



03 October 2017

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

Email: economics.sen@aph.gov.au

Dear Madam/Sir,

SMSF ASSOCIATION SUBMISSION ON IMPROVING ACCOUNTABILITY AND MEMBER OUTCOMES IN SUPERANNUATION MEASURES NO. 2

The Self Managed Super Fund Association (SMSFA) welcomes the opportunity to make a submission to the Senate Inquiry into the Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 2) Bill 2017.

Choice of fund for workplace determinations and enterprise agreements

Schedule 1 of this Bill amends the *Superannuation Guarantee (Administration) Act 1992 (SGAA)* to ensure employees under workplace determinations or enterprise agreements have an opportunity to choose the superannuation fund for their compulsory employer contributions.

The SMSF Association has concerns where employees do not have a free choice of superannuation fund. We believe that constraining employee choice has negative effects of disengaging people from their superannuation, reducing competition and increasing account proliferation.

The SMSF Association believes the ability for all employees to choose their superannuation fund is an important element in promoting an efficient and competitive superannuation sector. In addition, all employees should be provided information about what choices they have in the superannuation sector available to them (e.g. industry fund, retail funds, SMSFs, etc.).

Being forced into a superannuation fund not only affects younger disengaged individuals but also older individuals transitioning to retirement that may already have an SMSF. A common scenario for SMSF trustees of which approximately 60% are aged over 55 is working in part time jobs which can be often under an enterprise agreement while transitioning to retirement. The SMSFA understands that there are many SMSF trustees affected by agreements that do not let them choose where their superannuation guarantee contributions go, including to their own SMSF.

Arrangements which do not give employers or employees any choice as to where superannuation contributions are made create a multitude of issues, the most significant being account proliferation



and the consequent multiple set of fees and insurance premiums which continually erode superannuation balances.

Opening up choice of fund to all employees will also increase the efficiency of the superannuation system by removing the need of employees who are constrained by an enterprise agreement or other restriction to roll-over their contributions to their fund of choice. This is often the case for employees who do not have unconstrained choice of superannuation fund but wish to control their own superannuation through an SMSF. They receive contributions from their employer in their default fund and then periodically roll these amounts over to another superannuation fund of their choice. Undertaking annual or more frequent roll-overs of contributions made into a default fund to an SMSF constrains individual's investment choices throughout the relevant period, incurs unnecessary fees and reduces the efficiency of the system by requiring additional transactions.

For example, a 60 year old individual may take up a part time job arrangement at a large retail company while they transition to retirement. They may already have an SMSF but under the retail company's enterprise agreement, they are not able to contribute directly to their SMSF. The current situation under the law forces the member to receive their SG contributions in the retail superannuation fund and then rollover these funds into their SMSF at later stages. With rollovers not currently administratively easy, this is a large compliance burden and financial burden. Furthermore, this member could be contributing small amounts of money to a defaulted superfund that could be consumed by fees before it is rolled over to an SMSF. This scenario is also known to occur in many industries such as universities, labour, transportation and retail, hence the positive impact of the draft legislation should not be underestimated.

Reducing the effect of these problems as well as improving engagement through information and greater opportunity for choice will improve the efficiency and effectiveness of the superannuation system. Therefore we believe enhanced choice and information are essential and crucial.

Salary sacrifice integrity

Schedule 2 to this Bill amends the SGAA to improve the integrity of the superannuation system by ensuring that an individual's salary sacrifice contributions cannot be used to reduce an employer's minimum superannuation guarantee (SG) contributions.

The SMSFA is supportive of measures that close a loophole used by some employers to reduce their employees' superannuation guarantee contributions when some employees choose to make salary sacrifice contributions to superannuation.

Individuals who make salary sacrifice contributions intend for these contributions to be in excess of the mandated 9.5 percent superannuation guarantee amount required to be paid by their employer and the draft legislation now expressly reflects this intent. The legislation appropriately excludes salary sacrifice contributions from satisfying an employer's superannuation guarantee obligations. We also support including salary sacrificed amounts in the base for calculating an employer's



superannuation guarantee obligation. This will provide the correct result in determining an employee's superannuation guarantee entitlement.

The amendments will ensure that taxpayers who use salary sacrifice to make additional concessional contributions to superannuation will be in the same position as taxpayers who make a personal contribution to superannuation and claim a tax deduction for their contribution. This is especially important now that the "10% rule" which limited tax deductible personal contributions to taxpayers who earned less than 10% of their income from being an employee has been repealed as of 1 July 2017. This means all taxpayers are now eligible to claim a deduction for personal contributions to superannuation, making the Government's proposed improvement of the superannuation guarantee even more relevant.

Ensuring employers are paying the correct superannuation is a key pillar of the superannuation system and is essential to ensure all Australians can reach a dignified and secure retirement and garner the full benefits of the superannuation system.

If you have any questions about our submission please do not hesitate in contacting us.

Yours sincerely,

A handwritten signature in black ink that reads 'John L. Maroney'.

John Maroney
Chief Executive Officer
SMSF Association

ABOUT THE SMSF ASSOCIATION

The Self Managed Super Fund (SMSF) Association is the peak professional body representing the SMSF sector which is comprised of over 1.1 million SMSF members who have \$696 billion of funds under management and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisors and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them access to independent education materials to assist them in the running of their SMSF.