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07 April 2011

The Executive Director
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

Email: cwlth_family_violence@alrc.gov.au

RE: Discussion Paper - Family Violence and Commonwealth Laws and Commonwealth Laws

Dear Executive Director,

The Association of Superannuation Funds of Australia (ASFA) would like to lodge this submission with respect to the above issues paper.

The Association of Superannuation Funds of Australia (ASFA) is a non-profit, non-political national organisation whose mission is to advance effective retirement outcomes for members of superannuation funds through research and advocacy. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds as well service providers some of whom deal with self managed superannuation funds (SMSFs), has over 90% of the approximately 12 million Australians with superannuation as members. ASFA members manage or advise on the bulk of the \$1.3 trillion in superannuation assets as at September 2010. ASFA is the only organisation that represents all types of superannuation funds and associated service providers.

ASFA has considered the questions and proposals posed in Chapter 19 Superannuation of the discussion paper. At the outset ASFA would like to make the important point that superannuation is a tax preferred long term savings and investment vehicle that has as its sole purpose the provision of retirement income for the member. ASFA considers that permitting individuals to use superannuation savings for other purposes ASFA believes would be poor public policy and contrary to the government's retirement incomes policy and the intent for which tax concessions are given to superannuation savings.

ASFA does not consider it appropriate to amend the regulations to the *Superannuation Industry (Supervision) Act 1993* to provide a specific compassionate ground to enable the early release of superannuation benefits to a victim of family violence.

The general early release provisions deal with a need for immediate financial relief. Whilst many victims of family violence may also be in financial difficulty, ASFA is of the view that the narrow focus of the current early release provisions should be retained.

ASFA is supportive of the need for the Australian community to more broadly support means by which impacted individuals can obtain relief and escape the circumstances of domestic violence. These other means should emerge from the social security framework where urgent and immediate funding could be provided to victims. ASFA is concerned that releasing superannuation benefits in such circumstances may, while providing temporary financial relief, actually not be in the long term best interests of the individual. If coercion and violence is a feature in these circumstances, there cannot be a guarantee that the release of any money will end up in the hands of the abused. Ultimately though, a superannuation benefit later in life may in fact be a better outcome than early release with no guarantee of where it ends up.

ASFA notes that there already exist a number of special and limited circumstances under which superannuation fund members can access their savings earlier than normal. To do so super fund members need to satisfy certain strict conditions.

ASFA's initial reaction to the proposals in the discussion paper is that the circumstances under which early release is permissible should not be broadened to include family violence issues. However, ASFA is willing to continue considering the merits of such a broadening and will do so over the coming months as it also addresses a plethora of other superannuation reforms.

Keeping in mind ASFA's overarching position of not being in favour of a broadening of the early release rules, we have, nevertheless, attempted to respond to the questions and proposals raised in the discussion paper at Attachment A to this correspondence.

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We thank you for this opportunity to provide our thoughts on the discussion paper. ASFA looks forward to continuing its involvement in this important work.

Should you have any questions please contact our Senior Policy Adviser, Tony Keir, on 02 8079 0815

Yours sincerely



David Graus
General Manager, Policy & Industry Practice