance less than \$6,000, unless the member elects to receive that insurance. In effect, the reforms limited the provision of 'default' insurance. In 2020, the legislation was amended to ensure elections about default insurance given by members to their original fund continue in force in the event of an SFT.

The 2020 amendment did not address the situation where a member was not required to make an election to maintain their insurance cover in their original fund but would not, when transferred as part of an SFT, satisfy the minimum age and balance requirements in the successor fund. For example:

- an individual with an account balance less than \$6,000 who had a balance of \$6,000 or more on or after 1 November 2019 was not required to elect to continue their insurance in their original fund
- the individual may have received communication from their original fund confirming their continued eligibility for insurance, and may even have specifically sought such confirmation
- if that individual is transferred to a successor fund with a balance still (or again) under \$6,000, the successor fund cannot, under the current legislation, continue the insurance unless the individual elects to be covered
- the individual is likely to assume their insurance would continue as part of a seamless fund transfer and may be confused by – or even disregard – notices from the successor fund about the need to make an election
- if the individual fails to elect to hold insurance in the successor fund, an insured benefit will be unavailable in the event of their disablement or death. This may have severely adverse implications for the individual and/or their dependants.

The proposed amendments to sections 68AAB and 68AAC will address this unintended consequence of the Putting Members' Interests First reforms and ensure impacted individuals can continue to automatically receive insurance in the successor fund without making an election. ASFA welcomes the amendment and recommends its introduction and passage as soon as practicable.

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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 0819 or by email [JStannard@superannuation.asn.au](mailto:JStannard@superannuation.asn.au).

Yours sincerely

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