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By email: superannuation@treasury.gov.au

Dear Sir

AMP welcomes the opportunity to make a submission in response to the Treasury consultation on the Retirement Income Covenant position paper (**Position Paper**). The introduction of a retirement income covenant was announced as part of the 2018-19 Federal Budget and is the first stage to the Government's proposed retirement income framework. It follows the establishment of a consumer and industry advisory group to assist in the development of a framework for Comprehensive Income Products for Retirement (**CIPRs**).

As one of Australia's largest superannuation fund providers, AMP is committed to helping Australians live comfortably and securely in their retirement. We support policies which aim to provide better outcomes for Australians in their retirement and reflect the core purpose of the superannuation system.

AMP believes that the future success of the Australian superannuation system in providing retirement outcomes for our ageing population is dependent on the appropriate policy settings, which includes the development of more efficient retirement income products.

AMP supports the policy objective of a retirement income covenant in the *Superannuation Industry (Supervision) Act 1993* (Cth) (**SIS Act**). We believe that a well-designed, principles-based covenant would go some way to achieving a key objective of the MyRetirement framework: giving Australians more choice in their retirement.

While AMP is supportive of many of the proposals in the Position Paper, we are concerned about the following issues:

1. the proposed transition period and timetable for implementing the retirement income covenant, including the requirement to offer a CIPR;
2. the prescriptive nature of the factors trustees would be required to consider when developing a retirement income strategy;
3. the proposed coverage of the covenant;
4. the uncertainty regarding the expectation for trustees to engage with their members;
5. the uncertainty regarding the offering of a 'flagship CIPR';
6. how safe harbour and legacy products will be managed in the context of the covenant; and
7. the expectation of individuals for whom CIPRs may be unsuitable.

In short, AMP believes that further industry consultation, a longer implementation phase and other refinements to the draft proposals are necessary to ensure the success of the covenant and the overall CIPR regime.

Timing

AMP notes the proposed transition and implementation period for the retirement income framework, including the covenant. The Government proposes to legislate the covenant by 1 July 2019, but delay commencement until 1 July 2020. AMP is concerned about this proposed timetable and believes that industry needs more time to implement the proposed regime. This is particularly important given the lack of pooled lifetime products currently in the market and the fact that industry does not have sufficient experience to consider how these products may be applied in the CIPR context.

AMP believes that a 1 July 2020 commencement date does not provide industry sufficient time for the market for pooled lifetime income products to mature. We ask that Treasury consider deferring the commencement of CIPRs until 1 July 2022.

Covenant principles

Retirement income strategy

AMP notes that the Position Paper proposes that the covenant would include several specific factors that trustees would need to consider when developing a retirement income strategy. The Position Paper contends that the purpose of listing specific factors is to ensure consistency amongst trustees and to improve member outcomes by requiring all trustees to consider a minimum number of common factors.

As outlined in our submission to the Treasury consultation on the *Development of the framework for Comprehensive Income Products for Retirement*, AMP believes that flexibility should be afforded in the development of the CIPR process. We are concerned that the factors, as presently drafted, are too prescriptive and may have unintended consequences for trustees and their members. We strongly believe that the retirement income covenant should be principles-based, consistent with the existing covenants contained in the SIS Act.

AMP also considers that greater flexibility should be given to trustees in the design of a retirement income strategy. It needs to be appreciated that retirement outcomes are not solely dependent on how much a member has in their superannuation fund, as many members have more assets and/or income streams outside of their superannuation fund. As presently drafted, the eight factors that trustees would be required to consider may have the effect of removing flexibility in the design of the retirement income strategies. Accordingly, AMP asks that Treasury take this into consideration when considering the requirements on trustees.

AMP is also concerned that some of the factors contained in the Position Paper may require a trustee to provide financial advice. For example, a trustee asking a member if they are eligible for the age pension may be an advice issue and from AMP's perspective, requiring a trustee to take into consideration issues such as this would be problematic.

The Position Paper implies that a member's account balance could be used as a proxy for whether that member may be eligible for the age pension. Unfortunately, this is a difficult question as a trustee must consider:

1. age;
2. marital status;
3. home ownership status; and
4. assets and income outside of super.

If any of these personal details above are considered, then 'personal advice' must be provided under a full Australian Financial Services Licence.

While AMP appreciates that trustees could leave the age pension eligibility to the member and provide different CIPRs based on the member declaring they are eligible for an age pension or no age pension. AMP

questions whether a member would fully appreciate the implication of this, namely of being locked into a CIPR with no flexibility.

Beyond satisfying the minimum requirements, as stated above, AMP believes that trustees should be given flexibility in the design of CIPRs to enable them to cater for the wide range of members in their fund.

Engagement

AMP notes that the Position Paper outlines the requirements on trustees to provide guidance to assist members to navigate between the retirement income products offered by the fund. According to the Treasury, the purpose of engaging with members is to assist them in making the most appropriate choice – consistent with their needs and preferences.

While AMP accepts that trustees should engage with their members about the range of retirement income products they offer, we are concerned about the limited guidance provided in the Position Paper regarding this requirement. The distinction between information, guidance, intra-fund advice tools and ‘personal’ advice is unclear. As presently drafted, the Position Paper indicates that “tools should assist members in making the most appropriate choice, given their needs and preferences”. Consideration of members’ needs and preferences would, by definition, constitute personal advice. However, the Position Paper also indicates there is no expectation for trustees to provide personal advice.

AMP believes that trustees should not provide personal advice and/or guidance, without an appropriate safe harbour. This is because members will assume that the trustee has taken their needs and preferences into account and therefore have provided them with personal advice. At present, the concept of a safe harbour has been included in the Position Paper in the context of the Regulatory Framework/Future Considerations. The Position Paper notes that this will be subject to consultation at a later stage. AMP strongly supports the rationale for a safe harbour and believes it is fundamental to the design of the CIPR being offered to members by the trustee. We therefore believe that a safe harbour should be included and part of the initial consultation on the CIPR design.

AMP also encourages the Government to undertake further consultation in relation to the expectation for trustees to provide information, guidance and advice to assist members to understand and make choices about the retirement income products offered. We note the issue of advice is particularly relevant in the current regulatory environment given the Government has released an Exposure Draft of *Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2017* and the recent Draft Report of the Productivity Commission on Competition in the Australian Financial System included a recommendation to rename General Advice.

Supporting principles

Definition of a CIPR

AMP notes the three key objectives of a CIPR as outlined in the Position Paper are to maximise income, ensure income is provided for life and provide flexibility to access capital. To achieve these objectives, trustees must determine the set product components and the drawdown rates (as designed by the trustee).

AMP has several concerns about how these objectives may operate in practice. For example, if a CIPR must provide broadly constant income for life, as defined in the Position Paper, the effect of this is to mandate the use of a pooled lifetime product. Given there is currently no track record for many pooled lifetime products, it may be difficult for trustees to understand how a product like this could provide broadly constant income for life once the account-based pension (**ABP**) has exhausted, including some access to capital.

AMP is also concerned that, from a member’s perspective, there will be little demand for a CIPR product that, by design, offers little flexibility in income, limited access to capital and no guarantee of income (other than with a longevity income product component such as a deferred lifetime annuity (**DLA**)). We believe this is particularly problematic for full age pensioners who are not likely to consider this arrangement when they have a fully flexible and accessible ABP and have a guaranteed lifetime income from the age pension. From a

best interest duty perspective, an adviser would be more likely to recommend an ABP over a CIPR where the client requests full access to their capital.

AMP is also seeking clarity about the meaning of 'income for life'. As Australians are living longer, this could impact on product design and pricing of CIPRs. To mitigate this consideration, a maximum age and life expectancy should be applied for 'income for life'.

We also believe that further consideration regarding access to capital is required. The Position Paper notes that the most common way to provide flexibility in order to provide access to capital is for a CIPR to incorporate an ABP. From our perspective, access to capital is often required later in life (e.g. for residential aged care or increased healthcare expenses) and at this time the ABP is likely to have been exhausted with remaining income payments supported by a longevity product such as a DLA. Retaining capital outside the DLA will not satisfy the objective of providing efficient income.

Certification

Finally, we note the certification requirements for CIPRs outlined in the Position Paper.

We agree that certification should be principles-based to ensure product neutrality.

AMP is seeking further clarification on this matter, as this would allow trustees to commence the development of CIPRs.

Offering a flagship CIPR

The Position Paper proposes that trustees would be required to offer a 'flagship CIPR' to all members at retirement, with the CIPR being the starting point for retirement income products. Trustees would be able to offer up to three flagship CIPRs based on an individual's account balance without the offer constituting financial advice. AMP is seeking clarification about what is meant by 'when a member is ready to move into the 'retirement phase' (i.e. retired on or after preservation age, or attaining age 65). There is uncertainty about whether 'retirement phase' is defined as before a person may qualify for any kind of age pension. We should note that, in some cases, trustees are not able to determine when a member has 'retired'. Accordingly, it may be difficult for trustees to comply with this obligation. AMP is therefore seeking further clarification about who trustees are obligated to offer a CIPR to. Further guidance is necessary as to whether a CIPR must be offered to a member already in retirement phase at 1 July 2020 (i.e. a member who is already in a ABP).

The Position Paper also states that trustees must offer a flagship CIPR as the first retirement income product to members (even before a ABP). AMP will await the release of draft legislation, however, we note that the requirement to offer a flagship CIPR may have practical implications, particularly if a member would like to start an ABP at retirement. We ask that Treasury take this into consideration during the drafting process.

AMP notes that Government also proposes that trustees design up to three flagship CIPRs which will be offered to members. AMP believes that trustees should be able to offer tailored CIPRs based on a broader range of factors including gender and account balance. We also believe it would be beneficial for a trustee to request details from the member via a shortlist of questions at the time of the offer, which would assist the trustee in determining which is the most appropriate CIPR for the member.

Third party products

AMP agrees with the Position Paper that trustees should be allowed to fulfil their CIPR obligation in part or in full with a third party. We are seeking clarity from Treasury that the result of this is that underlying products within a CIPR do not need to be within the same superannuation fund. Trustees would benefit from the flexibility of structuring the use of third party products both inside and outside of the superannuation fund. The use of a product outside the fund may also provide a degree of portability.

Consent

AMP agrees with the Position Paper that explicit consent is required from a member for a CIPR to commence. We seek further clarity about how this would operate.

Offering an alternative retirement income product through advice

The Position Paper proposes that a trustee may offer an alternate CIPR or another retirement income product to a particular person or cohort of people through any form of personal advice, including scaled personal advice, intra-fund advice, or full financial planning.

AMP agrees that members should be able to choose from a range of retirement income products, including a flagship CIPR – offered by the trustee – without being obliged to receive personal financial advice from the trustee or an independent financial adviser. Additionally, a trustee should not be required to ensure that any other retirement income products offered are in the member's best interest compared with a flagship CIPR unless personal advice is being provided. We also seek clarification as to how trustees can offer personal advice to a 'cohort of people', given personal advice should only be offered on an individual basis.

Exceptions for individuals for whom CIPRs are unsuitable

AMP notes that the Position Paper sets out that trustees may choose not to offer a CIPR in certain circumstances, namely that the person has a life-threatening or terminal illness, or knowledge that the person has less than \$50,000 in superannuation assets in that fund. We are concerned that the exception limit of \$50,000 is not appropriate. The average super account balance at retirement today needs to be approximately \$150,000, or the level of assets required to be eligible for the full age pension, because should an individual qualify for the age pension, then a CIPR may not be the most appropriate product. AMP believes that trustees should be given the flexibility to request information from members via a shortlist of questions at the time of the offer to assist the trustee in determining what is the most appropriate CIPR. The trustee should have the power to reject a member's application for a CIPR based on their answers to the shortlist of questions.

Conclusion

AMP believes that the future success of the Australian superannuation system in providing retirement incomes for Australia's ageing population will be dependent on the appropriate policy frameworks such as CIPRs being established to enable Australians to be incentivised to save enough and make the right decisions for their retirement.

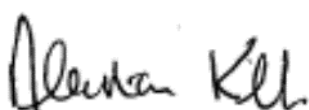
While AMP supports CIPRs in principle, substantial additional consultation needs to be undertaken, particularly with regard to:

- The transition period
- The interface with, and need for, financial advice
- The uncertainty surrounding flagship CIPRs

We look forward to continuing to work with the Government, Treasury and industry in this consultation process.

Should you require any further clarification on the issues included in this submission, please do not hesitate to contact me on 0412437315.

Yours sincerely



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