Draft Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017

KPMG Submission

Advisory
International Towers 3 Sydney
300 Barangaroo Ave
Sydney NSW 2000

PO Box H67
Australia Square NSW 1215
Australia

ABN: 51 194 660 183
Telephone: +61 2 9335 7000
Facsimile: +61 2 9335 7001
DX: 1056 Sydney
www.kpmg.com.au

12 April 2017

Manager
Retirement Benefits Unit
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: superannuation@treasury.gov.au

Dear Ms Sturgiss

Consultation on Draft Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017

KPMG strives to contribute in a meaningful way to the debate that is shaping the future of the industries we serve. To this end we welcome the opportunity to make a submission on the proposed regulations.

KPMG supports the primary objective of the proposed draft Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations – which is to introduce a new set of design rules for lifetime superannuation income stream products that will enable retirees to better manage consumption and longevity risk in retirement. Further, we are also supportive of the introduction of a tax exemption available to providers such as superannuation funds and life insurance companies, on the income from the assets supporting these new retirement products in drawdown stage.

We are in general, supportive of the amendments to the various legislative instruments as proposed by these regulations. However, we note a number of observations and recommendations in the attached appendix.

As a broader comment in terms of the overall approach taken - we note that establishing rules for acceptable products, however broad, must inevitably hinder innovation outside of those rules. (This is effectively what happened prior to these amendments where innovative products, which might have addressed prevailing concerns, were effectively prohibited because they did not meet the then current rules.) Accordingly, the establishment of principles, rather than rules, might be better for meeting problems in the longer term.

KPMG would be pleased to provide further information to assist you with your deliberations. Should you require further information or have any questions please do not hesitate to contact Katrina Bacon on +61 2 9335 7661 or at katrinabacon@kpmg.com.au.

Yours sincerely

John Teer
Partner, National Sector Leader
Wealth Management

Paul Howes
Partner, Head of Wealth
Management Advisory

© 2017 KPMG Actuarial Pty Ltd is affiliate of KPMG. KPMG is an Australian partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. The KPMG name, logo and "cutting through complexity' are registered trademarks of KPMG International. Liability limited by a scheme approved under Professional Standards Legislation

Appendix

Consultation on Draft Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017 - KPMG observations and recommendations

Timing of these Regulations and the Compulsory Income Products for Retirement (CIPR) Framework

KPMG supports the Government's commitment to fulfil their policy objectives and enable innovative products to be offered from 1 July 2017. However, we note that these draft Regulations – which are consistent with the CIPR Framework's objective to deliver innovative retirement incomes streams - will effectively commence before consultation on the CIPR Framework has been completed and the CIPR Framework defined.

Recommendation: we recommend that Treasury consider CIPR submission responses in addition to submissions on these draft Regulations to enable the Regulations to deliver on the policy objectives.

Recommendation: we recommend that Treasury consider seeking further input on, and potentially making further amendments to, the Regulations, after the CIPR Framework has been defined.

Clarification sought

We seek clarity on whether the intention of the draft Regulations is that multiple products that may be combined to provide a CIPR would be treated as separate superannuation interests, and separately subject to draft Regulation 1.06A or whether, in combination, they would be a single superannuation interest and need to meet Regulation 1.06A. In particular:

- The amended meaning of superannuation interests under draft amended Regulation 307-200.05 provides that a deferred superannuation income stream is always treated as a separate superannuation interest;
- The Explanatory Memorandum to the draft Regulations, under sub-heading 'Hybrid income streams', allows the purchase of a deferred annuity as an investment of an account based pension. However, it is likely that this combination would not comply with the requirements of draft Regulation 1.06A(3) in particular Regulation 1.06A(3)(c), in that, in the year that the payments under the deferred annuity commence, it is unlikely that the payments in that first year will be referable, in totality, to the payments in the prior year.

Recommendation: we recommend that Treasury ensures that the treatment of different components of a CIPR is clarified in the Regulations. Where the components making up a CIPR are to be treated, in combination, as a superannuation interest, we recommend that Treasury allow sufficient flexibility to facilitate the likely components of a CIPR, in particular the combination of an account based pension and annuity or deferred annuity.

© 2017 KPMG, an Australian partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International. Liability limited by a scheme approved under Professional Standards Legislation.

Appendix (continued)

Consultation on Draft Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017 - KPMG observations and recommendations

Flexibility

We support the development of a framework and design rules in regulation that permit innovative incomes streams to be delivered to meet Australian retirees' needs. If the response to the clarification sought above is that a CIPR, made up of various components, is to be treated as a single superannuation interest, we query the rationale and therefore the drafting that appears to impose limits on innovation such as the following:

i. Inability to combine a deferred lump sum with an immediate income stream (draft Regulation 1.06A(3)(c)). Another means of enabling retirees to better manage longevity risk in retirement, other than through an annuity or deferred annuity, is to provide a deferred lump sum that is payable on the retiree's survival for a particular period. For example, under a structure where, on top of an account based pension, the retiree receives a lump sum on survival to a particular age such as life expectancy. In line with the requirement of ensuring that income is provided through retirement, the deferred lump sum payment could be required to be paid in the form of a superannuation income stream, e.g. used to commence a second account based pension or purchase a second lifetime annuity.

   Recommendation: we recommend that the Regulations facilitate superannuation interests that are a combination of an account based pension and a deferred lump sum.

ii. Ability to change providers – the draft Regulations do not talk to or enable an individual to commute all of their benefit to another provider of a retirement income stream. In particular draft Regulation 1.03A(3)(d) introduces a maximum commutation amount.

   Whilst it's important to deliver design rules to enable providers to offer retirement incomes stream which address longevity risk, the design rules should not be such that an individual is stuck with the one provider for life. What if the provider was mismanaging the assets and unable to meet liabilities as they become due (e.g. the provider becomes insolvent)? What if the provider sold/was bought by another party that modified the offering (frequency of payments, fees etc.) such that the individual no longer felt the offering met their need? What if the needs of an individual change over a period, e.g. where their health or housing needs change?

© 2017 KPMG, an Australian partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International. Liability limited by a scheme approved under Professional Standards Legislation.

Appendix (continued)

Consultation on Draft Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017 - KPMG observations and recommendations

Flexibility

Further, anecdotally the view that a retirement product that meets longevity needs involves the individual being 'locked into' the product has been one of the contributors to a low take-up of this type of product.

We acknowledge the risk of anti-selection were an individual to be able to fully commute a longevity product, e.g. to a lump sum, and propose that commutations of longevity products are limited to enable transfers to similar products.

Recommendation: we recommend that the Regulations permit full commutation of retirement income offerings as defined in these Regulations, with appropriate limitations around the ability to commute longevity products.

iii. Payment of residual amounts on death – draft Regulation 1.06A(4) only permits the transfer or payment of the benefit on the death of the beneficiary to persons who are eligible to receive a benefit under existing sub-regulation 6.21(2A) or (2B). This means that persons who are a non-dependent or not an eligible child of the beneficiary would not be eligible to receive any residual benefit and does not provide a mechanism for the payment of a residual benefit in the event that the beneficiary does not have any dependents or eligible children.

Recommendation: we recommend that the Regulations include a mechanism to allow payment of a residual benefit in the event that the beneficiary does not have dependents or eligible children or that limits on payments of residual benefits on death be removed, as for payments of death benefits pre-retirement.

© 2017 KPMG, an Australian partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International. Liability limited by a scheme approved under Professional Standards Legislation.

Contact us

John Teer
Partner, National Sector Leader,
Wealth Management
+61 2 9335 7569
jteer@kpmg.com.au

Paul Howes
Partner, Head of Wealth
Management Advisory
+61 2 9346 6073
paulhowes@kpmg.com.au

kpmg.com.au

© 2017 KPMG, an Australian partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International.
Liability limited by a scheme approved under Professional Standards Legislation.

The information contained in this document is of a general nature and is not intended to address the objectives, financial situation or needs of any particular individual or entity. It is provided for information purposes only and does not constitute, nor should it be regarded in any manner whatsoever, as advice and is not intended to influence a person in making a decision, including, if applicable, in relation to any financial product or an interest in a financial product. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. To the extent permissible by law, KPMG and its associated entities shall not be liable for any errors, omissions, defects or misrepresentations in the information or for any loss or damage suffered by persons who use or rely on such information (including for reasons of negligence, negligent misstatement or otherwise).