# EXPOSURE DRAFT EXPLANATORY STATEMENT

*Superannuation (Objective) Bill 2016*

*Superannuation (Objective) Regulation 2016*

Section 8 of the *Superannuation (Objective) Bill 2016* (the Objective Bill) will provide that the Governor-General may make regulations prescribing matters required or permitted by the Objective Bill to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Objective Bill.

The purpose of the *Superannuation (Objective) Regulation 2016* (the Regulation) is to prescribe the subsidiary objectives of the superannuation system.

The Government agreed in response to the Financial System Inquiry to enshrine the objective of superannuation in legislation. The Government consulted widely on the objective and agreed that the primary objective of the superannuation system is to provide income in retirement to substitute or supplement the Age Pension. This is set out in subsection 5(1) of the Objective Bill. The subsidiary objectives of the superannuation system are the matters prescribed by this Regulation. The objective of superannuation will provide a way in which competing superannuation proposals can be measured and a framework for evaluating future changes in the superannuation system.

Further details of the Regulation are provided in the Attachment.

The Regulation is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Objective Bill does not specify any condition that must be met before the power to make the Regulation may be exercised.

The subsidiary objectives of the superannuation system were previously consulted on publicly between 7 September to 16 September 2016 as part of the explanatory material to the Objective Bill.

The Regulation will commence immediately after the commencement of the Objective Bill, which will commence from the start of the first day of the first quarter following Royal Assent.

**Attachment**

**Details of the *Superannuation (Objective) Regulation 2016***

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Superannuation (Objective) Regulation 2016* (the Regulation).

Section 2 – Commencement

This section provides that each provision of the Regulation specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table, and that any other statement in column 2 has effect according to its terms.

The Regulation will commence immediately after the commencement of the *Superannuation (Objective) Bill 2016* (the Objective Bill).

Section 3 – Authority

This section provides that the Regulation will be made under the Objective Bill.

**The subsidiary objectives of the superannuation system**

The Objective Bill requires every Bill or regulation relating to superannuation to be accompanied by a statement of compatibility with the objective of the superannuation system. The statement must include an assessment of whether the Bill or regulation is compatible with the primary objective and the subsidiary objectives of the superannuation system.

Subsection 5(2) of the Objective Billprovides that the subsidiary objectives of the superannuation system are the matters prescribed by regulations.

Section 4 of the Regulation prescribes the following subsidiary objectives for the purpose of subsection 5(2) of the Objective Bill:

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

In assessing the compatibility of a Bill or regulation, there may be tensions between the subsidiary objectives. Policy makers will need to balance these objectives. For instance, facilitating consumption smoothing over the course of an individual’s life will need to be weighed against alleviating fiscal pressures on Government.

*Facilitate consumption smoothing over the course of an individual’s lifetime*

Superannuation is a vehicle for individuals to fund consumption in retirement largely from working life income. The superannuation system should facilitate consumption smoothing over an individual’s lifetime and increase self-reliance. It should also provide people with choice and flexibility as to how they spend retirement and manage their money.

The concessional tax treatment of the superannuation system is designed to recognise the compulsory nature of superannuation savings and to encourage individuals to make voluntary contributions to their superannuation. This is intended to assist individuals improve their standard of living in retirement but this assistance cannot be unlimited. As superannuation is not for tax minimisation or estate planning purposes, there will be limits to the level of government support provided.

*Manage risks in retirement*

Superannuation, combined with the Age Pension and savings outside of superannuation, should assist individuals to manage a range of risks including investment risk, inflation risk and longevity risk. Retirees generally have limited opportunities to replenish losses in their superannuation. Superannuation should also help individuals manage the risk of outliving their savings, including where large costs (such as medical costs) are incurred following unexpected events.

*Be invested in the best interests of superannuation fund members*

A subsidiary objective of the superannuation system is that funds are invested in the best interests of members. This is consistent with a trustee’s obligation to perform their duties and exercise their powers in the best interests of beneficiaries under paragraph 52(2)(c) of the *Superannuation Industry (Supervision) Act 1993* (SIS Act). This is also consistent with the sole purpose test in section 62 of the SIS Act, which establishes that superannuation trustees must maintain funds solely for one or more of the core purposes, including the provision of benefits for members on or after retirement. A range of other benefits may also be provided through superannuation, for example advice or insurance. However the core purpose of superannuation is to provide income in retirement.

An important factor for trustees to consider is the returns that their investments will achieve for members over their lifetimes.

Although superannuation is a significant element of national savings, increasing national savings should not itself guide the superannuation system. Instead, the ability to fund long-term investment could be considered an auxiliary benefit of a well‑designed, long-term savings vehicle that invests in the best interests of its members.

*Alleviate fiscal pressures on the Australian Government from the retirement income system*

Australia’s retirement income system is based on three pillars: the age pension; compulsory saving through the superannuation guarantee; and other savings (including within the superannuation system). The three-pillar system shares the responsibility for providing retirement income between Government and individuals.

The Government’s total contribution to the retirement income system, through superannuation tax concessions, the age pension, and health and aged care expenditure, needs to be fiscally sustainable. Greater access to private savings during retirement will increase self-provision. The superannuation system should encourage individuals to be self-reliant and if targeted appropriately, can be sustainable and alleviate fiscal pressures on Government from the retirement income system.

*Be simple and efficient, and to provide safeguards*

The superannuation system should achieve its objectives at a minimum cost to individuals, taxpayers and the economy. Given the compulsory nature of superannuation, simplicity is important to ensure that the system is accessible for all Australians, not just sophisticated and well-informed investors. The system should be flexible enough to suit Australians in a range of circumstances, such as individuals with inconsistent work patterns, including women who often have lower superannuation balances than men.

Given the compulsory nature of contributions, the system needs prudential oversight and should provide good outcomes in both the accumulation and retirement phases for individuals who do not make active choices about their superannuation.