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Treasury Discussion Paper – Review of the provision of pensions in small superannuation funds

The SMSF Professionals' Association of Australia Limited (SPAA) seeks to make a submission in relation to the Treasury Discussion Paper on the provision of pensions in self-managed superannuation funds and small APRA funds (small superannuation funds).

SPAA is the self-regulatory association designed to promote best practice among professional advisors who provide self-managed superannuation fund (SMSF) advice. The role of SPAA is to understand and assist its constituency in this new industry throughout Australia, regardless of their other professional affiliations or memberships. SPAA is committed to raising industry standards for SMSF advice by developing and maintaining the currency of the standards and by working with the regulatory and educational bodies to obtain and provide guidance in further developing those standards.

SPAA would have encouraged confidential consultation relating to the provision of defined benefit pensions across all industry players prior to last year's Federal Budget. Extensive consultation may have provided a broader range of views.

In principle, SPAA supports the premise that defined benefit pensions affected by the changes to the *Superannuation Industry (Supervision) Regulations 1994* should be allowed to continue in SMSFs after 30 June 2005, however, in a modified form. These pensions provide characteristics which permit the payment of a pension for the life of the pensioner. Such features are not available with the provision of allocated pensions and term allocated pensions. In addition, by restricting the payment of defined benefit pensions to life insurance policies, in effect, the superannuation industry is not able to promote freedom of choice among the different types of retirement savings vehicles. This is unnecessarily restrictive and limits the options available to consumers.

By amending the legislation to restrict the payment of defined benefit pensions provided by small superannuation funds it fails to recognise that the practices identified by Treasury and considered unsatisfactory by them, may occur throughout the industry. It would seem that any change should be a whole of government approach to the issue.

SPAA welcomes the range of options proposed in the Treasury paper and recognises there are different approaches to addressing the issues raised. SPAA supports the proposal to modernise the underlying assumptions to reflect current

information, such as life expectancies and escalation rates. In addition, it sees merit in having similar valuation methods used for all types of pensions for RBL purposes. The factors used for purposes of the Family Law legislation are particularly instructive in this regard. However, rather than directing any changes solely to small superannuation funds they should apply across the board.

In relation to the estate planning issues raised in the Treasury paper SPAA considers any amounts that remain after the pensioner or reversioners decease should be paid to surviving dependents or to the relevant person's estate as a death benefit eligible termination payment. To treat the remainder as special income may result in undeducted contributions and other tax free components which are incorporated in the residual amount being taxed at an excessive rate whereas they probably should bear no tax. Taxing the residual as special income may be seen as the equivalent of placing a de facto estate duty on the pensioner or reversioner's benefit. An alternative to requiring the residual be paid as a pension could be to require the fund pay a pension for a fixed term to the surviving dependants or to the deceased estate.

SPAA also supports the proposal of developing a method which caters for the payment of the income stream for pensioners who live well beyond their normal life expectancy. This could be done via the benefit being insured once the member reaches a particular age or the pension extended by a calculation based on a person's life expectancy once they attained a particular age. The pension could then be recalculated at set periods to ensure the pension continues for the person's life time.

In summary SPAA is concerned at the discriminatory nature of the changes but recognises that a whole of government approach to the issues raised will provide greater equity within the industry. Defined benefit pensions do have a place in the small superannuation fund environment as they are able to be provided for a person's life time which is not available with allocated and term allocated pensions which are paid for relatively finite periods.

SPAA would welcome the opportunity of assisting or providing comment at any forum for ongoing discussion in relation to this discussion paper.

Yours faithfully

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