



17th December 2025

The Treasury
Langton Crescent
PARKES ACT 2600

Email: coerceddirectorships@treasury.gov.au

Dear Sir/Madam

SMSF ASSOCIATION SUBMISSION: COMBATTING FINANCIAL ABUSE PERPETRATED THROUGH COERCED DIRECTORSHIPS

The SMSF Association welcomes the opportunity to provide this submission to the Treasury Consultation on *Combatting financial abuse perpetrated through coerced directorships*.

It is important that we identify and close weaknesses that perpetrators can use to financially abuse victim-survivors within our corporate and financial services system, such as when they are forced, fraudulently, or coerced into becoming a director of a company.

While this occurs in the corporate system, it can also occur in the superannuation system where a self-managed superannuation fund (SMSF) is established with a corporate trustee, and the perpetrator and victim-survivors become directors of the corporate trustee, as well as a member of the SMSF.

Once the SMSF is established, the perpetrator can coerce or even fraudulently rollover of the victim-survivor's superannuation to the SMSF and illegally access the funds, with or without the victim-survivor's knowledge.

The prevalence of this occurring within the SMSF sector is unknown, but even one occurrence is one too many and the effects on a victim survivor can be lifelong.

Importantly, our mission is to lead the professionalism, integrity and sustainability of the SMSF sector, and as such, the focus of our submission is largely on the impact of coerced directorship within the SMSF sector.



Our detailed responses to the consultation paper are contained in the Attachment.

If you have any questions about our submission, please do not hesitate to contact Keddie Waller, Policy Manager via email keddiewaller@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.



ATTACHMENT

Experience of Coerced Directorships

When an SMSF is established, all members of the SMSF must either be an individual trustee or a corporate (company) trustee can be established, where the members of the SMSF must be a director of the corporate trustee.

Importantly, in all cases the individual is required to consent in writing to being appointed as a means to try and ensure that they understand their obligations as an SMSF trustee under the law.

Unfortunately, as highlighted in the consultation paper, the victim-survivor's appointment may be fraudulent, coerced or they may have initially consented to their appointment only for the perpetrator to cause harm at a later stage.

In the example above, the perpetrator may illegally access the victim-survivor's superannuation by withdrawing it from the SMSF's bank account. This could be with or without the victim-survivor's knowledge.

Should this occur, the victim-survivor could be at risk of losing their retirement savings. They may also face additional financial consequences as the amount illegally accessed will be included as income in their tax return. This may result in additional income tax and tax shortfall penalties for the unpaid tax.

The ATO can also impose:

- administrative penalties on the corporate trustee, which the directors are then jointly and severally liable for
- make the SMSF fund status non-compliant resulting in additional taxes and preventing future contributions, and
- disqualify the Directors, which would appear on the public record.

While we are aware of some isolated cases where this specific form of coercive financial abuse has occurred, we are not aware of any data which can be used to quantify how prevalent this financial abuse is within the SMSF sector.

Director Appointment Process

While requiring full and informed consent to be appointed as a director may strengthen the current safeguards, it is difficult to assess how effective this measure may be if the individual is being coerced.

Professional advice can support the implementation of full and informed consent being sought before an individual is appointed as a director of the corporate trustees. It can assist them to understand their obligations before appointment and potentially support a victim-survivor if the professional suspects they are being coerced into being appointed.



However, in the case of SMSFs only 24 per cent use a financial adviser¹ and, over the past few years, the vast majority of new SMSFs have been established without first seeking professional financial advice.

Further, professional accountants (unless they are also licensed to provide personal financial advice) are unable to advise a client not to establish an SMSF even if establishing an SMSF is clearly not in the client's best interest.

We support new mechanisms being explored to prevent or mitigate the risk of coerced directorships; however, we note that it is important that any new measures considered do not unintentionally impact the vast majority of individuals who legitimately and purposefully choose to set up an SMSFs with a corporate trustee structure for the benefit of their retirement.

To enhance levels of education and awareness of the risks of financial abuse involving SMSFs, the Association is in the process of developing a best practice standard for SMSF establishments. It is envisaged this voluntary standard will apply to service providers in the SMSF sector who are responsible for establishing SMSFs. The standard will stipulate minimum levels of pre-vetting and require service providers to take active steps to educate prospective SMSF members on the risks of financial abuse. It may also require service providers to undertake minimum levels of training on how to identify signs of coercive financial abuse.

Director Removal and Resignation

There are additional considerations where the individual is a director of a corporate trustee of an SMSF. To cease being a director of the corporate trustee of the SMSF, the individual must, in addition, to notifying ASIC:

- formally notify the company of their resignation
- the remaining directors must record and acknowledge the resignation in the formal meeting minutes
- notify the ATO within 28 days, and
- if employed, notify their employer and provide new superannuation fund details.

Further, the trust deed of the corporate trustee may also provide specific rules on directors resigning and any changes to the trustee which could complicate this process, depending on how the trust deed was drafted.

There are also additional steps that must also be undertaken if the individual is also winding up the SMSF.

This process can be complex and difficult to navigate if the individual does not have the requisite knowledge or access to the professional advice and support, they need to navigate this process.

¹ <https://smsmagazine.com.au/news/2025/05/28/advised-smsfs-increase-as-sector-grows/>



We agree with the comments in the consultation paper that any expansion of the existing director removal process requires careful consideration, including to the impact on third parties and also where the individual is a corporate trustee of an SMSF.

Strengthening Defences for Insolvency-Related Director's Duties

While not directly relevant to the role of director as a corporate trustee, we support the proposal to strengthen defences for breaches of insolvency-related directors' duties for directors who did not take part in the management of the company (or did not take part at the relevant time) because they were experiencing coercive control.

However, we note that this may be difficult for the victim-survivor to prove and it could also be exploited by the perpetrator to their own advantage, given their ability to control and manipulate the circumstances.

Consideration should also be given to how best to support victim-survivors who have had their retirement savings illegally accessed and may face further financial consequences as a result as outlined in our response to question 2.

Director Penalty Processes

We support the proposal to seek further ways coerced directors can engage with the ATO, including having sufficient time to seek independent advice and provide information to the Commissioner where a defence is raised in circumstances involving reasonable claims of coercive control.

However, we note that it is likely the victim-survivor may not understand who they should seek advice from or have the means to fund access to the advice. Support should therefore also include helping victim-survivors know who can provide the independent advice they need and how they can access advice if they do not have the financial means, which given the circumstances is highly probable.

Defences for Directors' Duties to Tax and Superannuation Liabilities

We support the proposal to strengthen defences for directors who did not take part in the management of the company (or did not take part at the relevant time) because they were experiencing coercive control.

However, we reiterate our comments this may be difficult for the victim-survivor to prove, and it could also be exploited by the perpetrator to their own advantage, given their ability to control and manipulate the circumstances.

Further, the proposed relief of liability should be limited to the period where the victim-survivor experienced coercive control not the whole period they were a director.



Opportunities to Hold Perpetrators to Account

While new criminal and civil penalties may act as a deterrent, unfortunately they are unlikely to be as very effective given the circumstances and the nature of the offences being committed. However, even if they do not substantially deter wrongdoing, such penalties remain important to ensure that appropriate consequences can be applied to perpetrators.

Intermediaries, such as professional advisers, can play an important role in identifying and supporting victim-survivors. Where an intermediary clearly ignored their obligations or acted carelessly, they should be held to account for their role in supporting financial abuse through coerced directorships. However, perpetrators are experts at manipulation and coercion, and as such, it may not always be evident to the intermediary – even with training – that they are unknowingly supporting financial abuse through their actions.

There is also a risk that perpetrators will look to exploit intermediaries to facilitate their financial abuse, if they are aware they could shift blame to another party by manipulating the circumstances of the engagement.

We recommend the government work with experts and groups who focus on preventing family and domestic violence to build an awareness campaign and education to train intermediaries how to identify signs of financial abuse and steps they should take to prevent outcomes like coercive directorship, that importantly support and protect the victim-survivor.

Consideration should also be given to how intermediaries can notify relevant regulators like the ATO and ASIC if they identify such circumstances, outside of common engagement channels like the ATO registered phone line.