Dear Mr Raine,

In relation to the Inquiry into Treasury Laws Amendment (Better targeted Superannuation Concessions and Other Measures) Bill 2023 and a related bill [Provisions], it appears our concerns as per our submission from April 2023 have not been addressed.

We continue to consider taxing of unrealised gains rather than estimating the income on the amounts over $3m or another arbitrary cap is unsound. Calculating a deemed income using the total superannuation balance (TSB), makes more sense given the fluctuations we see in values of superannuation assets.

Also, the lack of indexation of the $3m suggests the policy is not designed for long term, which is ironic given the nature of superannuation is all about the long term. We recommend implementing a periodic indexation at every three years.

This is an area that would benefit from bipartisan policy – reducing the uncertainty of ad hoc changes for those saving for their retirement or managing in retirement.

Please contact Rachel Waterhouse, CEO ASA or I with any queries.

Regards,

Fiona Balzer
[redacted]

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Australian Shareholders' Association

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20 April 2023

Director
Tax and Transfers Branch
Retirement, Advice and Investment Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: [redacted]

AUSTRALIAN SHAREHOLDERS' ASSOCIATION – CONSULTATION ON BETTER TARGETED SUPERANNUATION CONCESSIONS

Dear Sir/Madam

The Australian Shareholders' Association (ASA) represents its members to promote and safeguard their interests in the Australian equity capital markets. The ASA is an independent not-for-profit organisation funded by and operating in the interests of its members, primarily individual and retail investors, self-managed superannuation fund (SMSF) trustees and investors generally seeking ASA's representation and support.

Thank you for the opportunity to submit comments on the consultation paper *Better targeted superannuation concessions* (the paper), despite the short time frame for comment on yet another variation to how the superannuation regime works. The short period of 9 business days suggests that ad hoc changes to superannuation will continue to be an ongoing feature of superannuation policy as it is too short for a full exploration of the consequences, intended or otherwise.

We have a number of issues with the proposals outlined in the paper which we elaborate on over the following pages:

- The taxing of unrealised profits on asset movements, as if superannuation assets were trading assets;
- The immediate capture of any superannuation fund with a total superannuation balance (TSB) over $3m, however arrived at.
- Ignoring the impact of inflation despite superannuation's long-term nature; and
- The introduction of the additional tax with no transition period, as if superannuation assets were short-term investments.

The proposal and the way of introducing it appears to be designed to drive funds out of the superannuation regime, without the backlash of a hard cap on balances.

ASA position on retirement incomes policy

ASA supports the development of appropriate policies and strategies around the operation of the Superannuation regime which will enable Australians to have a comfortable retirement and be self-sufficient in generating a retirement income. This removes the growing burden of a government pension for an increasingly ageing population. We consider this to be a complex issue to tackle, and worthwhile.

We see the fears of individuals affected by this proposal (those with balances near or over the $3m), and other individuals unlikely to be affected (those with balances near or over $2m), reflect the fear of aging without sufficient resources to secure an appropriate retirement.

As we have previously noted in various submissions the costs of supporting the superannuation regime will need to be fair to prior, current, and future taxpayers.

We have also emphasised the need for stability in the superannuation regime to maintain the confidence to plan effectively to produce a retirement income. The transfer of the risk of funding retirement incomes to individuals as opposed to the Government comes with an obligation to make the system navigable by most participants. This risk includes investment, inflation and longevity (living longer than expected or longer than funding) risk.

The regime requires individuals to create savings and asset allocation to build wealth over many decades, and then to deliver income through, hopefully, many decades of retirement, directly or indirectly through super funds. While not tackled in any of the changes to the superannuation regime, we underline the transfer of risk lifts the importance of financial education to build an understanding of key financial skills such as budgeting, saving and investing and retirement income planning for the Australian population.

Proposal shortcomings

Unrealised profits to be taxed

While we concede the importance of not imposing additional administration costs on the superannuation regime by adding to the reporting obligations required to calculate income, the use of TSB taxing unrealised profits is inappropriate to the long-term nature of the investments.

Superannuation's long-term requires allocation to a diversity of assets with different risk and growth profiles. Outside aggregated products such as pooled annuities, it is unlikely returns will be delivered or values will grow in a neat linear fashion, they are likely to be lumpy step-ups and or step-downs.

With exchange-traded assets, holders can see the prices each day. Values move variably (with 20% changes over a year or month being common) and are impacted by market-wide events which can see a 20% fall across the board periodically. Many funds hold a portion of illiquid assets with long fixed-terms, which should be sensible matching of the long-term nature of super, with a diversification benefit of being uncorrelated with the returns of exchange-traded assets such as shares. The values of these assets are even more likely to vary step-wise, such as when a property completes construction, yet they may not be realisable at that time due to the structure around the investment.

Unintended consequences:

- Encourage short-term investments in liquid assets and trading mentality.
- When tax is due to be paid, asset value could already have fallen back below $3m.
- Pressure on asset prices when tax is due as they are sold to raise funds for tax payment.

Immediate capture

The paper states once funds exceed $3m they will attract the additional tax.

This will lead to a preference in super assets for more liquid assets to pay the additional tax – more short-term exchange traded assets and short-term fixed interest – increasing vulnerability to downward market movements and erosion of value by inflation.

Death of a spouse or partner will trigger the additional tax and increase number of impacted individuals beyond the 80,000 suggested in the paper as it will include those partners with individual balances well below the $1.9m super limit. The inclusion of withdrawals in the calculations could exacerbate this, as the surviving partner restructures their super to reflect their changed future.

Ignoring inflation

The intention not to index the $3 million threshold for inflation will not provide certainty to people when arranging their tax and financial affairs. Inflation and the time value of money is a crucial determinant for the successful planning of a long-term investment such as superannuation. It also suggests the proposal in itself is not designed for the long-term.

No transition period

The paper states information relating to the 2025-26 financial year is likely to be reported in the first half of 2027. Therefore, the first notifications for the new tax liability are expected to be issued in the second half of 2027.

Unless the proposal is amended to a form which is broadly acceptable with bipartisan support, this proposal is likely to be a political football at the next election with opponents promising some repeal of the legislation. The uncertainty will persist until the election outcome is known, and debate will avoid facts, which is not conducive to a sensible policy outcome.

More time is required to restructure illiquid superannuation assets which may have five or ten years until maturity. The unintended consequences of the proposal include the removal of funding for long-term investments and potential for tradeable assets to be realised to pay the tax leading to a greater proportion of illiquid assets within funds.

On the calculations

Proportioning is an arbitrary calculation which ignores the nature of the investments in the pension and accumulation phase may differ. We would expect the assets held to deliver income in pension phase to generate cashflow to fund living expenses, whereas those in accumulation phase would be more likely to generate growth in value.

There will be an added administrative complexity for individuals not yet in pension phase, in keeping the 15 per cent tax on super balances above $3m being imposed separately to personal income tax.

Summary

The continued ad hoc changes to superannuation is scaring self-funded retirees and those who aspire to be in the future. They are querying what may be next. The way of introducing this policy induces fear for superannuation builders and is likely to encourage holding lower balances, where individuals are able to restructure their affairs to do so.

There are likely to be additional individuals beyond the 80,000 identified impacted, being surviving spouses and those captured by the $3m not being indexed for inflation.

A five-year phase in period would allow funds to change their asset allocation in an orderly fashion and also allow the development of reporting regime to enable a more appropriate taxation of realised profits.

Special transition arrangements should be enabled for balances which exceed $3m due to death of a partner.

If you have any questions about these comments or other matters, please do not hesitate to contact me ([redacted]), or Fiona Balzer, Policy & Advocacy Manager ([redacted]).

Yours sincerely

[redacted]

Rachel Waterhouse
Chief Executive Officer
Australian Shareholders' Association

asa Australian Shareholders' Association

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29 January 2024

Hon Michael Sukkar MP
Assistant Treasurer
Pre-Budget Submissions
Treasury
Langton Cres
Parkes ACT

Submitted: Online via [redacted]

AUSTRALIAN SHAREHOLDERS' ASSOCIATION – PRE-BUDGET SUBMISSION 2024-25

Dear Mr Sukkar

he Australian Shareholders' Association ASA represents its e ers to pro ote and safe uard their interests in the Australian equity capital markets. The ASA is an independent not-for-profit organisation funded by and operating in the interests of its members, primarily individual and retail investors, self- ana ed superannuation fund S S trustees and in estors enerally see in ASA's representation and support. ASA also represents those investors and shareholders who are not members, but follow the ASA through various means, as our relevance extends to the broader investor community.

Thank you for the opportunity to make a submission for consideration on the 2024-25 Federal Budget. We take the responsibility of representing over 7 million investors[1] extremely seriously and champion good governance which requires due consideration of matters impacting retail shareholders[2] as they require confidence in the market.

We welcome the large number of policy initiatives we have seen in the years since the Financial Services Royal Commission, a level not seen since the Commonwealth Law Economic Reform Program (CLERP) 9 was enacted in 2004.

Implement ALRC final report - Simplify financial service law

We note the timely public release of the Australian Law Reform Committee (ALRC)[3] report into the potential simplification of laws that regulate financial services in Australia.

The report highlights in Chapter 2 (para 2.53) the compliance costs, and notes that complexity increases compliance burden for smaller business entities, and we assert the same applies for retail investors. We agree simplification would help non-lawyers, such as directors, shareholders, and

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[1] ASX Australian Investor Study 2023
[2] Shareholders who do not meet the definition for wholesale or professional and sophisticated investors.
[3] ALRC-FSL-Final-Report-141.pdf

investors, to better understand their legal position without professional assistance, as well as reducing the compliance costs of the industry which are passed on to financial services clients and shareholders.

We consider Recommendation 24 Corporations and financial services legislation should be structured and framed so as to enhance navigability and comprehensibility, and to communicate the fundamental norms of behaviour underpinning the legislations position to be critical to enhancing the experience and success of retail shareholders in navigating financial markets.

Recommendation 25 goes on to outline the principles that should guide decisions about when and how legislative power should be delegated, and Recommendation 26 recommends the publishing and maintain and of consolidated guidance on the delegation of legislative power consistent with Recommendation 25. We consider these two recommendations will assist with maintaining the aspirations of Recommendation 24.

We also support the call in Recommendation 54, that the Australian Government should establish a specifically resourced taskforce (or taskforces) dedicated to implementing reforms to financial services legislation.

Recommendation 58 The Australian Government should establish a publicly available data framework for monitoring the development of corporations and financial services legislation.

We call on the Government to i ple ent the reco endations outlined in the A ’s final report

Adequate time to consider legislative and regulatory change

The Australian economy is dominated by industries which commonly operate as oligopolies, with a concentration of employees, customers, and shareholders in the largest listed companies and therefore in the investments of individuals for wealth building and retirement savings and retirement income streams. While we represent shareholders we note the interests of employees, customers and other stakeholders impact the prospects for a company into the future. The concentrated interrelationships add complexity to policy making, with decisions impacting hundreds of thousands of individuals in their multiple roles. Mapping out the consequences is difficult!

We request legislative and regulatory consultations have a minimum exposure period of six weeks to allow considered responses and engagement. As with many contributors in the policy and regulation arena, we have a small team and high workload and while we are looking at more productive means of carrying out our role, longer consultation periods allow us to seek additional input on the range of views held by and experiences of retail shareholders.

We also suggest all legislation should be evaluated prior to enactment, as it was when Corporations and Markets Advisory Committee (CAMAC) was in existence. A review at the 18 months to 24 months after enactment may not reveal the impact or existence of any unintended consequences except those that would be foreseen at the consultation stage, as the time to investigate and litigate to delineate the law takes far longer than 18-24 months. For the corporations and financial services legislation, implementation of Recommendation 54 as outlined above and in the ALRC Report could replace a body with a broader remit.

We wish to highlight our following FY24 policy priorities:

ASA FY24 policy priorities	
What it looks like	**Specific to the FY24-5 budget**
1. Balancing risk and opportunity in accessible exchange-traded investments	
An appropriately regulated market that protects investors while not limiting their access to appropriate investment options in line with risk tolerance and financial literacy.	Definition of sophisticated investor has implications for access to suitable investments to address availability of appropriate investments; Effective oversight of CHESS Replacement to allow development of better administrative options; and Rebuild trust in audit post PwC debacle by implementing recommendation of the ’s Regulation of Auditing in Australia: final report as per our submission[4].
2. Improving governance of companies	
Promoting practices within company boardrooms that lead to better decision-making and more informed shareholders.	Phased implementation of the International Sustainability Standards; Improving shareholder engagement at the AGM – see our final paragraph; Better information for shareholders to determine votes on directors for shareholder election (better disclosure of the board skills matrix)
3. Sustainable retirement incomes and superannuation	
Well-considered, consistent policy frameworks that support investment for retirement.	Ad hoc changes reduce superannuation participants confidence in the ability to save and fund their retirement. We call for bipartisan support for sensible retirement incomes policy initiatives, and potentially a holistic review.

Under item 1, we include the definition of sophisticated investor and implications for access to suitable investments, both in terms of offering the protections to vulnerable and other retail shareholders and accessibility of appropriate investments. Legislation uses wealth, in terms of net assets or income levels, to categorise an investor as not requiring the protection available to retail shareholders. Prior to surges in city residential property prices, such wealth indicated an ability to make money, to hire advisors, diversify investments and to fund legal remedies when things went wrong. This heuristic is now out of date, and there are concerns that generational wealth transfer will result in some beneficiaries having a lower level of financial literacy than their parents. However, so e ore co ple products are appropriate to for a portion of a retail shareholders’ portfolio,

[4] ASA submission on Inquiry into the Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry

providing diversification benefits (better returns over the longer term) as well as greater returns. A simple financial cutoff will prevent that access and benefit the already wealthy. As the primary residences owned by mostly older generations is a major contributor to net wealth, we suggest it is excluded from the calculation. We also suggest introducing some sort of accreditation or a form of testing to make a sophisticated investor credential accessible to appropriate individuals, in association with overt, informed relinquishment of retail shareholder protections for highly financially sophisticated investors.

We also include market infrastructure under item 1. The ease of and trust in administration is important for retail shareholders. The delay to the CHESS replacement project has hindered the broad introduction of added features for the benefit of retail shareholders such as the broad rollout of electronic CHESS statements and introduction of the ability to allocate default contact, bank, or proxy details by individual holder identification number (HIN) will ensure shares remain connected to the shareholder.

We also include audit under item 1 and – importance of trust in audit to support confident and informed participation by investors and consumers in the financial system.

Under item 2, we see the phased introduction of ISSB standards as providing shareholders with information they need for making long-term investment decisions while streamlining the range of information will reduce the costs of the companies in providing this data.

Under item 3, the sustainability of super needs to be addressed as a longer-term bi-partisan priority. ASA supports the maintenance of a sustainable retirement incomes policy. Piecemeal changes to the system must stop. They erode indi idual's confidence in their ability to navigate the self-funding of their retirement and the completion of a broad-based review. As indicated in the Alliance for fairer retirement submission to Retirement Income Review, the capacity for individuals to voluntarily save for retirement, depends on stable policy settings, less complex policies, and ones that provide incentives. And in our submission to the Retirement Income Review lodged in February 2020, we emphasised the importance of a healthy share market to support the accumulation of funds, which also requires stable policy settings.

In relation to Better Targeted Superannuation Concessions, we repeat our concerns regarding taxing of unrealised gains rather than estimating the income on the amounts over $3m or another arbitrary cap. Calculating a deemed income using the total superannuation balance (TSB), makes more sense given the fluctuations we see in values of superannuation assets. Also, the lack of indexation of the $3m suggests the policy is not designed for long term, which is ironic given the nature of superannuation is all about the long term. We recommend implementing a periodic indexation at every three years. This is an area that would benefit from bipartisan policy – making it an election issue increases the uncertainty of ad hoc changes for those saving for their retirement or managing in retirement.

ASA company monitoring

ASA Company Monitors, volunteer members of the Association, attend more than 200 shareholder meetings of companies each year, engaging with the directors on behalf of retail shareholders and voting proxies in our name – holding them to account.

Our Company Monitoring Focus Issues for FY23/24 include:

Fair treatment of shareholders

We expect retail shareholders will be treated fairly and equitably in capital raisings. We expect companies to distribute shareholder communications in accordance with their preferences. We prefer companies to hold shareholder meetings using a hybrid format, allowing physical and online participation.

Building better oversight - directors and boards

Boards should comprise directors with the diverse skills as required to fulfill the company's strategic plan. The required skills and accredited skills attributed to each director should be communicated in a board skills matrix which supports the shareholders’ decisions on otin for a director’s election or re-election.

ach director’s or load should allo the director to de ote ade uate ti e and attention to the role and company, allowing both the formal and informal requirements to be adequately met. We expect boards will oversee the company identifying, managing and communicating to shareholders on cyber- and data-risk, as well as developing an appropriate and resilient culture within the company.

Driving sustainable practices and improving ESG strategy

We expect companies to incorporate sustainability and ESG strategy, practice and reporting in an appropriate, effective way using a recognised standard such as Task Force on Climate-related Financial Disclosures or Global Reporting Initiative. We will review the monitored companies with an eye for efficient use of company resources and avoidance of greenwashing, and to assess the impact of remuneration plans on driving a culture of sustainability.

Advocating for transparent remuneration

A company's remuneration report should be transparent and understandable for retail investors with a logical relationship between rewards and financial performance and corporate governance. ASA will refer to benchmarks to assess whether the amount and structure is reasonable compared to similar companies. ASA prefer hurdles that measure long-term performance over at least four years.

We consider that better shareholder engagement with companies is required – we advocate for hybrid annual general meetings (face-to-face and online), mailed communications to those with a standing request and streamlining electronic communication. We would like to see corporations ensure that they communicate to their shareholders in the way they need (not just online / digital), which is not always happening despite being required by law. This year we aim to hold roundtable discussion with all the parties involved in AGMs with view to devising a better way of engaging at the AGM. It's the only opportunity for shareholders to hold the board to account for their oversight of the business, its decisions and what is communicated to shareholders.

If you have any questions about these comments or other matters, please do not hesitate to contact me, [redacted] , or Fiona Balzer, Policy & Advocacy Manager, [redacted]

Yours sincerely

[redacted]

Rachel Waterhouse
Chief Executive Officer
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