

4 October 2023

Superannuation Insurance and Governance Unit
Retirement, Advice and Investment Division
Treasury
Langton Cres
Parkes ACT 2600

Via email: SuperannuationObjective@treasury.gov.au

Dear Treasury Secretariat,

RE: Treasury Consultation - Legislating the objective of superannuation

The Financial Services Council (FSC) welcomes the opportunity to make a submission in relation to legislating the objective of superannuation – Exposure Draft Legislation.

The FSC has long supported enshrining the objective of super into law, as we believe this step will deliver greater policy stability to superannuation settings and in turn enhance the public confidence needed in a retirement savings system.

We thank The Treasury for considered and careful consultation and believe the resulting Exposure Draft Legislation achieves the Government’s aims while avoiding unintended outcomes for superannuation members and superannuation trustees.

About the Financial Services Council

The FSC is a peak body which sets mandatory Standards and develops policy for more than 100 member companies in one of Australia’s largest industry sectors, financial services. Our Full Members represent Australia’s retail and wholesale funds management businesses, superannuation funds, and financial advice licensees.

The financial services industry is responsible for investing more than \$3.5 trillion on behalf of over 15 million Australians. The pool of funds under management is larger than Australia’s GDP and the capitalisation of the Australian Securities Exchange and is one of the largest pools of managed funds in the world.

Enshrining the Objective in a standalone Act will remove legislative uncertainty for trustees

In March 2023 the FSC shared the legal concerns that had been raised if the Objective was added into existing Superannuation law, in particular the risk that that the Objective could impact the existing trustee obligations such as the best financial interest duty or sole purpose test provided for in the SIS Act. Further we opined that standalone legislation will also provide a single reference point for all future changes to superannuation, tax or social security policy.

We congratulate the Government and Treasury on their careful consideration of these concerns and thoroughly support the adopted approach of enshrining the Objective into the “Superannuation (Objective) Bill 2023”.

RECOMMENDATION 1

The FSC strongly recommends that the current approach in the Exposure Draft Legislation be maintained, and the Objective of Super is enshrined in its own standalone Act.

Insurance arrangements in Superannuation must be open to Government oversight

The proposed “Context on the broader benefits of the superannuation system” chapter of the Explanatory Material, in particular item 1.27, provides a strong statement on the benefits of group insurance arrangements in superannuation. These statements should be clarified given recent commentary by the Government over concerns that service standards in group insurance need to be improved and may require regulatory reform.

The FSC acknowledges that a ‘set and forget’ approach to current arrangements for group insurance arrangements in superannuation may not be sustainable. For example, ASIC’s Default insurance in superannuation: Member value for money, Report 675, identifies that identical members can get very different default insurance. The Productivity Commission¹ and Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry² also both envisaged a review into group insurance over coming years that have not yet been implemented.

The FSC supports measures that ensure consumers are confident that system wide settings for group insurance arrangements continue to deliver consistently good outcomes and align with the broader objective of superannuation.

We note that if the Government chooses to proceed with a future review of group insurance settings in superannuation the implementation of this draft legislation will ensure that review would benefit from the guidance of an objective of superannuation.

RECOMMENDATION 2

The FSC recommends that the drafting of the Explanatory Material clarify that the Government will assess the consumer outcomes of group insurance against the enshrined objective of superannuation.

The FSC offers our general support for the current Exposure Draft Bill and Explanatory Materials to enshrine the Objective of Superannuation into law.

We would be more than happy to answer any questions you may have on this submission.

Yours sincerely,

Lucas McKay
Policy Director, Superannuation

¹ Recommendation 18 of the Productivity’s Commission’s 2018 Inquiry Report into the efficiency and competitiveness of superannuation.

² Recommendation 4.13 - Universal Terms Review