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Senate Standing Committees on Economics
PO Box 6100
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Canberra ACT 2600

By email: economics.sen@aph.gov.au

Treasury Laws Amendment (2018 Superannuation Measures No. 1) Bill 2018.

The Housing Industry Association (HIA) is pleased to provide the following response to the inquiry into the *Treasury Laws Amendment (2018 Superannuation Measures No. 1) Bill 2018 (Bill)* referred to the Senate Standing Committees on Economics on 24 May 2018.

HIA supports the Bill.

Please find HIA's comments in relation to Schedule 1 of the Bill outlined below.

Schedule 1 of the Bill

HIA understands that, if passed, Schedule 1 of the Bill would legislate a 12 month amnesty during which time employers can self-correct unpaid superannuation guarantee (SG) contributions. During this time the Bill provides that an employer, found to be owing SG contributions, will not be subject to:

- The administrative charge; and
- The Part 7 penalty charge.

Under the Bill a contribution made during the amnesty period is tax deductible and will continue to include:

- A shortfall payment based on 9.5 percent of salary or wages rather than ordinary time earnings;
- The nominal interest component of 10%; and
- The general interest charge.

HIA does not support employers or businesses deliberately avoiding their superannuation obligations and failing to pay their superannuation entitlements, however, it is clear that the consequences for the non-payment of superannuation under the current laws are significant. In HIA's view the proposed amnesty would provide relief to some employers from largely unjustified additional administrative costs and penalties.

The residential building industry

The residential building industry is principally comprised of small businesses and self-employed independent contractors. Some of these businesses may have obligations as employers to pay superannuation and in other cases these businesses may have entitlements to receive superannuation as a result of complex laws that 'deem' independent contractors to be treated as employees in certain circumstances.

Introduced in 1992, the Superannuation Guarantee Scheme (SG Scheme) requires employers to contribute a minimum level of superannuation support for employees to assist in creating funds for their retirements.

The superannuation framework obliges employers to contribute 9.5 percent of the 'ordinary time earnings' (OTE) of their eligible employees as a superannuation contribution. In general, OTE is salary and wages paid less bonuses, overtime and termination payments related to unused annual leave.

HIA supports the broad policy intent of a compulsory superannuation scheme to provide an adequate level of retirement income, relieve pressure on the aged pension and increase national savings, however it is important to recognise that the SG Scheme has placed additional regulatory obligations upon employers to ensure that the correct amount is paid to their 'employees' at the right time, to the chosen fund and in the right manner.

It is HIA's position that the current administrative arrangements do not assist in ensuring the timely payment of SG contributions nor do they encourage employers to rectify missed contributions.

The Superannuation Guarantee Cross-Agency Working Group similarly observed that the current SG Charge and penalty regime may prevent employers from coming forward and could have the effect of harshly penalising 'honest employers' who make an inadvertent mistake, thereby discouraging reporting and rectification of underpayment.¹

In HIA's experience, the majority of employers in the residential building industry do their best to meet these obligations whilst managing the additional red tape and monetary costs that the SG Scheme imposes on a business.

HIA asks that the Committee recommend that the Bill be passed.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED



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¹ *Superannuation Guarantee Non-compliance: A report to the Minister for Revenue and Financial Services Final Report* (31 March 2017) pg. 32