

Chapter 2

Views on the bill

2.1 This chapter summarises the views held by stakeholders on the provisions of the bill. General support for an objective for the superannuation system is evaluated initially before consideration is given to specific views on the primary objective as drafted. Support and concerns relating to the subsidiary objectives are then explored as are other considerations raised by stakeholders.

General support for an objective for the superannuation system

2.2 The notion of defining an objective for the superannuation system in legislation received universal in-principle support from stakeholders.

We [ACOSS] support the idea of a 'purpose for superannuation' to guide the Parliament and the Government as it develops legislation in this important area. More consensus over the purpose of superannuation would also help inform public discussion on the adequacy of retirement incomes and the role of compulsory saving and tax concessions to ensure this.¹

Seeking to enshrine the objective of superannuation in law as a means to evaluate the merits of competing proposals affecting our retirement income system is sound...²

Women in Super supports the articulation of a Primary Objective of Superannuation within legislation and the requirement that legislative and regulatory proposals are tested against the objective.³

2.3 Mercer endorsed the policy decision to enshrine the objective of superannuation, noting that 'defining clear objectives is important in both the short and longer-term if the overall system is going to provide an adequate and secure retirement income for all Australians'.⁴

2.4 CHOICE also supported the creation of a superannuation objective, stating that a 'clear objective has the potential to better align policy settings, industry initiatives and community expectations'.⁵ CHOICE further pointed out that constant changes to superannuation have the effect of undermining trust in the system, highlighting that:

1 Australian Council of Social Service, *Submission 35*, p. 1.

2 Industry Super Australia, *Submission 13*, p. 1.

3 Women in Super, *Submission 41*, [p. 2]

4 Mercer, *Submission 20*, p. 1.

5 CHOICE, *Submission 24*, [p. 1].

Setting a clear objective in legislation will require future decision makers to articulate how a policy meets that purpose has the potential to allay this uncertainty when future reform is inevitably introduced.⁶

2.5 The support for a formal legislated objective was underlined by stakeholders expressing that the absence of such an objective had facilitated some undesirable outcomes. For example, Anglicare Australia noted:

The lack of a formal objective has allowed superannuation to be used as vehicle for various objectives, including tax avoidance, wealth accumulated and estate planning.⁷

2.6 The Grattan Institute succinctly outlined what it saw to be the problem that the objective seeks to address:

Despite managing more than \$2 trillion in assets, the system has never had legislated aims. Without moorings, the system has provided excessively generous tax breaks that cost the budget \$25 billion each year in lost revenue, while doing relatively little to support the retirement incomes of those in need... Ad hoc changes, without clear aims have delivered a tangle of rules, limits and exceptions.⁸

2.7 The Association of Superannuation Funds of Australia (ASFA) believed that formalising the objective of superannuation may guard against 'constant political tinkering':

If policy makers act consistently with an appropriate objective for superannuation many more Australians will have an adequate income that meets their needs, both expected and unexpected, throughout retirement.⁹

2.8 Similarly, BT Financial Group emphasised the importance of stability and certainty in superannuation policy:

...we believe a clear objective of the system will ensure superannuation policy settings are stabilised and subject to fewer changes, irrespective of the government of the day. Greater stability will in turn improve long-term confidence in, and the growth of, the superannuation system for the benefit of all Australians.¹⁰

2.9 Stakeholders were also supportive of enshrining the objective in a stand-alone Act, rather than incorporating it as a provision in an existing Act relating to superannuation.¹¹ The Australian Chamber of Commerce and Industry considered that

6 CHOICE, *Submission 24*, [p. 1].

7 Anglicare Australia, *Submission 17*, p. 1.S

8 Grattan Institute, *Submission 34*, p. 1.

9 Association of Superannuation Funds of Australia, *Submission 29*, p. 2.

10 BT Financial Group, *Submission 14*, [p. 1].

11 See, for example, Australian Chamber of Commerce and Industry, *Submission 33*; Chartered Accountants Australia and New Zealand, *Submission 19*;

having separate legislation will help to maintain the distinction between the objective itself and the policy decisions that contribute to the system achieving the objective.¹²

2.10 Importantly, the Financial Services Council noted that stand-alone legislation provides a reference point for all future changes to superannuation, tax or social security policy.¹³

Views on the primary objective as drafted

General comments

2.11 While support was strong for the principle of defining an objective for the superannuation system, a number of stakeholders expressed concern about the wording of the primary objective proposed in the bill. For example, the Association of Independent Retirees contended that:

It is meaningless to have an objective for Australia's superannuation system that is not qualified and does not even include a very general measured performance goal.¹⁴

2.12 Indeed, a number of submissions considered the primary objective to be 'inadequate and lacking in ambition'.¹⁵ Notwithstanding, stakeholder views on an alternative objective are not aligned, and there is no consensus on what it should be, or on what meaning should be attached to words of a subjective nature— for example, adequacy and dignity.

2.13 Mercer believed that the proposed definition was 'too vague' and that more clarity was required around when income from superannuation should move from supplementing the Age Pension to becoming a substitute.¹⁶

2.14 Some stakeholders considered that the primary objective should include all three pillars of income in retirement—superannuation, voluntary savings and the Age Pension.¹⁷

To effectively enshrine the purpose of superannuation, the proposed reforms should delineate the intended interaction between the other pillars of the retirement income system – the age pension and voluntary private savings.¹⁸

2.15 The Grattan Institute agreed that, while it may also be desirable to set an objective for the retirement income system as a whole, the focus of this bill was on the

12 Australian Chamber of Commerce and Industry, *Submission 33*, pp. 6-7.

13 Financial Services Council, *Submission 28*, [p. 1].

14 Association of Independent Retirees, *Submission 15*, p. 2.

15 See, for example, SMSF Owners' Alliance, *Submission 7*, p. 1; Association of Independent Retirees, *Submission 15*.

16 Mercer, *Submission 20*, pp. 1-2.

17 See, for example, The Tax Institute, *Submission 10*; Dixon Advisory, *Submission 11*.

18 Dixon Advisory, *Submission 11*, p. 2.

superannuation system. As such, they considered the primary objective of the superannuation system as drafted was appropriate given that superannuation essentially contributes to retirement incomes by supplementing or substituting for the Age Pension:

By saying it should substitute or supplement for the age pension, it is firstly implying, 'Don't go too far.' The second thing it is implying is essentially a limit to the superannuation tax concessions. It is saying that, at a point that you are no longer even substituting for the age pension—in other words, your income in retirement is likely to be so high that you will not qualify for even a part pension—the superannuation system should stop providing support or at least should stop providing more support than it provides to everybody else.¹⁹

2.16 Stakeholders also questioned whether the bill, as currently drafted, would be able to meet the goal of assisting policy makers. Industry Super Australia provided a number of recent examples of where the primary objective as drafted would have contributed to the consideration of superannuation policy reforms:

For example, there has been considerable debate about whether or not the rate of compulsory superannuation should be increased to 12 per cent and, if so, by when. Not increasing the SG [superannuation guarantee] rate, or increasing it over a shorter or longer time periods, are all consistent with the Government's preferred objective: to provide income in retirement to substitute or supplement the Age Pension.²⁰

2.17 By contrast, a small number of submissions supported the primary objective in the bill.²¹ The Grattan Institute supported the proposed wording in that it was appropriate to promote retirement savings so that people can enjoy a higher standard of living in retirement, while reducing future Age Pension liabilities, subject to the budgetary costs of doing so.²²

2.18 CPA Australia also agreed with the recommended primary objective as drafted and further noted their support for the inclusion of a compatibility statement in any future superannuation legislation.²³

2.19 The committee notes that Ms Patricia Pascuzzo, Executive Director of the Committee for Sustainable Incomes, has previously said that:

...the government is right to resist locking itself into mandating higher contributions by including reference to the comfortable retirement income standard in the objective for super. Instead, an appropriate benchmark for

19 *Proof Committee Hansard*, 6 February 2017, p. 7.

20 Industry Super Australia, *Submission 13*, p. 3.

21 See, for example, COTA, *Submission 42*, p. 8.

22 Grattan Institute, *Submission 34*, p. 3.

23 CPA Australia, *Submission 32*, p. 1.

adequacy should be determined after consultation with industry, community and consumer groups before being prescribed in regulation.²⁴

2.20 Further, Ms Pascuzzo also said that:

...an objective for super is not the place for audacious goals that lock governments into putting retirement income provision ahead of other important policy goals.²⁵

Adequacy

2.21 While the proposed primary objective seeks to provide income in retirement, it does not specify what level of income is desirable. Stakeholders held mixed views as to whether it was necessary to include the concept of adequacy in some form.

2.22 BT Financial Group considered that a reference to adequacy was essential:

It is therefore critical that the primary objective of superannuation be expanded to include a reference to 'adequacy' and providing a dignified retirement to as many Australians as possible, to ensure that future reforms of the system do not unreasonably impact on the ability of future generations to achieve a comfortable lifestyle in retirement.²⁶

2.23 Similarly, the ACTU supported an approach to define an appropriate level of adequacy, and the development and adoption of adequacy targets.²⁷

2.24 Mercer considered that the objective of the overall retirement income system should include a desired level of income in order to provide meaningful guidance to policymakers.²⁸

2.25 Indeed, the Institute of Public Affairs contended that:

It is of the gravest concern that maximising personal income in retirement is not deemed to be the primary, or even a subsidiary, objective of the system.²⁹

2.26 Like many submitters, Drew, Walk and Co emphasised that retirement adequacy is more important than just wealth at retirement:

We have argued for some time that there has been too much emphasis on measure of retirement adequacy that are based on terminal wealth (the

24 *Australian Financial Review*, 22 November 2016, <http://www.afr.com/opinion/columnists/comfortable-superannuation-target-threatens-adequate-retirement-outcomes-20161122-gsumj4> (accessed 10 February 2017).

25 *Australian Financial Review*, 22 November 2016, <http://www.afr.com/opinion/columnists/comfortable-superannuation-target-threatens-adequate-retirement-outcomes-20161122-gsumj4> (accessed 10 February 2017).

26 BT Financial Group, *Submission 14*, [p. 2].

27 Australian Council of Trade Unions, *Submission 12*, p. 3.

28 Mercer, *Submission 20*, p. 4.

29 Institute of Public Affairs, *Submission 21*, p. 8.

metaphorical 'pot-of-gold' at retirement) and not about the sustainability (or otherwise) of retirement income.³⁰

2.27 In an interview discussing the superannuation objective recommendation, Mr David Murry, Chair of the Financial System Inquiry, is reported to have stated that:

The legislated objective of the \$2 trillion superannuation system should not include references to achieving 'comfort' or 'adequacy' because it would open the way to constant political interference...

The objective can't contain a specific promise...

A debate about adequacy becomes a debate about social equity.³¹

2.28 However, COTA did not support the use of subjective terms, such as adequacy, in setting the objective of superannuation because ultimately government would be involved in defining these terms. Responding to a question about benchmarking adequacy to the Association of Superannuation Funds Australia's (ASFA's) 'comfortable standard', Mr Ian Yates, Chief Executive COTA, said:

'Adequacy' in terms of what government will support has to be defined by the government in its measures. I just do not see government of either side deciding that they will put that in the hands of some other body.³²

2.29 The Grattan Institute also contended that the concept of 'adequacy' should not be included in the primary objective because superannuation is only one part of the retirement income system. Any proposed objective for superannuation (not the retirement income system more broadly) should be focused on targeting concessional taxation for superannuation to provide the most value for government, while maintaining safety nets through the Age Pension and Rent Assistance.³³

2.30 It is clear from submissions and witnesses at the public hearing that terms like 'adequacy' mean different things to different people, and that no broad consensus exists among stakeholders.

Financial security for dependants

2.31 Some stakeholders highlighted the important role that life insurance plays in helping families recover from unforeseeable events and offers valuable support for dependents in the event of death or total and permanent disablement of the primary breadwinner.³⁴ For example, Mr Phillip Sweeney argued that the financial security

30 Drew, Walk & Co., *Submission 3*, [p. 1].

31 Joanna Mather, *Australian Financial Review*, 'Super change invites political interference', 12 October 2016, <http://www.afr.com/news/politics/david-murrays-super-objective-plea-20161012-gs0gt8> (accessed 10 February 2017).

32 *Proof Committee Hansard*, 6 February 2017, p. 11

33 Grattan Institute, *Submission 34*, p. 1.

34 See, for example, Dixon Advisory, *Submission 11*; Law Council of Australia, *Submission 23*.

offered by superannuation should extend beyond the individual member to include their family in the event of unforeseen serious life events.³⁵

2.32 Similarly, the Corporate Superannuation Association highlighted the important role that insurance plays in protecting Australians and their dependants from the consequences of early death and disablement.³⁶ At the public hearing, The Tax Institute and the Financial Planning Association both agreed that the superannuation system is an appropriate place to hold these types of insurances.³⁷

2.33 To ensure that insurance through superannuation continues to offer a safeguard for unexpected events for individuals and their families, some stakeholders considered that this concept should be explicitly referred to in the primary or subsidiary objectives.

2.34 That said, the Australian Institute of Superannuation Trustees (AIST) noted that insurance coverage constitutes part of the sole purpose test through section 62 of the *Superannuation Industry (Supervision) Act 1993*. While this is consistent with the proposed subsidiary objective to 'be invested in the best interests of superannuation fund members', AIST considers that more can be done to explicitly align the objective of superannuation with the sole purpose test.³⁸

Reference to 'Age Pension'

2.35 A number of stakeholders took exception to the inclusion of the Age Pension in the proposed primary objective:

...the adoption of a primary objective centred on the Age Pension is not long term thinking, it is a narrow objective aimed at avoiding controversy rather than assisting with nation building.³⁹

...linking the primary objective solely to the Age Pension is undesirable because it allows for future policy development that could significantly diminish the Australian superannuation system;⁴⁰

2.36 That said, the National Foundation for Australian Women (NFAW) took an alternative view to many submitters and supported having a reference to the Age Pension in the primary objective:

Women are more likely than men to be reliant on the Age Pension as their main source of income in retirement; and they are less likely to have retirement savings in superannuation or other investments...Accordingly,

35 Mr Phillip Sweeney, *Submission 9*, p. 2.

36 Corporate Superannuation Association, *Submission 16*, p. 3.

37 *Proof Committee Hansard*, 6 February 2017, p. 47.

38 Australian Institute of Superannuation Trustees, *Submission 31*, pp. 8-9.

39 Self-Managed Independent Superannuation Funds (SISFA), *Submission 30*, p. 1.

40 The Tax Institute, *Submission 10*, p. 1.

the role of the Age Pension in the retirement income system should be entrenched in the objectives.⁴¹

2.37 Anglicare Australia highlighted that the recent Senate Economics References Committee inquiry on women's economic security in retirement recommended that the legislated objective of superannuation should 'acknowledge its interdependency with other pillars, including the Age Pension'.⁴²

Use of the word 'substitute'

2.38 The CPA raised concerns that the primary objective could be interpreted narrowly by future governments and used to justify winding back access to the Age Pension:

The concern hinges on a literal interpretation of the word 'substitute'...Were future policies to be developed within this narrow framework, Australians may be disincentivised to save for their own retirement, in that there may be less incentive to save beyond replacing the age pension.⁴³

2.39 The NFAW considered that the proposed form of words reduces the policy commitment to maintain the Age Pension at a level that will address poverty among the aged. The NFAW notes that, for various reasons, very few people can be expected to be self-sufficient in retirement and that many retirees will need the Age Pension to supplement superannuation income.⁴⁴

2.40 That said, COTA was of a contrary opinion that the proposed objective enshrines the Age Pension as a cornerstone of retirement income policy:

We think that what the objective does do is cement, as was the original intention, that the aged pension remains—and will continue to remain for significant proportions of Australians—as the core building block of their retirement incomes. And then it adds to that, and it does so or needs to do so in a way that is fair and sustainable.⁴⁵

Views on the subsidiary objectives

2.41 Views on the subsidiary objectives were broad ranging and, in many respects, diametrically opposed.

2.42 The Financial Services Council (FSC) did not believe the subsidiary objectives would be useful:

The FSC is of the view that a clear statement should not require the support of subsidiary objectives. Subsidiary objectives are likely to be subjective

41 National Foundation for Australian Women, *Submission 8*, [p. 2].

42 Anglicare Australia, *Submission 17*, p. 2

43 CPA Australia, *Submission 32*, p. 1.

44 National Foundation for Australian Women, *Submission 8*, p. 3.

45 *Proof Committee Hansard*, 6 February 2017, p. 9.

and open to interpretation, and this is inconsistent with the purpose of a clear overarching objective.⁴⁶

2.43 By contrast, a number of stakeholders considered the subsidiary objectives to be useful but, in order to be effective, they should be included in the legislation rather than sitting outside as regulations:

We strongly **recommend**...that the subsidiary objectives are included in this Bill rather than being just a general reference in the accompanying Explanatory Memorandum.⁴⁷

We agree it is preferable to express the objectives of the superannuation system in legislation...⁴⁸

2.44 SMSF Owners' Alliance further noted that legislating the subsidiary objectives would ensure the integrity of the objectives, protecting them from any potential changes by future governments.⁴⁹

2.45 The Law Council of Australia voiced concerns that the subsidiary objectives are not necessarily compatible with the primary objective:

For example, smoothing consumption over the course of a person's lifetime is not obviously compatible with the provision of income in retirement to substitute or supplement the age pension. Further, if the subsidiary objectives include providing death benefits and disability benefits...these might be incompatible with the primary objective.⁵⁰

2.46 Similarly, Save Our Super notes that the bill offers 'no guide on how to resolve conflicts or trade-offs between objectives':

Conflicts are apparently to be subject to unspecified, case-by-case 'balancing'. This destroys any coherent guidance for policy.⁵¹

2.47 As mentioned previously, some submissions noted the role superannuation insurance plays in providing financial security and safeguards. As a result, it was proposed that this should be an explicit feature of the subsidiary objectives. For example, Mercer proposed that the provision of insurance be included in the subsidiary objectives as a way to efficiently provide valuable protection and help reduce Australia's chronic underinsurance problem.⁵²

2.48 The Institute of Public Affairs (IPA) noted that although the proposed subsidiary objectives are near identical to those proposed in the Final Report of the FSI, the Objective Bill lists only 5 subsidiary objectives, not 6, leaving out the

46 *Proof Committee Hansard*, 6 February 2017, p. 14.

47 Association of Independent Retirees, *Submission 15*, p. 3.

48 Mercer, *Submission 20*, p. 8.

49 SMSF Owners' Alliance, *Submission 7*, p. 2.

50 Law Council of Australia, *Submission 23*, p. 2.

51 Save Our Super, *Submission 39*, pp. 4 and 9.

52 Mercer, *Submission 20*, p. 8.

objective that the system be 'fully funded from savings'. IPA further notes that in the Final Report of the FSI, it is written that a 'fully funded system...is important for sustainability and stability'.⁵³

Other considerations raised by stakeholders

Statements of compatibility

2.49 Many stakeholders were critical of the proposal to require statements of compatibility and that there were no penalties associated with non-compliance.⁵⁴ For example, the SMSF Owners' Alliance contended that:

Requiring legislation to be justified by Ministers in terms of the primary and subsidiary objectives is a good and necessary approach; however, the primary objective is defined so broadly that virtually any legislation changing the terms of superannuation can be justified.⁵⁵

2.50 Similarly, the Financial Planning Association considered that the proposed provisions 'set too low a bar', particularly given that there is no requirement for any future legislated policy change to be compatible with the objective.⁵⁶

2.51 Women in Super highlighted the deficiencies in the production of statements of compatibility:

It should also be noted that failure to produce a statement of compatibility would not prevent legislation or regulations being passed and would in no way impact the validity of such legislation.⁵⁷

2.52 The Financial Planning Association advocated for enhanced compatibility requirements:

What we would rather is that there be some added discipline—for example, that reasons are given as to why a particular policy or why particular legislation has been put forward and how the legislation aligns with the objective.⁵⁸

2.53 However, the Financial Services Council supported the statement of compatibility concept as proposed:

It is appropriate that the Bill does not prescribe what information is necessary for a statement of compatibility, but leave this for the Minister to determine. This places the onus on external stakeholders to assess the

53 The Institute of Public Affairs, *Submission 21*, p. 8.

54 See, for example, Australian Institute of Superannuation Trustees, *Submission 31*; Law Council of Australia, *Submission 23*;

55 SMSF Owners' Alliance, *Submission 7*, p. 2.

56 Financial Planning Association of Australia, *Submission 25*, p. 4.

57 Women in Super, *Submission 41*, [p. 9].

58 *Proof Committee Hansard*, 6 February 2017, p. 41.

robustness of a statement of compatibility and publicly hold the Government to account for unpersuasive statements.⁵⁹

Independent monitoring and review

2.54 Submitters also sought reassurance that any objective for the superannuation system would be subject to monitoring and review:

ASFA agrees that periodically assessing how the system is tracking will provide regular benchmarks to measure performance against, facilitating informed policy decision making... such an approach will provide a higher degree of stability, integrity and accountability in relation to superannuation policy.⁶⁰

2.55 Chartered Accountants Australia and New Zealand believes that the Government should review, and publish the findings, every five years on how well the super system is tracking on meeting the agreed objectives.⁶¹

2.56 To this end, the Financial Planning Association proposed that a body like the Productivity Commission would be well placed to look at how the objectives are flowing through into economic reality.⁶²

2.57 Indeed, the final report of the Financial System Inquiry highlighted the importance of monitoring compliance of superannuation reforms with the objective:

Increased transparency around the objectives of policy proposals would help frame parliamentary and public debate...Government could periodically assess the extent to which the superannuation system is meeting its objectives. This could be done in a stand-alone report or as part of the Intergenerational Report, which is prepared every five years.⁶³

2.58 There was broad support for using the Intergenerational Report (IGR) as the mechanism for monitoring and reporting policy changes against the objectives. For example, the Financial Services Council espoused the IGR process as the vehicle for undertaking a periodic review:

It is a five-year cycle; that is a nice gap. It enables the government of the day to build up a policy evidence base for any future changes.⁶⁴

2.59 Similarly, Industry Super Australia agreed that the idea of having a review every five years aligned to the *Intergenerational Report* would be very sound for assessing if the system is on track.⁶⁵

59 Financial Services Council, *Submission 28*, p. 3.

60 Association of Superannuation Funds of Australia, *Submission 29*, p. 8.

61 Chartered Accountants Australia and New Zealand, *Submission 19*, p. 5.

62 *Proof Committee Hansard*, 6 February 2017, p. 43.

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

64 *Proof Committee Hansard*, 6 February 2017, p. 15.

65 *Proof Committee Hansard*, 6 February 2017, p. 25.

2.60 At the public hearing, support for aligning a review of the superannuation objective with the IGR process was also provided by the Association of Superannuation Funds of Australia.⁶⁶

Committee View

2.61 While the overwhelming view of stakeholders supported the notion of enshrining a legislated objective for superannuation, the committee notes that stakeholders had different views on the proposed wording and the meaning of those words. There was no consensus position for the introduction of subjective descriptors. The committee therefore considers that the objective as drafted will enhance the stability of the superannuation system by creating a clear framework for assessing superannuation policy.

2.62 The committee does not consider that either a relative or absolute level of retirement income should be included in the primary or subsidiary objectives. Indeed, the subjective nature of terms such as 'adequacy', 'comfort' and 'dignity' have the potential to undermine the successful implementation of an objective for the superannuation system by focusing on retirement incomes as a whole. While there may be merit in striving to set an objective for the entire retirement income system, this is not the purpose of the bill under consideration by the committee.

2.63 Prescribing the subsidiary objectives through regulation is an appropriate way of ensuring that these objectives remain subsidiary to the primary objective while still contributing to a comprehensive framework for assessing changes to superannuation policy.

2.64 The committee is confident that the measures requiring future policy changes to be supported by statements of compatibility will provide a robust mechanism by which these proposals can be evaluated and will be a valuable tool in contributing to the public debate.

2.65 That said, the committee appreciates the important role that independent monitoring and review can play in keeping governments to account. To this end, the committee considers it appropriate that the compliance of future superannuation reforms with the legislated objective be periodically assessed and reported on as part of the *Intergenerational Report*, which is required to be prepared at least every five years under the *Charter of Budget Honesty Act 1998*.

66 *Proof Committee Hansard*, 6 February 2017, p. 37.

Recommendation 1

2.66 The committee recommends that the compliance of future superannuation reforms with the legislated objective be periodically assessed and reported on as part of the Intergenerational Report.

Recommendation 2

2.67 The committee recommends that the Senate should pass the bill.

**Senator Jane Hume
Chair**

