



2<sup>nd</sup> May 2025

Committee Secretary  
Financial Advice and Investment Regulation Unit  
Treasury  
Langton Cres  
Parkes ACT 2600

Email: [FinancialAdvice@treasury.gov.au](mailto:FinancialAdvice@treasury.gov.au)

Dear Sir/Madam

**SMSF ASSOCIATION SUBMISSION: IMPROVING ACCESS TO AFFORDABLE AND QUALITY FINANCIAL ADVICE**

The SMSF Association welcomes the opportunity to provide this submission to the Treasury consultation on the *Treasury Laws Amendment Bill 2025: Delivering better financial outcomes* as part of the Improving access to affordable and quality financial advice reforms.

We strongly support meaningful reforms to increase the delivery of high quality, accessible, and affordable financial advice for Australian consumers, through clearer and more streamlined regulatory requirements. However, we do not support the fragmented approach that has been taken to implementing this stream of the Delivering better financial outcomes reforms.

The exposure draft explanatory materials (draft EM) state that while this consultation has been presented as one package, the government's announced intention was that the proposed reforms would be combined with legislation to modernise the best interests duty and introduce a new class of adviser before being introduced to Parliament as a single package. Importantly, it also states that the whole package works together to expand access to affordable, quality financial advice.

Consulting on elements of a reform package individually rather than collectively, risks adding further regulatory complexity and cost to an already 'unnecessarily complex'<sup>1</sup> regulatory framework. It also makes it challenging to provide meaningful feedback to the exposure draft materials and identify and address potential friction points that may result from future elements yet to be incorporated.

Given this, we do not support pursuing the current reforms without the other key elements of the 'one package' also being released for collective consultation.

We are also concerned that the new draft laws will create inequity between advice providers providing the same scope of financial advice. For example, allowing superannuation funds to collectively charge for retirement advice, meaning all of its members subsidise the cost to provide this advice, creates a significant advantage over financial advisers, many of whom are small business owners and will need to pass these same advice costs on to their individual clients.

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<sup>1</sup> [Final Report Confronting Complexity: Reforming Corporations and Financial Services Legislation](#) ALRC Report 141 November 2023 P.33



The lack of guardrails in the proposal model also means that some superannuation fund members may be forced to pay for collectively charged 'simple' financial advice, which other superannuation funds may deem 'complex' and therefore not collectively charge for the advice. This leads to inequitable outcomes for consumers, noting that these costs are deducted from their retirement savings.

Importantly, the SMSF Association supports measures to encourage and support consumers to engage with their superannuation to improve their financial wellbeing in retirement. However, the proposed framework to implement the superannuation 'prompts' appears overly complicated and at risk of going beyond the policy intent to promote meaningful engagement between members and their superannuation fund, to ensure they are making decisions that optimise retirement outcomes.

We also recommend that any reform to the current statement of advice requirements must focus on the composition and matter of the document to improve client engagement and experience. We are concerned that the potential regulatory costs to implement system and process changes to issue the proposed client advice record, the substance of which is not fundamentally different to a statement of advice, is not commensurate with the perceived benefits.

Importantly, any successful reform to client disclosure requirements will require an aligned regulatory response to ensure the sector can implement these measures with confidence, as intended.

Our detailed responses to the *Treasury Laws Amendment Bill 2025: Delivering Better Financial Outcomes* are contained in the Attachment.

If you have any questions about our submission, please do not hesitate to contact Tracey Scotchbrook, Head of Policy and Advocacy, via email [traceyscotchbrook@smsfassociation.com](mailto:traceyscotchbrook@smsfassociation.com)

Yours sincerely,

Peter Burgess  
Chief Executive Officer

#### **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. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.



## Treasury Laws Amendment Bill 2025: Delivering better financial outcomes

### Financial Advice Through Superannuation

The SMSF Association supports the policy intent to collectively charge to support superannuation fund members access simple, cost-effective, retirement advice. However, we do not support the amendments to the Superannuation Industry (Supervision) Act 1993 (SIS Act) as proposed to implement this reform.

A key pillar of this reform is the discretion of the superannuation trustee to consider where it is appropriate to collectively charge for financial advice guided by whether the advice sought by the superannuation member may be simple or complex.

However, there is little to no discussion to determine what is 'simple' advice versus 'complex' financial advice. There is also no consideration of what the cost thresholds are for simple versus complex financial advice that the superannuation fund trustee must consider when deciding if they should collectively charge for the advice.

Notably, given the complexity of the superannuation and taxation legislative frameworks, coupled with the general cost of providing financial planning advice, even 'simple' advice is arguably costly to provide to a superannuation member.

The lack of guardrails in the model also means that some superannuation members may be forced to pay for collectively charged 'simple' financial advice, which other superannuation funds may deem the same advice to be 'complex'. This leads to inequitable outcomes for consumers, noting that these costs are deducted from their retirement savings.

We are also concerned that much of the detail that will frame and regulate this measure will be in the regulations, that are yet to be drafted. This includes the fact that the regulations may also prescribe the personal circumstances of that person that are considered in providing the advice. However, why should the circumstances that should be considered differ from those that any financial adviser would be required to consider to fulfil their best interests duty and ethical obligations?

A key concern for the sector and a driving factor for the delivering better financial outcomes reforms has been the continued rising costs to provide financial advice. Allowing superannuation funds to collectively charge for retirement advice, meaning the cost to provide this advice is paid for and subsidised by its members, creates significant inequity between advice providers. Superannuation funds will be able to promote access to 'free' advice. At the same time financial advisers, many of whom are small businesses, will have to pass on the increasing regulatory costs directly to their clients.

Financial advisers are also subject to extensive disclosure obligations to ensure their clients understand and agree to the fees they must pay. We believe a similar obligation should also apply to superannuation funds who wish to collectively charge advice fees to its members.



It should also be acknowledged that a member of a superannuation fund may also pay for their own financial advice directly with their choice of financial adviser outside of their superannuation fund. In this instance, there will be a duplication of advice costs to that member.

Importantly, it is also unclear if the 'new class of adviser' will have a role in providing 'simple' retirement advice under this reform. This could further drive an unlevel regulatory playing field to provide the same scope of retirement advice between a financial adviser and the superannuation fund.

The SMSF Association supports the policy intent to collectively charge to support superannuation fund members access to quality information and targeted guidance. However, we recommend that this measure is paused until the remaining elements of the reform package are consulted on and the issues raised in our submission are appropriately addressed.

### Proposed Lists

Notwithstanding our above concerns, including the absence of framework to guide what is simple versus complex advice, we provide the following comments.

#### 'Allowed topic' list

While we note that the consultation paper states that this is not an extensive list, we believe consideration should be given to limiting the financial advice that can be collectively charged to members of a superannuation fund.

We also believe what is 'simple' advice must be further explored and parameters set. For example, depending on the client's circumstances, advice about contribution strategies can be very complex and require important tax considerations. Consideration must also be given to situations where the member may hold one or more superannuation interests outside of the superannuation fund that they seek advice from.

Social security and superannuation can also be complex areas of advice, with changing benefit entitlements and thresholds. Yet, they would be relevant to the provision of retirement income advice for members nearing or in retirement. We do not believe this advice would be 'simple' and eligible to be collectively charged.

#### Allowed circumstances list

The circumstances that should be considered should be no different to those that any financial adviser would be required to consider to comply with their best interest duty, and ethical obligations to provide the same scope of financial advice.

Consideration must also be given to how information will be verified for individuals outside the superannuation fund, such as the member's spouse, including compliance with privacy obligations where the individual is not a member of the same superannuation fund.

#### Disallowed Topic List

The topics proposed in the consultation paper should be excluded.



## Targeted Superannuation Prompts

The SMSF Association supports measures to encourage and assist consumers engage with their superannuation to improve their financial wellbeing in retirement, such as helpful ‘nudges’ to drive greater member engagement at key life stages<sup>2</sup>.

We note that the draft EM states that the superannuation ‘prompt’ framework will enable trustees of certain superannuation funds to send targeted prompts to members and that such prompts may be an opportunity to drive better uptake of personal advice offerings – either independent of the fund or offered by the fund – to help the member make optimal decisions. It is proposed that the superannuation prompt will satisfy the requirements relating to general advice if the relevant requirements under the new Division are complied with.

However, the challenges of the general advice framework are well known.

ASIC Report 614 *Financial advice: Mind the gap* found that the word ‘advice’ carries the risk of inflating a consumer’s expectations about the relevance of the advice their personal circumstances<sup>3</sup>.

We acknowledge that a superannuation fund trustee must use an assessment framework to assess and identify a ‘target class’ for a superannuation prompt and that the trustee must have regard to relevant matters as drafted in section 950C. However, we are concerned that trustees will not have access to the core information outlined in that provision to make appropriate assessments. This includes information such as:

- whether the members own property, and
- the members’ relationships.

It is also expected that the trustee should consider the members’ income. While this could be calculated for many members based on their superannuation contributions, it does not account for where they may have a second superannuation fund and split their contributions between both funds.

Further, while the superannuation prompt should be appropriate and consider the likely objectives, financial situation and needs of the consumers in the selected class of members, the superannuation fund trustee can only make, at best, broad assumptions for a class of members.

Given this, we are concerned that it is proposed that the superannuation prompt will be referred to as ‘superannuation-related advice’. We do not believe this is an appropriate title, and we question why ‘prompt’ or another like term has not been considered.

We also question whether the policy intent is really to ‘nudge’ and drive better uptake of personal advice offerings – either independently or via their fund – to help the member make optimal decisions. If this is the case, why must a warning be provided to state that the member should consider whether to seek advice before acting on the prompt.

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<sup>2</sup> [Ensuring Australians can access safe, quality and affordable financial advice](#), 4 December 2024

<sup>3</sup> [Report 614 Financial advice: Mind the gap](#) ASIC March 2019 P.5



There is a real risk a member will act on the 'prompt', despite the warnings given the well-known limitations of disclosure. If the member does not fit with the target class, they may suffer a poor outcome rather than improved financial outcome.

Importantly, the SMSF Association supports the policy intent of this measure. However, the proposed framework to implement it is overly complicated and arguably goes beyond the policy intent to promote meaningful engagement between members and their superannuation fund, to ensure they are making decisions that optimise retirement outcomes.

Notwithstanding our concerns, we note that self managed superannuation funds (SMSFs) have been excluded, as the targeted superannuation prompts are designed to support trustees to communicate with members at a group level (classes of members), rather than one-on-one communication with individual members. Of relevance though, the assessment framework only requires that a selected class consist of at least two members. The reasoning for excluding SMSFs therefore seems at odds with how the framework is drafted to operate.

While we support excluding SMSF trustees from providing prompts or nudges to themselves as members, given that there are over 1 million SMSF trustees, this is a significant proportion of the working Australian community to be excluded from this framework.

Importantly, SMSF trustees have strong relationships with their professional advisory network including accountants and administrators. These professionals have extensive personal knowledge of the SMSF Trustee and the SMSF itself, far beyond that of any APRA regulated superannuation fund and its members. We therefore believe, subject to simplification of the framework, that these professionals should also have the option to provide a superannuation prompt at key life stages to encourage the SMSF trustee to seek advice to support them make optimal decisions about their retirement.

Aligned with the policy intent, the prompt would not be advice but rather a nudge from the professional for the SMSF Trustee to seek licensed advice based on a key-life stage or other relevant factor.

We note that the draft EM states that not all prompts which superannuation funds send will contain financial advice. For example, a prompt by a superannuation fund alerting members who do not have a death benefit nomination to the benefits of making a binding death benefit nomination is not financial advice. However, ASIC Regulatory Guide 244: *Giving information, general advice and scaled advice* explores death benefit nominations and when a licence is required in example 11. There appears to be conflicting commentary between the draft EM and ASIC guidance, which should be clarified.

## Client Advice Records

The SMSF Association supports the policy intent of introducing the client advice record (CAR) to reduce the cost of providing advice while ensuring clients receive helpful and accessible information that allows them to make informed financial decisions. However, to achieve this objective, the



reform must go beyond what is largely a renaming exercise and focus on the composition and matter of any new proposed document.

Given the form and substance of a CAR is fundamentally the same as a statement of advice (SOA), we do not believe the required regulatory costs to implement system and process changes are commensurate with the perceived benefits.

Further, any reform to the existing SOA requirements or a new form of client advice document must be considered collectively, with reforms to the best interests duty and the Code of Ethics to avoid risking further regulatory complexity and distorted client outcomes.

We also question why such significant civil penalties have been proposed for non-compliance with the record keeping provisions, as the proposed penalties appear unwarranted given the potential consumer harm for non-compliance.

The SMSF Association supports the lifting of core obligations from the regulations to the primary law, such as *Corporation Regulation 7.7.10AE* to proposed section 946B which details when a client advice record is not required when providing additional personal advice to a client. However, we note that this new draft section has not been updated to remove the historical references to transitioning into Australian Financial Services licensing regime arrangements, primarily in s946B(3). These legacy references should be removal.