SMSF Association Budget Submission 2024/25

January 2024

About the SMSF Association

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.1 million SMSF members and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisers and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, 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

Our Beliefs

- We believe that every Australian has the right to a good quality of life in retirement.
- We believe that every Australian has the right to control their own destiny.
- We believe that how well we live in retirement is a function of how well we have managed our super and who has advised us.
- We believe that better outcomes arise when professional advisors and trustees are armed with the best and latest information, especially in the growing and sometimes complex world of SMSFs.
- We believe that insisting on tight controls, accrediting, and educating advisors, and providing accurate and appropriate information to trustees is the best way to ensure that self-managed super funds continue to provide their promised benefits.
- We believe that a healthy SMSF sector contributes strongly to long term capital and national prosperity.
- We are here to improve the quality of advisors, the knowledge of trustees and the credibility and health of a vibrant SMSF community.
- **We are the SMSF Association.**

Table of Contents

Foreword

The SMSF Association welcomes the opportunity to put forward our 2024-2025 Pre-Budget submission.

We thank the Government and Treasury for the consideration given to our pre-budget submissions and the opportunity to engage on various matters.

The current policy agenda is very full, with a large number of crucial consultations in progress at the same time. This challenges the resourcing of industry and no doubt similarly impacts Treasury.

We encourage open and timely engagement on proposed amendments and measures. Robust consultation processes and practical timelines ensure good policy and legislative design, minimising unintended consequences which can cause harm and take considerable time to remediate due to the legislative processes.

Of concern is the different treatment of sector participants being applied to recent policy measures. Sector neutrality is a vital element of superannuation policy. Different legislative outcomes should be strongly discouraged. It must only be considered where it is fundamental to the delivery of equitable treatment under the law due to the unique characteristics that apply across the sector participants.

The SMSF Association has long held the view that consumer choice is a paramount element of superannuation. This is achieved through a robust superannuation sector with a range of participants and products to meet the varied needs of individual consumers. We support inclusive policies that appropriately consider and balance the needs of all, across the diverse range of sector participants.

We look also forward to continuing our discussions on reforms for accountants to address issues arising with regards to financial advice. A legislative solution is needed to remedy the legislative misalignment between the provision of accounting and tax agent services, and financial advice. There is also a need for a fit for purpose licensing regime for qualified accountants. The limited licensing model is a dying model. It is not fit for purpose and most accountants, regardless of their qualifications, are unable to enter the advice regime due to the operation of the professional year.

Qualified accountants have a role to play in helping to fill the advice gap that exists between financial advisers and the proposed advice regime that will apply to APRA regulated superannuation funds. This vital middle ground has been overlooked throughout the Quality of Advice Review, and financial advice reform agenda that has followed. This is despite the recommendations of the James Review, and the progress of other James Review recommendations through the Governments current policy agenda.

We therefore encourage Government to escalate this issue and include as a policy priority. Noting the proposed commencement date for the Division 296 being 1 July 2025 and the need for many clients to obtain crucial advice applicable to their SMSF. Not all clients who wish to seek financial advice will have access to a licensed financial adviser. Further, accountants will have a vital role to play in addressing crucial structuring and tax related matters in assisting their clients. The grey line that exists between what constitutes the provision of a tax agent service and financial advice therefore needs urgent remediation.

Executive Summary

Summary of Recommendations

Our submission seeks to highlight and address several key issues impacting on the SMSF and broader superannuation sectors. Simplification, review, and the modernisation of the sector are the overarching themes of our submission. We believe this can be achieved by:

- **Deductibility of financial advice fees.** Proposed reforms seek to improve the deductibility of personal financial advice fees relating to a member's superannuation account from that interest. Related amendments will also seek to enhance the tax deductibility of those fees within the fund. The superannuation law does not provide an equivalent measure for SMSFs. A law change is needed to ensure equitable treatment applies to members of SMSFs and to align with the underlying policy intent.

- **Non-arm's length expenditure – specific expenditure and capital gains tax technical issues.** Elements of the non-arm's length expenditure rules still require remediation. The treatment of specific fund expenditure and non-arm's length capital gains under the current tax law results in the impost of disproportionate tax penalties. These are the result of poor legislative design. The latter is caused through the lack of cohesion across intersecting elements of the Tax Act. As a result, they do not operate as intended. A legislative solution is required as a matter of urgency.

- **Simplifying Transfer Balance Caps.** The indexation of the Transfer Balance Caps on 1 July 2021 and again on 1 July 2023 has added further complexity to the superannuation system. The system has shifted from having a single cap to individual caps ranging from $1.6 to $1.9 million. This is causing confusion and increased costs across the sector. The use of a single cap will reduce costs, uncertainty and benefit all stakeholders. Noting these complexities will continue to grow with future indexation of the cap. Indexation is vital in ensuring the cap keeps pace with inflation.

- **Reducing the number of Total Super Balance thresholds**. The introduction of multiple Total Super Balance thresholds is unnecessarily adding to the complexity of the superannuation system. This has made it increasingly difficult for individuals to understand the superannuation system and their options. The SMSF Association believes the number of Total Super Balance threshold could be significantly reduced.

- **Indexing key small business capital gains tax concession thresholds.** Some of these thresholds have not been reviewed or updated for a considerable period. With no update or indexation, the thresholds are not reflective of the current environment.

- **Reform of the notice of intent to claim a tax deduction rules.** The operation of these rules is overly complex, contains multiple hurdles and points of failure. The result is the loss of a tax deduction for an individual making the contribution. The regime is inflexible and does not allow for amendments or remediation. A point of failure can often be the result of a simple administrative error, which the taxpayer is unable to remedy, and the Commissioner of Taxation has no discretionary powers to resolve. The operative provisions need reform and modernisation to ensure the law operates in a manner that is fit for purpose in a modern context.

- **Protecting an individual's unused concessional contributions cap** due to the late payment of prior years' superannuation guarantee amounts. Under this measure the Commissioner of Taxation would be given the necessary powers to apply such amounts to the relevant year of income.

- **Removing ambiguity regarding the application of the of the design and distribution obligations and target market determinations to SMSFs**. The SMSF Association believes these provisions should not apply to the establishment of an SMSF, when adding a new member to an SMSF, or when commencing a pension in an SMSF. This is an increasing area of concern with an emerging trend seeing financial advisers unable to advise SMSF trustees without a TMD or required to attend to unnecessary administration which is adding additional time and cost in delivering advice to clients at a time where Government's policy focus is on delivering advice efficiently and cost effectively.

- **Outstanding measures – Legacy pension amnesty and amendments to the fund residency rules for SMSFs.** These are both important superannuation measures that were included in the May 2021 Budget but are still to be legislated. Both measures are important reforms for the SMSF sector, and we ask the Government and Treasury to undertake the necessary industry consultation and progress the required legislation as a matter of priority.

Sector Equity

Deductibility of financial advice fees from a member's interest in an SMSF

The proposed Tranche 1 reforms from the Quality Advice Review seek to 'facilitate better access to superannuation and retirement advice by clarifying the legal basis of existing practices in which superannuation trustees pay advice fees from a member's superannuation account at the request of the member.'[1] These are welcome reforms which seek to provide greater certainty and consistency for members and fund trustees in relation to advice received by the member regarding their interest in the fund.

The deductibility of advice fees afforded under these proposed amendments expressly exclude SMSFs. This is due to the operation of the current superannuation law.[2] The proposed reforms are built upon the existing legislative framework and seek to repeal the existing provision and replace them with a clearer and modernised legislative framework. [3]

Whilst these are important reforms, what has been overlooked in this process, is the need for the inclusion of an equitable legislative solution for members of SMSFs. SMSFs do not have a comparable provision within the superannuation law[4]. As such, the sole purpose test,[5] the prohibition on the provision of financial assistance to a member of the fund,[6] and the operation of the early access tax penalty provisions[7] are impassable barriers.

This gap in the superannuation legislation has created a divide between members of APRA funds and members of SMSFs. When we compare the pair, one group of members can elect to have the superannuation account pay for the financial advice that relates to their interest in the fund, the others are prohibited from doing so. This also will exclude SMSF members from availing of the tax deductibility of certain advice fees as proposed.[8]

While the members and trustees[9] of SMSFs are one and the same, the treatment of advice provided to these distinctly separate roles differs vastly. Advice received in the capacity of trustee where the advice relates to the operation of the fund will be an expense of the fund and a deductible expense that may be either revenue or capital in nature. As noted already, advice that is received by the member in relation to their personal interests in the fund cannot be paid by the fund itself or from the member's interest in the fund.

---

[1] Explanatory Memorandum, Treasury Laws Amendment (2024 Measures No. 1) Bill 2024: Quality of Advice Tranche 1 (Cth), Exposure Draft, pt 1 [1.8].
[2] *Superannuation Industry (Supervision) Act 1993* (Cth) s 99A.
[3] Treasury Laws Amendment (2024 Measures No. 1) Bill 2024: Quality of Advice Tranche 1 (Cth), Exposure Draft sch 1 pt 1 s 99FA.
[4] Ibid n 1. "The Act."
[5] Ibid s 62.
[6] Ibid s 65(1)(b)(i).
[7] *Income Tax Assessment Act 1997* (Cth) s304-10.
[8] Treasury Laws Amendment (2024 Measures No. 1) Bill 2024: Quality of Advice Tranche 1 (Cth), Exposure Draft sch 1 div 2.
[9] Ibid n 1 s 17A. Trustees includes two or more individual trustees or one or more directors of a corporate trustee.

Proposed solution: Insertion of a comparable provision into the *Superannuation Industry (Supervision) Act 1993* (Cth) to allow SMSFs to deduct from the member's interest in the fund advice fees that relate to that interest in the Fund. Include SMSFs in the proposed amendments to the *Income Tax Assessment Act 1997* (Cth).

Non-arm's Length Expenditure – Specific Expenditure

Amendments relating to the treatment of general expenses of a fund under the non-arm's length expenditure rules are currently before the Senate.[10] Of concern, is the inequitable treatment across the superannuation sector, with APRA funds expressly excluded. The inability of a SMSF trustee to remediate minor, inadvertent breaches is unreasonable and particularly punitive as is the lack of Commissioner discretion. When contrasted against other policy positions, equal treatment has been an essential element of policy design.

Although the consultation processes are now final for this element of NALE, the work in this area of superannuation tax law is far from complete.[11] Crucial elements of the NALE rules are still in need of urgent remediation to provide essential certainty for <u>all</u> superannuation funds. The following two remaining issues are significant and will require careful technical review and consultation to ensure the respective provisions operate as intended.

Specific Fund Expenses

The Bill before the Senate does not address specific fund expenses for SMSFs and Small APRA funds. The operation of the NALI rules in relation to specific expenses is a significant issue and causes a range of disproportionate outcomes.

Under the current law, a small capital expense can taint the income derived from the asset as well as the entire capital gain when the asset is eventually sold. This will have retrospective application when we consider the accrued capital gains over the life of the asset prior to the incurrence of the expense. Further, it risks tainting gains accrued prior to the introduction of the NALE provisions.

A capital repair to property during the holding period, or when preparing it for sale, are examples of such an expense. This differs significantly to a circumstance where, under a scheme, an asset at first instance was not acquired at market value.

The Commissioner in LCR 2021/2 provided the following example:

> **Case study 1 — SMSF member who is a licensed professional**
>
> A member of an SMSF is a qualified plumber who carries on a business. The SMSF holds a residential rental property. The member undertakes a renovation of the bathroom in the property and on-charges only the cost of materials.

[10] Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023 (Cth) sch 7.

[11] *Income Tax Assessment Act 19997* (Cth) s 295-550.

> Under the current law, the ATO's view is that not only is **all** rent forever subject to NALI tax at the top rate of 45%, but the entire capital gain on disposal of the property in the future is also subject to the NALI tax rate of 45%.

NALI could have easily been avoided by the SMSF trustees ensuring the fund incurs arm's length expenditure for the services provided by the related entity. Nevertheless, the penalty for getting it wrong, including situations where inadvertent mistakes have been made, should not give rise to the severe and punitive consequences as outlined above.

This scenario needs to be contrasted, and distinguished from one where a significant discount has been obtained by the trustees under a scheme, that is not arm's length in nature. Here, it is appropriate for the income derived from the asset, including capital gains to be classed as NALI/NALE.

A practical and equitable solution is urgently needed. A method that allows for a proportionate approach to be taken must be considered where the non-arm's length element represents only a portion of the overall value. The remediation of small, inadvertent errors should be available where appropriate, alongside Commissioner discretion.

Capital Gains Tax – Technical Issues

The Commissioner of Taxation's consultation on draft Tax Determination *TD 2023/D1 Income tax: how the non-arm's length income and capital gains tax provisions interact to determine the amount of statutory income that is non-arm's length income* highlighted a serious issue arising from the misalignment of the NALI/NALE[12] provisions and the calculation, treatment, and classification of capital gains[13] as statutory income.[14]

The operation of the current law risks tainting arm's length capital gains that occur in the same year as one that is not at arm's length. This is clearly an unintended consequence.

An urgent legislative solution is required to remediate this outcome, and to allow for the apportionment of capital gains, separately recognising the proportion of the net assessable capital gains that are not arm's length income.

We look forward to continuing our dialogue with Treasury in seeking an appropriate, and equitable, legislative solution as a matter of priority.

---

[12] *Income Tax Assessment Act 1997* (Cth) s295-550.

[13] *Income Tax Assessment Act 1997* (Cth) s 102-5. Capital gains tax- Method statement.

[14] *Income Tax Assessment Act 1997* (Cth) s295-10. Tax payable by superannuation entities – Method statement

Red Tape Reduction - Simplification & Harmonisation

Personal Transfer Balance Cap complexity

With the indexation of the general transfer balance cap (TBC), individuals are now subject to a personal TBC. The value of an individual cap will depend on an individual's circumstances and will range from $1.6 million to $1.9 million, rather than one single cap for all individuals. This is causing significant complexity and is compounded by the lack of access for financial advisers and SMSF administrators to the ATO reports needed to obtain an individual's TBC.

Initially the general TBC was $1.6 million, rising to $1.7 million on 1 July 2021, and to $1.9 million on 1 July 2023. Complexity will only continue to increase as indexation applies in future years.

A member's personal TBC will equal the general TBC in the year they first have a retirement phase income stream counted against their transfer balance account.

However, post indexation, a member's personal TBC may differ from the general TBC due to proportional indexation. Under proportional indexation, the unused portion of the member's personal TBC (based on the highest percentage usage of their TBC) will be indexed in line with the indexation of the general TBC.

This is an overly complex situation which over time will result in most individuals with a retirement phase income stream having a personal TBC which is different to the general TBC maximum. This distortion will continue to grow in complexity as future indexation of the TBC is applied.

Individuals who haven't used their cap will have a maximum TBC of $1.9 million, whereas those who have used a portion of their cap (based on their highest percentage usage) will fall somewhere between $1.6 million and $1.9 million. Those individuals who have used all their personal cap in a year will not be subject to indexation. Their maximum cap will remain fixed to the TBC that applied to them in the year their cap was wholly utilised.

Due to the complex nature of proportional indexation, it is inevitable that mistakes will be made leading to inadvertent breaches of the TBC.

The table below, published by the ATO, clearly illustrates the complexities associated with proportional indexation. The indexation which is applied to a member's TBC is dependent on the member's highest ever transfer balance which in-turn determines the amount of indexation (between nil and $100,000) that is applied to their TBC. The information in this table is generic and does not determine an individual's exact TBC. It however highlights the significant variability resulting from individual TBCs.

This table illustrates the spread of individual TBCs under 1 July 2021 indexation. Following the indexation of the TBC to $1.9 million on 1 July 2023, the range of individual TBCs have expanded significantly.

Proportional indexation of your transfer balance cap[15]

If your highest transfer balance was between	Your unused cap percentage will be between	Your personal TBC will increase between	Your personal TBC after indexation will be between
$0.00 and $159,999.99	100% and 91%	$100,000 and $91,000	$1,700,000 and $1,691,000
$160,000 and $319,999.99	90% and 81%	$90,000 and $81,000	$1,690,000 and $1,681,000
$320,000 and $479,999.99	80% and 71%	$80,000 and $71,000	$1,680,000 and $1,671,000
$480,000 and $639,999.99	70% and 61%	$70,000 and $61,000	$1,670,000 and $1,661,000
$640,000 and $799,999.99	60% and 51%	$60,000 and $51,000	$1,660,000 and $1,651,000
$800,000 and $959,999.99	50% and 41%	$50,000 and $41,000	$1,650,000 and $1,641,000
$960,000 and $1,119,999.99	40% and 31%	$40,000 and $31,000	$1,640,000 and $1,631,000
$1,120,000 and $1,279,999.99	30% and 21%	$30,000 and $21,000	$1,630,000 and $1,621,000
$1,280,000 and $1,439,999.99	20% and 11%	$20,000 and $11,000	$1,620,000 and $1,611,000
$1,440,000 and $1,599,99.99	10% and 1%	$10,000 and $1,000	$1,610,000 and $1,601,000
$1,600,000 or more	0%	nil	$1,600,000

Proposed solution: Remove proportional indexation of the TBC. Indexation should apply equally to all holders of retirement pensions and income streams.

One simple way of addressing the complexities associated with proportional indexation would be to align all members TBC with the general TBC. This would provide certainty, reduce costs, and simplify the administration involved for the Australian Taxation Office, financial advisers, SMSF administrations and tax agents as well as the members themselves.

15 Australian Taxation Office, 2021, *Indexation of the general transfer balance cap,* (10 February 2021) QC 60627.

Indexing the TBC in this manner ensures that superannuation members in retirement are not disadvantaged by the impacts of inflation. Allowing members to retain more in the retirement phase, including on the death of a spouse.

The costs of allowing broad application of TBC indexation and the incremental loss of tax revenue are not expected to be significant, particularly when we consider the oncosts of indexation including the costs of administration and complex system redesign. These system costs will be incurred each time indexation falls due.

The need for access to timely and accurate data is fundamental to ensuring that members comply with their TBC. This highlights the need for Government to ensure that access to this data is not limited and can be accessed by all authorised advisers in a secure and efficient way.

Total Super Balance threshold complexity

Since 1 July 2017, an individual's Total Super Balance (TSB) has been used to determine an individual's ability to access certain superannuation concessions. The SMSF Association has been supportive of this method as an effective way to target appropriate cohorts of superannuation members.

However, the introduction of multiple TSB thresholds is unnecessarily adding to the complexity of the superannuation system. This has made it increasingly difficult for individuals to understand the superannuation system and their options.

We acknowledge that administrative reforms have seen the removal of the $1,000,000 TSB threshold for transfer balance account reporting (quarterly or annual reporting test) for SMSFs from 1 July 2023.

The following TSB threshold tests continue to apply:

TSB Threshold	Applicable Measure
$300,000	Work-test exemption – concessional contributions
$500,000	Catch-up concessional contributions
$1.68m, $1.79m, $1.9m	Bring forward non-concessional contribution caps
$1.9m	Non-concessional, spousal contributions, and co-contributions
$1.6m	Disregarded small fund asset rule

In addition to the number of thresholds, confusion, complexity and added costs arise because some of these thresholds are indexed and some are not, and those that are indexed are subject to different methods of indexation.

The number of thresholds that apply have not only made it more difficult for superannuation members to understand and use the superannuation system, it has also made it more difficult for their advisers and superannuation fund administrators. It increases the professional services fees paid by superannuation members as they need specialised advice to understand the different layers of thresholds that may apply to them and when they apply.

Furthermore, when inadvertent errors are made by superannuation fund members and/or their advisers, it can result in breaches of the contribution caps which are often difficult, time consuming and expensive to resolve.

Proposed solution: Reduce the number of TSB thresholds.

The SMSF Association proposes the following amendments which will help streamline and simplify the use of TSB thresholds:

1. **Remove the tiered TSB thresholds for bring forward non-concessional contribution (NCC) thresholds:**
    a. This will reduce the complexity involved in making bring forward NCCs when nearing the TSB threshold.
    b. This reduces the ability for confusion and complexity in the system which has increased with the recent indexation of thresholds and rates.
    c. It allows individuals to increase their superannuation balance and better prepare for their retirement. We do not anticipate that this will incur a significant revenue cost to the Government as individuals are only able to make use of the bring forward rule once every three years and are cap limited.
    d. Indexation of these amounts results in less intuitive figures.

Bring-forward period	**TSB - 1 July 2017 to 30 June 2021**	**TSB - 1 July 2021 to 30 June 2023**	**TSB - 1 July 2023 onwards**
3 years (3 x NCC cap)	Less than $1.4m	Less than $1.48m	Less than $1.68m
2 years (2 x NCC cap)	$1.4m to less than $1.5m	$1.48m to less than $1.59m	$1.68m to less than $1.79m
1 year (1 x NCC cap)	$1.5m to less than $1.6m	$1.59m to less than $1.7m	$1.79m to less than $1.9m
Ineligible	$1.6m and over	$1.7m and over	$1.9m and over
TSB	**$1.6 m**	**$1.7 m**	**1.9 m**
NCC Cap	**$100,000**	**$110,000**	**$110,000**

    e. Simplification of the law will make it easier to track over time. For example, it may be difficult to identify when an individual has triggered their bring forward NCC cap and whether the 2 or 3 year bring forward cap applies.

Proposed Solution – A single threshold, with NCCs, spousal and co-contributions aligned with the general TBC. Allowing the NCC three year bring forward to be applied where the member has a balance under the TSB threshold.

2. **Align the disregarded small fund assets threshold to the general TBC**:
    a. Alignment with the general TBC ensures that the disregarded small fund assets threshold is subject to indexation at the same time as other measures using this cap.
    b. It brings consistency and simplicity to the operation of the caps.
    c. The proposal aligns the policy objectives, and the operation of the TBC and the disregarded small fund asset rules.

Proposed Solution – Align the disregarded small fund asset threshold to the general transfer balance cap.

The net effect of all these changes would be a substantial reduction in the number of superannuation and tax rules which require a member's TSB to be assessed against a prescribed threshold. It would significantly reduce complexity and red tape while having a negligible impact on Government revenue.

Modernisation of Existing Measures

Small Business Capital Gains Tax Concessions

The small business CGT concessions have an important role to play in the retirement planning for many small business owners. It is common for them to forgo wages and superannuation benefits for themselves for a variety of reasons including cash flow restraints and to reinvest in the business.

The reduced superannuation contribution opportunities experienced by many small business owners was one of the reasons for the introduction of the small business CGT concessions in 1999 and remains relevant today.

This has been particularly highlighted during the COVID-19 pandemic, the effects of which continue to impact businesses around Australia. Due to compulsory shutdowns and ongoing capacity limits, many businesses have or are still experiencing loss of revenue and reduced or interrupted cashflows. As a result, many employers have not drawn a wage opting instead to use their scarce funds to support their employees and the future viability of their business.

A number of the key qualifying thresholds for the small business CGT concessions are not subject to indexation and have not been reviewed for some time. For example, the $6m maximum net asset value test threshold has not been indexed since 2007, and the $2m threshold for the aggregate turnover test also has not changed since 2007. These thresholds need modernising and ongoing indexation to maintain currency.

Whilst the threshold for superannuation contributions under the 15-year exemption are indexed annually, the retirement contributions cap is fixed at $500,000 and has not been reviewed or updated since its introduction in 1999. This contribution cap needs to be modernised and updated.

In contrast, the CGT cap amount that applies to contributions made under the 15-year exemption was $1,000,000 when it was first introduced in the 2007/08 financial year. The legislation provides for this cap to be indexed on an annual basis. The applicable cap for the 2023/24 financial year is $1,705,000.

Given that the retirement contribution cap was 50% of the lifetime CGT cap amount when the CGT cap amount was first introduced, the retirement contribution should be updated and aligned in the same manner going forward. This will ensure that in future years the cap continues to align with the indexation of the CGT cap amount. A retirement contribution cap of $852,500 should therefore apply for the 2023/24 financial year.

Practical relief – Addressing ambiguities and unintended consequences

Notice of Intent to Claim a Deduction - Concessional Contributions

The ability for individuals to claim a tax deduction for personal, concessional contributions has evolved over time. That evolution has seen good policy design that reflects the modern working environment. It provides flexibility and choice, ensuring that all individual taxpayers have equal opportunities to make additional concessional contributions. Either as salary sacrifice contributions or personal deducible concessional contributions.

Despite these reforms, one element has continued unchanged and in need of modernisation and reform - the notice of intent to claim a deduction[16] form and associated compliance processes. In an environment with improved data access and processing, electronic reporting and forms, there is an opportunity to improve the member experience, accessibility, and simplicity, to encourage superannuation savings.

Background

In navigating these requirements, there are multiple potential points of failure that could result in an individual being denied a tax deduction for the contributions they have made. In turn this prevents an individual from utilising their concessional contributions cap. A summary is provided below.

Process[17]

1. You must give to the trustee of the fund a valid notice, in the approved form, of your intention to claim the deduction;
2. The notice must be given before:
   (a) Lodgement of the individual's income tax return for the income year in which the contribution was made (on a day before the end of the next income year); or
   (b) The end of the next income year; and
3. The trustee must have issued an acknowledgment of receipt of the notice.

Valid Notice[18]

The notice is <u>not</u> valid if at least <u>one</u> of these conditions is satisfied:

1. The notice is not in respect of the contribution;
2. The notice includes all or a part of an amount covered by a previous notice;
3. When the notice was given:
   (a) you were not a member of the fund; or

16 *Income Tax Assessment Act 1997* (Cth) s290-170.
17 Ibid s290-170(1).
18 Ibid s290-170(2).

(b) the trustee no longer holds the contribution; or
(c) the trustee has begun to pay a superannuation income stream using all or part on the contribution.
(d) before you gave the notice the contribution was subject to a contribution splitting application which had not been rejected.

Acknowledgement of Notice [19]

1. The trustee must, without delay, give the member an acknowledgment of a valid notice;
2. The trustee or provider may refuse to give you an acknowledgment of receipt of a valid notice if the value of the superannuation interest to which the notice relates, is less than the tax that would be payable on the contribution (or part of the contribution).

Notice may be varied but not revoked or withdrawn [20]

1. You <u>cannot</u> revoke or withdraw a valid notice in relation to the contribution (or a part of the contribution).
2. You can vary a valid notice, but <u>only to reduce</u> the amount stated in relation to the contribution (including to nil).
3. You <u>cannot</u> vary a valid notice after:
   (a) if you have lodged your income tax return for the income year in which the contribution was made; or
   (b) the end of the next income year.
4. The variation is <u>not</u> effective if, when you make it:
   (a) you were not a member of the fund; or
   (b) the trustee no longer holds the contribution; or
   (c) the trustee has begun to pay a superannuation income stream based in whole or part on the contribution.
5. Item 3 (above) does not apply to a variation if:
   (a) you claimed a deduction for the contribution (or a part of the contribution); and
   (b) the deduction is not allowable (in whole or in part); and
   (c) the variation reduces the amount stated in relation to the contribution by the amount not allowable as a deduction.

The Issues

Timing issues can create circumstances which may deny the individual the tax deduction and the ability to utilise their concessional contribution cap. The preparation and lodgement of a NOI typically occurs at the end of the financial year, once the individual's taxable income and contributions for the year are known.

Where an individual's income tax return is inadvertently lodged prior to the issue of the written acknowledgement from the fund, the whole of the contribution will cease to be tax deductable. This is a particularly harsh outcome for what is administrative in nature. The deduction should be permitted so long as the acknowledgement is received from the fund no later than the last day of the financial year following the year the contribution was made.

[19] Ibid ss 290-170(3)-(4).
[20] Ibid ss 290-180.

Under the self-assessment rules, a person that fails to do so, would be subject to the additional income tax liability, general interest charges and any other applicable penalties the Commissioner may levy under existing tax law.[21]

Other issues arise where a partial rollover or withdrawal of benefit occurs. For example, where the Commissioner issues a release authority to the fund. This compels an amount to be paid out of the member's interest in the fund. Examples include Division 293 or excess contributions assessments.

Another common scenario is the rollover of benefits from a superannuation interest into a superannuation-based insurance product. In effect, a rollover is made monthly to fund the insurance premiums inside the other product. On an annual basis, an instruction is given for an enduring rollover arrangement, authorising the fund trustee to make the regular rollovers.

Given the regular nature of these rollovers, a member will be denied a deduction and the ability to utilise their concessional contribution cap. This is despite the rollover amounts representing a small portion of their member interest, and more than sufficient funds held in the member's interest.

Where an amount is classified as a concessional contribution after a partial rollover, or a minor benefit is paid to a member, the impact to the operation of the proportioning rule[22] to a member's consolidated interests is negligible. In many circumstances it will be neutral.

The following demonstrate the case for reform on the NOI rules:

1. The level of the concessional contribution cap.[23]
2. The tax-free element in a fund is fixed, and can only be increased by tax-free contributions, such as a non-concessional contribution, co-contribution, structured settlement payment or a contribution made under the small business CGT concessions.[24]
3. All fund earnings increase the taxable component of a member's interest.
4. Benefits can only be paid to a member who has met a condition of release. This typically occurs where a member has met their preservation age and met the conditions for retirement. The preservation age has progressively been increasing from 55 to 60 years of age. A person born between 1 July 1963 and 30 June 1964 has a preservation age of 59 years. For those born on or after 1 July 1964, is 60 years. [25]
5. Superannuation benefits paid to a person aged 60 years or older is received tax-free. The proportioning rules do not affect the taxation of the benefit paid.
6. Adjustments to the member's account after the rollover or benefit payment has been made will increase the taxable component of the member's interest.
7. Where a rollover is made from one fund to another, the effect on consolidated tax components is neutral. The following example compares the outcomes for a member whose original interest is 60% taxable and 40% tax-free. A rollover representing 20% of their member interest is made

[21] *Taxation Administration Act 1953* (Cth) sch 1 s 284-75(1).
[22] Ibid n 16 s 307-125.
[23] Ibid n 16 s 291-20.
[24] Ibid n 16 ss 307-210 and 307-220.
[25] *Superannuation Industry (Supervision) Regulations 1994* (Cth) r 6.01(2). See 'preservation age' definition.

from Fund A to Fund B. A deduction is made for a contribution representing 10% of the member's total superannuation interest.

NOI – Process post rollover:

	A	B	C	D	E
	FUND X	FUND Y	FUND X	FUND X	**Net XY (B+D)**
Transaction	**Starting Balance**	Rollover	Post Rollover	Post NOI	
Taxable	**60%**	12%	48%	58%	**70%**
Tax-Free	**40%**	8%	32%	22%	**30%**
Total	**100%**	20%	80%	80%	**100%**

NOI – Pre-rollover:

	F	G
	FUND X	Fund X
Transaction	Starting Balance	Post NOI
Taxable	60%	70%
Tax-Free	40%	30%
Total	100%	100%

There is no mischief in allowing the deduction where sufficient funds remain in the member's interest in the fund.

The other issue is a member's inability to vary a notice. If a mistake is made, the member has no ability to rectify the notice. The deductible amount cannot be increased, and a member is prevented from revoking their election.

Recommendations Summary

Our recommendations include:

1. Addition of Commissioner discretion to allow a deduction.
2. Allow the deduction where the member has notified their superannuation fund trustee and received written notice in the 12-month period after the end of the financial year in which the contribution is made. Including where the member has already lodged their income tax return.
3. The deduction to be allowed where the member's interest still holds sufficient funds to pay the tax and reallocate the necessary contribution amount from the member's tax-free component to their taxable component.
4. Allow variations to be made, including after the lodgement of the individual's income tax return. The variation must be made and acknowledged in the 12-month period after the end of the financial year in which the contribution is made.
5. Permit variations to increase or decrease the amount of a deduction, including where the individual's income tax return has already been lodged.

6. Allow an individual to vary an amount claimed in their income tax return, where their return has already been lodged for the year of income.

Unused Concessional Contributions

An issue has been identified where the late payment of superannuation guarantee payments may deny some individuals access to their unused concessional contributions. This appears to be an unintended legislative consequence.

The superannuation guarantee amnesty, which concluded in September 2020, highlighted the issue. The amnesty covered a period spanning 1 July 1992 to 31 March 2018 and resulted in a significant amount of outstanding superannuation guarantee contributions being paid to super funds during the 2020 and/or 2021 financial years.

While the issue was identified during the amnesty, it is not solely an amnesty issue. Indeed, any time an employer remedies underpayments or non-payments of superannuation guarantee amounts from previous years, a members unused concessional contribution cap will be impacted. This issue is anticipated to grow as employers prepare for pay-day superannuation payment obligations.

Currently there is no distinction in reporting of superannuation guarantee amounts received by a superannuation fund that relate to a previous financial year or the current year's concessional contributions. Concessional contributions include employer superannuation guarantee, salary sacrificed and personal deductible contributions.

A well-established process is in place to address circumstances where excess concessional contributions arise. We refer to *Income Tax Assessment Act 1997* section 291-465, PS LA 2008/1 *The Commissioner's discretion to disregard or allocate to another period superannuation contributions for excess contributions purposes***,** and form NAT 71333 *Application – Excess Contributions Determination.*

These concessions enable an affected taxpayer to apply for Commissioner discretion where an excess contribution occurs due to the receipt of superannuation guarantee amounts that relate to a previous financial year. It allows the contributions that relate to an earlier period to instead be applied to that earlier period for contribution cap purposes.

The ATO's online resources regarding the superannuation guarantee amnesty and employee entitlements also stated:

> *Where an employee exceeds the contributions cap because of these contributions, the Commissioner of Taxation will exercise discretion to disregard the contributions made under the amnesty.*
>
> *Contributions made under the amnesty will not count towards your employees' income or contributions for Division 293 purposes.*[26]

[26] Australian Taxation Office, *Superannuation Guarantee Amnesty,* (Web Page, August 2020) QC 55626, <https://www.ato.gov.au/businesses-and-organisations/super-for-employers/missed-and-late-super-guarantee-payments/the-super-guarantee-charge/superannuation-guarantee-amnesty>.

Prior to 1 July 2018 when the concessional contributions caps operated on a 'use it or lose it' basis, the process provided for in PS LA 2008/1 were relevant and practical. Indeed, it remains current for the sole purpose of remediating excess contributions assessments.

However, since its introduction, we have seen new measures allowing individuals with a TSB of less than $500,000 to utilise unused concessional contribution cap amounts for up to five years, but no earlier than the 2018/19 financial year. [27]

The unused concessional contributions cap amounts have the effect of increasing an individual's concessional contribution cap.[28]

What has become evident is that upon receipt of superannuation guarantee amounts that relate to a prior year, an individual's expanded concessional contribution cap under the carry forward unused concessional contributions cap, will be diminished or extinguished. This issue is magnified for those who have been beneficiaries of the superannuation guarantee charge amnesty.

Currently there are no mechanisms in place to allow for an adjustment to an individual's carry forward unused concessional contributions, where they are reduced or extinguished due to the receipt of superannuation guarantee amounts that relate to an earlier year.

Furthermore, the current provisions to formally apply for Commissioner discretion fail in this scenario. To apply to have the superannuation guarantee amounts applied to an earlier year, you must first have an excess concessional contribution. Consideration is given to:

1. Whether the excess amount was reasonably foreseeable.

    - A choice was made to trigger the excess, despite the presence of the historical superannuation guarantee amount. The resulting excess would therefore be foreseeable.

2. Consideration is given to the amount of control the person has over the making of the contribution.

    - Whilst an individual has no control over the superannuation guarantee amount, they do have control over any subsequent contributions they make. Exercising this choice will trigger an excess contribution.

When the process for excess contributions was first introduced, the concept of unused concessional contributions did not exist. Similarly, when the SGC amnesty was first proposed in early 2018, the unused concessional contributions were not yet available. As a result, there are some unintended consequences.

Proposed solution: Allow individuals to apply to the Commissioner to allocate late superannuation guarantee payments to the relevant year of income.

---

[27] Ibid n 16 ss 291-20(3)-(7).
[28] Ibid n 16, s 291-20(3)).

Given that the current processes available do not provide a remedy for affected taxpayers, it is our recommendation that the legislation is updated and amended to:

- Allow a taxpayer to make an application to the Commissioner in the approved form.
- To request that any late superannuation guarantee amounts received do not count towards an employee's concessional contributions cap, provided the contributions relate to a year outside of the previous five financial years (that is, outside of the unused concessional contribution measures).
- Such an application can be made regardless of whether or not an excess contribution has been triggered.
- Provide the Commissioner of Taxation with the power to receive and make such assessments or determinations.

While it is individuals who were compensated during the amnesty period that are of most concern here, this issue could arise at any time where historical cases of unpaid or underpaid superannuation are identified. We may see more remediation of the underpayment of superannuation guarantee amounts as the regime transitions to pay-day superannuation.

These changes are not expected to have any material fiscal impact on budget expenditure. This is an equity issue requiring the rectification of an anomaly in the operation of the relevant law.

Design and Distribution Obligations/Target Market Determinations

Issues with the drafting of the Design and Distribution Obligations ("DDO") and target market determination ("TMD") for SMSFs have been raised with Treasury and ASIC on several occasions since its introduction. Our members are reporting a concerning, and growing trend, with some Australian Financial Services Licensees requiring advisers to obtain or hold a TMD when advising SMSF clients. This includes existing SMSFs and new SMSF establishments.

Without a fund TMD, the advisers may be prohibited from advising the SMSF client or be required to attend to unnecessary compliance processes and seek approval from their AFSL. It is adding unnecessary red tape, regulatory burden, complexity, time, and cost to the advice process for SMSFs. This is counter to the objectives of the Quality of Advice Review and the Government's current policy agenda regarding the accessibility and affordability of financial advice.

Advisers are now also concerned about their risk exposure in this area. Noting they are not authorised to prepare or advise on the preparation of a TMD as they are not product developers or issuers.

A simple legislative amendment to clearly exclude SMSFs would remediate the issue and provide certainty for AFSLs, financial advisers and their clients, future and existing SMSF trustees.

Background

During the public consultation in 2018, ASIC noted that the proposed legislation, unless amended, would unlikely apply to SMSFs as *"the initial distribution of interests in SMSFs may not be captured by the revised exposure draft legislation"*[29].

[29] ASIC, 2018, *Design and distribution obligations and product intervention power: Revised exposure draft legislation – Submission by the Australian Securities and Investments Commission,* Paragraph 75

Given the original drafting of the Bill and the fact the Senate Economics Legislation Committee made no mention of the need for SMSFs to be included, it is our belief that the DDO/TMD regime was not intended to apply to the establishment of an SMSF and financial dealings with regards to an SMSF.

The legislation and regulations are not sufficiently clear to enforce this intent.

Other parties noted during the various consultations that, in the context of the DDO and TMD legislation, an SMSF was a shell that needs to be considered distinctly differently to the financial products it acquires:

> *"There is one important financial product where there is a greater level of uncertainty about the applicability of the Design and Distribution Obligations legislation, and we would have liked to have seen this uncertainty addressed through this regulation. Self Managed Superannuation Funds (SMSF) are classified as a financial product, however they are different from other financial products in a number of ways.*
>
> *We believe that there are grounds for treating SMSFs differently, including the fact that they are more of a service than a product and are typically used to house other products that will be caught under the Design and Distributions Obligations legislation. In addition, the product provider is technically the trustees of the SMSF, who are also the members of the fund. Thus, the benefit of this legislation is less apparent in the case of SMSFs."*[30]

Treasury in their evidence to the Senate Economics Legislation Committee inquiry into the Bill, noted the need to exclude SMSFs from the regime:

> *"…it would be inappropriate to include SMSFs because the design and distribution obligations require the issuer to determine a class of consumers, whereas a person designs an SMSF and in effect is 'selling it to themselves.'"*[31]

The financial products acquired by and held in the SMSF are subject to the DDO and TMD requirements. This is entirely appropriate and aligns with the underlying policy intent.

Since the commencement of these provisions, conflicting views have emerged on whether the provisions apply to SMSFs and, if they do, how they should be applied in an SMSF context. It has been described as "a lawyer's picnic".

Proposed Solution: Expressly exclude SMSF establishments, addition of new members and commencement of pensions in an SMSF from the DDO/TMD requirements.

The DDO applies to issuers and distributors of financial products that are available for acquisition by issue or by regulated sale in Australia.

[30] AFA, 2019, *AFA Submission – Corporations Amendment (Design and Distribution Obligations) Regulations 2019*

[31] Ms Kate O'Rourke, Principal Adviser, Consumer and Corporations Policy Division, The Treasury, Committee Hansard, 1 November 2018, p. 35

A product distributor is required to take reasonable steps that will, or are reasonably likely to, result in distribution of a financial product being consistent with the product's TMD.

Financial advisers are expected to consider a product's TMD when providing advice and meeting their best interest duty and complying with their obligations in the code of ethics.[32]

Each SMSF is unique to its members. The members and trustees are one and the same. As such they will each have very different investment objectives, risk profiles, preferences, and needs.

An SMSF is a private fund and does not offer membership to the public at large. Therefore, the requirement to have a publicly available TMD as required under the legislation does not align to the principles or function of an SMSF.

SMSFs meet the definition of a financial product. However, when we look at how it resides within the DDO/TMD framework, it is a structure in which to house financial products. Those financial products will need to comply with the DDO/TMD regime obligations.

There are no consumer or public benefits to be gained by extending the DDO/TMD provisions specifically to the SMSF structure itself. Rather, including SMSFs will add unnecessary complexity and cost burdens for no benefit. The logic that applies to commercial product issuers does not apply in an SMSF context as the SMSF structure is not being offered to the public at large.

More concerning, the current ambiguities are camouflaging potential contingent liabilities that may arise for both financial advisers and licensees, were a different interpretation of the law is applied in the future. This may occur due to action of a regulator, litigation, or formal complaint with AFCA.

ASICs regulatory guide RG 274 *Product design and distribution obligations* is silent on SMSFs and the issues surrounding SMSFs. There is no clear, practical, interpretive guidance from the regulator as there is no clear exemption in the current legislation and regulations. The legislation is silent on the express inclusion or exclusion of SMSFs from the DDO/TMD regime.

SMSFs are consumers of financial products and services. The financial products acquired by the fund will be subject to the DDO/TMD regime. In addition to a PDS, a TMD must also be provided to the trustees in relation to each financial product acquired. This is the appropriate point for the DDO/TMD regime to apply in an SMSF context.

The operation of the existing legislation, including the pre-existing PDS provisions, do not provide a sufficiently clear framework to assist with the interpretation and application of the DDO/TMD provisions to SMSFs.

Under Sub-section 1012D(2A) of the *Corporations Act 2001*, a product disclosures statement (PDS) does not have to be given to a new member of an SMSF where the trustee believes on reasonable grounds that the member has received, or knows they have access to, all the information that a PDS would be required to contain. Therefore, SMSFs and their trustees or firms advising SMSFs require disclosure but are exempted under reasonable grounds.

This exemption may not be able to reasonably be relied upon in in the context of the DDO/TMD when we consider other situations that regularly arise in an SMSF context:

---

[32] *Financial Planners and Advisers Code of Ethics 2019* (Cth).

1. A member requests the payment of a pension from the SMSF trustee. A PDS is required to be issued by the Fund.

2. The trustee voluntarily executes a PDS on establishment or addition of a new member, although not required to do so.

By default, a PDS will be included as part of the standard document package provided. It is then up to the trustee to determine whether they require or use the PDS provided. As a result, it is not uncommon for the PDS to automatically included in the documents adopted or executed by the trustees and members.

If a PDS was not required, would the SMSF be captured under the DDO/TMD provisions for the mere fact a PDS has been prepared, executed and/or adopted?

The SMSF structure itself addresses a range of issues that form part of the operative intent of the DDO/TMD regime.

Under the existing legislative framework that applies to SMSFs, the trustees have obligations imposed by way of trustee covenants under SISA s.52B. Of particular relevance is the covenant in SISA s.52B(2)(f) and SISR 4.09 that require the SMSF trustees to *formulate, review regularly and give effect to an investment strategy.*

The trustees must ensure that the investment strategy is documented, monitored, complied with, and maintained by the SMSF trustees. The investment strategy must have regard to whole of the circumstances of the fund, including, but not limited to:

a) *the **risk** involved in making, holding and realising, and the **likely return** from, the entity's investments, having regard to its **objectives** and expected **cash flow requirements**;*

b) *the **composition** of the entity's investments as a whole, including the extent to which they are diverse or involve exposure of the entity to risks from inadequate **diversification**;*

c) *the **liquidity** of the entity's investments, having regard to its **expected cash flow** requirements;*

d) *the ability of the entity to discharge its existing and prospective **liabilities**;*

e) *whether the trustees of the fund should hold a contract of insurance that provides **insurance cover for one or more members** of the fund.*

In addition to the above and the trustee's fiduciary duty, the legislation also requires the trustees to consider the 'best financial interests' of all fund members.

The trustees of the SMSF are directly responsible for the operation of the fund, including ongoing fund compliance, formulating investment strategies, and making investment decisions. Indeed, they may engage various professionals and services to assist them in fulfilling their duties and obligations. However, this does not alleviate or remove the core trustee duties and obligations.

SMSF trustees are not required to be licensed financial advisers, product manufacturers, issuers, or providers. Further, they do not engage in retail product distribution. Although they may engage these services and acquire financial products from an appropriately licensed provider.

The trustee's duties and obligations ensure that the needs of individual members are appropriately considered, documented, and actioned. These all align with the policy objective of the DDO/TMD obligations. Noting that the DDO/TMD obligations would still apply to financial products acquired by the Fund.

The requirement for a TMD to be publicly available does not align with SMSFs which are a private, closely held fund, as the members and trustees are one in the same.

Since 1 July 2021, SMSFs are permitted a maximum of 6 members. The number of SMSFs using these updated measures are low. Prior to this legislative amendment, membership was limited to a maximum of 4 members. A significant majority of funds have two members. We do not expect this to significantly change.

Australian Taxation Office data[33] extracted on 25 July 2023 shows the distribution of SMSFs based on the number of members:

Number of members	2021-22
1	24.8%
2	68.3%
3	3.3%
4	3.4%
5	0.1%
6	<0.1%
Total	**100%**

If SMSFs are to be included in the DDO obligations, this could include unreasonable design parameters and restricted distribution obligations for trustees dealing with themselves or entities which deal with SMSFs.

Given the current legislative uncertainty, and the apparent intent to exclude SMSFs, we believe it is appropriate for the legislation and regulations to be amended to specifically exclude SMSFs from the DDO/TMD regime with regards to:

1. Establishment of an SMSF
2. Admission of new members to an SMSF
3. Commencement of a pension in an SMSF

This will align the legislation to the policy intent, reduce red tape and compliance costs for the SMSF sector and provide important clarity for financial advisers, document providers and SMSF trustees.

Outstanding Measures

Important superannuation measures included in the May 2021 Budget, are still to be legislated or opened for consultation. These are the two-year amnesty for legacy pensions conversions, and the reform of the SMSF residency rules with the removal of the active member test and the extension of the temporary absence rule for non-residents from 2 to 5 years.

[33] Australian Taxation Office, 2023, *Self-managed super fund quarterly statistical report – September 2023,* [online] <https://data.gov.au/data/dataset/self-managed-superannuation-funds > , Table 4: Membership Size

It is acknowledged that these announcements were made by the former Government. We therefore thank the Government for the October 2022 Budget announcement which confirmed that the reform of the residency rules has been incorporated into the Government's policy agenda.

Both measures are important reforms for the SMSF sector, and we ask the Government and Treasury to undertake the necessary industry consultation and progress the required legislation as a matter of priority.

Legacy Pension – Amnesty

We thank Government and Treasury for considering our recommendations to progress the previous Government's reforms. We acknowledge the policy agenda for Government has been very full. However, for SMSF members trapped in these products urgently need a legislated solution.

Legacy pensions have created distorted outcomes for individuals trapped in these products. They have been left stranded because of significant legislative reform that occurred after the commencement of their pension accounts. Due to the balance of their account, many are unable to access an alternative product to rollover their benefits.

There are limited options available in the market, providing little choice or opportunity to access an alternative product provider. They are unable to simply withdraw their benefits due to the strict regulatory restrictions that apply to these products. In some cases, the cost to administer is more than the pension payments they receive each year.

The SMSF Association supports a diverse superannuation ecosystem that allows consumer choice. While SMSFs have an important role to play we also advocate that they are not suitable for everyone. This includes where an individual's circumstances have changed and an SMSF ceases to be fit for purpose.

Feedback from our members shows there are individuals trapped with these legacy pensions, in an SMSF where the product and/or the SMSF itself are no longer fit for purpose. It is clearly in their best interests to exit these arrangements, but legislative barriers prevent them from doing so. The situation is becoming untenable for affected pensioners with relief needed as a matter of urgency.

We look forward to having the opportunity to work with Government and Treasury to progress these measures with good policy design and a framework that is fit for purpose.

Residency Rule Amendments – SMSFs and Small APRA Funds

The concessions made during Covid-19 around SMSF temporary absence rules showed that the proposed changes to the residency rules are practical and workable, with trustees operating in a compliant matter. The modernisation of the temporary absence rules and the abolition of the active member test aligns to the broader policy objective of ensuring that the superannuation system operates efficiently and cost effectively, removing the need for the unnecessary duplication of superannuation accounts.

We encourage the Government to urgently progress both limbs of these proposed reforms.

A legislative solution to these outstanding measures would be a quick win for Government and, with the appropriate policy settings, provide vital solutions and certainty for impacted individuals.