

Chapter 1

Introduction and overview of the bill

1.1 On 10 November 2016, the Senate referred the provisions of the Superannuation (Objective) Bill 2016 (the bill) to the Senate Economics Legislation Committee for inquiry and report by 14 February 2017.

1.2 The bill forms part of the government's superannuation reform package announced in the 2016–17 Budget on 3 May 2016. The Senate also referred two other related bills to the committee for separate inquiry and report, the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 and the Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016. The report on these bills was tabled in the Senate on 23 November 2016.¹

1.3 The purpose of the Superannuation (Objective) Bill 2016 is to 'legislate the primary objective and subsidiary objectives of the superannuation system'.² The Explanatory Memorandum (EM) states that the bill will provide a legislative framework to guide the development of future superannuation policy by protecting the primary objective of the superannuation system in legislation and the subsidiary objectives of the superannuation system in regulation.³

1.4 The EM explains the rationale behind legislating the objective of the superannuation system:

Together with the age pension and private savings, savings from compulsory and voluntary contributions to superannuation are important elements of the three-pillars that underpin Australia's retirement income system. Superannuation is the second largest savings vehicle of the Australian financial sector.

Given its importance, it is essential that future superannuation policy is guided by clear objectives. To achieve this, the Government will legislate the objective of the superannuation system in the Objective Bill. Subsidiary objectives will be prescribed by regulation.

All future changes to superannuation policy will be assessed for compatibility with the primary objective and subsidiary objectives of the superannuation system.⁴

1 Senate Economics Legislation Committee, *Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 [Provisions] Superannuation (Excess Transfers Balance Tax) Imposition Bill 2016 [Provisions]*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/SuperReformbillsx2 (accessed 16 December 2016).

2 *Explanatory Memorandum*, p. 21.

3 *Explanatory Memorandum*, p. 11.

4 *Explanatory Memorandum*, p. 22.

1.5 In his second reading speech, the Treasurer, the Hon Scott Morrison MP, explained that the Superannuation (Objective) Bill 2016 'enshrines in law that the objective of the superannuation system is to provide income in retirement to substitute or supplement the age pension'.⁵ Further, the Treasurer stated that the package of superannuation tax reforms 'implements the government's election commitment to improve the fairness, sustainability, flexibility and integrity of [the] superannuation system'.⁶

Conduct of the inquiry

1.6 The committee advertised the inquiry on its website and wrote to relevant stakeholders and interested parties inviting submissions by 31 December 2016. The committee received 43 submissions, which are listed at Appendix 1.

1.7 The committee held a public hearing on 6 February 2017 in Canberra. The names of the witnesses who appeared at the hearing are listed at Appendix 2.

Background and consultation

1.8 The November 2014, Financial System Inquiry (FSI) report, led by Mr David Murray AO, noted that the Australian population is ageing and this phenomenon is placing increased fiscal pressure on government in terms of the provision of the age pension. The report emphasised that 'a well-functioning superannuation system will be important in alleviating these pressures and ensuring good outcomes for retirees'.⁷

1.9 However, the FSI report noted that currently:

The superannuation system does not have a consistent set of policies that work towards common objectives...

The absence of agreed objectives contributes to short-term ad hoc policy making. It adds complexity, imposes unnecessary costs on superannuation funds and their members, and undermines long-term confidence in the system.⁸

1.10 The stated rationale for setting objectives included:

Clearly defining the objectives of the superannuation system is a prerequisite to achieving the objectives efficiently. Consistent policy settings across the accumulation and retirement phases would meet the

5 The Hon Scott Morrison (Treasurer), *Second Reading Speech*, Superannuation (Objective) Bill 2016, House of Representatives Hansard, 9 November 2016, p. 76.

6 The Hon Scott Morrison (Treasurer), *Second Reading Speech*, Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016, House of Representatives Hansard, 9 November 2016, p. 78.

7 Financial System Inquiry Committee, *Financial System Inquiry: Final Report*, 2014, p. 2.

8 Financial System Inquiry Committee, *Financial System Inquiry: Final Report*, 2014, p. 96.

retirement income needs of Australians more efficiently and effectively. It would also assist Government in implementing policy settings that are well targeted and sustainable over the long term...

Objectives that guide policy making and frame community and industry debate would help build confidence in the system by providing a framework for considered and cohesive change.⁹

1.11 Accordingly, the report recommended enshrining an objective for the superannuation system in legislation. The recommended action in this area was to:

Set clear objectives for the superannuation system. A clear statement of the system's objectives is necessary to target policy settings better and make them more stable. Clearly articulated objectives that have broad community support would help to align policy settings, industry initiatives and community expectations.¹⁰ [emphasis in original]

1.12 Specifically, the FSI report recommended that the government should seek broad political agreement on the primary objective of the superannuation system:

To provide income in retirement to substitute or supplement the Age Pension.¹¹

1.13 In addition to the primary objective, the report stated that the government should seek broad agreement on the subsidiary objectives of the superannuation system, as set out in table 1.

1.14 According to the report, the adoption of a single primary objective:

...prioritises the provision of retirement incomes and precludes the pursuit of other objectives at the expense of retirement incomes. It will help reorient the community mindset around superannuation, away from account balances and towards the provision of retirement incomes.¹²

1.15 In addition to enshrining the objectives in legislation, more government reporting was recommended:

Increased transparency around the objectives of policy proposals would help frame parliamentary and public debate. This could be done in regulatory impact statements at little cost. In addition, Government could periodically assess the extent to which the superannuation system is meeting its objectives.¹³

9 Financial System Inquiry Committee, *Financial System Inquiry: Final Report*, 2014, p. 97.

10 Financial System Inquiry Committee, *Financial System Inquiry: Final Report*, 2014, p. 90.

11 Financial System Inquiry Committee, *Financial System Inquiry: Final Report*, 2014, p. 95.

12 Financial System Inquiry Committee, *Financial System Inquiry: Final Report*, 2014, p. 98.

13 Financial System Inquiry Committee, *Financial System Inquiry: Final Report*, 2014, p. 99.

1.16 The Government's response to the FSI report indicated that, by the end of 2016, it would:

Develop and introduce legislation to enshrine the objective of the superannuation system.¹⁴

Table 1: Subsidiary objectives of the superannuation system¹⁵

Subsidiary objective	Why the objective is important
Facilitate consumption smoothing over the course of an individual's life	Superannuation is a vehicle for individuals to fund consumption in retirement largely from working life income. The system should facilitate consumption smoothing while providing choice and flexibility to meet individual needs and preferences.
Help people manage financial risks in retirement	Risk management is important as retirees generally have limited opportunities to replenish losses. The retirement income system should help individuals manage longevity risk, investment risk and inflation risk. Products with risk pooling would help people to manage longevity risk efficiently.
Be fully funded from savings	A fully funded system, as opposed to an unfunded system, is important for sustainability and stability. The system is designed to be predominantly funded by savings from working life income and investment earnings, where superannuation fund members in general have claims on all assets in the fund.
Be invested in the best interests of superannuation fund members	Superannuation funds are managed for the sole benefit of members, which means the investment focus should be on maximising risk-adjusted returns, net of fees and taxes, over the lifetime of a member. This results in auxiliary benefits to the economy by creating a pool of savings to fund long-term investment.
Alleviate fiscal pressures on Government from the retirement income system	Government's total contribution to the retirement income system, through both the Age Pension and superannuation tax concessions, needs to be sustainable and targeted. Higher private provisioning for retirement should reduce the burden on public finances.
Be simple and efficient, and provide safeguards	The system should achieve its objectives at the minimum cost to individuals and taxpayers. Complexity is less appropriate for a compulsory system, as it tends to add to costs and to favour sophisticated and well-informed investors. Given the compulsory nature of SG contributions, the system needs prudential oversight and should provide good outcomes in both the accumulation and retirement phases for disengaged fund members

14 Australian Government, *Improving Australia's financial system: Government response to the Financial System Inquiry*, 2015, p. 6.

15 Financial System Inquiry Committee, *Financial System Inquiry: Final Report*, 2014, p. 95.

1.17 Subsequently, the Government announced the Superannuation Reform Package in the 2016–17 Budget. This package included legislating an objective for the superannuation system.¹⁶

1.18 While adopting the FSI's primary objective in the bill, the EM notes that the Government intends that the subsidiary objectives will be prescribed by regulation. The EM states that the subsidiary objectives of the superannuation system are to:

- facilitate consumption smoothing¹⁷ over the course of an individual's life;
- manage risks in retirement;
- be invested in the best interests of superannuation fund members;
- alleviate fiscal pressures on Government from the retirement income system; and
- be simple, efficient and provide safeguards.¹⁸

1.19 The bill also requires that a statement of compatibility with the primary and subsidiary objectives of the superannuation system must be prepared for a bill or regulation that relates to superannuation. However, if a statement is not prepared for a bill or regulation relating to superannuation, this will not affect its validity, operation or enforcement of the Act or regulation or any other law of the Commonwealth.¹⁹

Consultation

1.20 Between 7 September and 23 October 2016, Treasury conducted a three-tranche consultation process in relation to the draft legislation that constitutes the superannuation reform package. Treasury received 156 submissions (60, 69 and 27 for tranches 1, 2, and 3 respectively). Three consultation roundtables were also held during this period in Melbourne (5 October 2016), Sydney (6 October 2016) and Canberra (18 October 2016).²⁰

1.21 A number of stakeholders raised concerns about the short timeframe provided for consideration of the draft legislation. These concerns related to tax measures, rather than legislating the purpose of superannuation. Treasury has also noted that:

16 Australian Government, *Budget 2016-17: Making our tax system more sustainable so we can cover the Government's responsibilities for the next generation*, 2016, p. 3.

17 Consumption smoothing is a term used to describe the ways in which people try to optimize their lifetime standard of living by ensuring a proper balance of spending and saving during the different phases of their life. Those who overspend and put off saving for retirement to enjoy a higher standard of living often have to work longer or reduce their standard of living in retirement. Those who over save will live a more frugal lifestyle while working to enjoy a better lifestyle while retired. In each case, the overall standard of living is less than optimal.

18 *Explanatory Memorandum*, p. 27.

19 *Explanatory Memorandum*, pp. 28 and 30.

20 *Treasury Consultation Summary*, 11 November 2016, [p. 1].

Early passage of the legislation will provide individuals and industry with certainty and the maximum amount of time to implement the changes ahead of 1 July 2017.²¹

1.22 Legislation to implement other elements of the superannuation reform package passed Parliament on 23 November 2016.²² Additionally, the Government acknowledged the importance of splitting the measures to enable further consultation.

Financial impact

1.23 While the measure set out in the bill does not have a financial impact, the Superannuation Reform Package as a whole is estimated to increase the underlying cash balance by \$2 793.6 million over the forward estimates.²³

Statement of compatibility with human rights

1.24 The bill does not raise any human rights issues.²⁴

21 *Treasury Consultation Summary*, 11 November 2016, [p. 12].

22 *Budget 2016: Superannuation Fact Sheet 01*, 29 November 2016, p. 1.

23 *Explanatory Memorandum*, p. 9.

24 *Explanatory Memorandum*, p. 34.