Director

Retirement Income Policy Division

Treasury

Via email: superannuation@treasury.gov.au

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**Treasury Laws Amendment (Your Future, Your Super) Regulations 2021**

Thank you for the opportunity to make a submission on the Exposure Drafts of the Treasury Laws Amendment (Your Future, Your Super) Regulations 2021. This submission adds to QSuper’s previous submission and feedback on the Your Future Your Super reforms.

The below provides a summary of the issues detailed in the following pages:

* The assessment of lifecycle products, and arguably all accumulation phase products, should have regard to the outcome a member will experience across the contribution phase of a member’s life. Lifecycle products are fundamentally different constructs and therefore, it is not appropriate to combine different cohorts into a collective for comparison or ranking purposes as there are different investment objectives and strategies for each member cohort. This is by design and any approach that simply aggregates performance into a single assessment is misleading; and
* Proposed amendments relating to portfolio holding disclosure are likely to cause significant detriment to members.

**Treasury Laws Amendment (Your Future, Your Super—Addressing Underperformance in Superannuation) Regulations 2021**

Consideration of Lifecycle Products

As one of the oldest and largest profit-to-member superannuation funds, QSuper supports efforts by policymakers to hold trustees accountable for the impact of their decision-making on member outcomes. It’s undeniable that a framework to detect and remove persistent underperformers must exist.

An area of particular concern in the regulations for QSuper is the treatment of lifecycle funds under the proposed legislative reforms.

As previously discussed, the very nature of a lifecycle product is a move away from a one-size-fits-all approach and considers different members’ needs throughout their different life-stages. For example, QSuper has a unique lifecycle MySuper product that uses age and account balance to set investment strategies. This means that by design, different members will have different experiences in the product.

For lifecycle products, the proposed performance measure in the regulations misrepresents the experience of any individual member by aggregating returns from each lifestage cohort into a single outcome.

The assessment of lifecycle products, and arguably all accumulation phase products, should have regard to the outcome a member will experience across the contribution phase of a member’s life. The intent of a lifecycle product is to deliver a member to retirement by having regard to factors along the accumulation phase of a member’s working life (potentially in excess of 40 years). It is not appropriate to conduct a ‘point in time’ assessment that does not have regard to the member’s experience. By aggregating into a single outcome, which no member actually received nor is intended to receive, the regulations risk misleading members and the proposed assessment is contrary to providing members with relevant information on which to make an informed decision regarding their retirement savings.

QSuper is at the forefront of designing innovative solutions for its members and believes that every fund’s MySuper product should reflect the Trustee’s best thinking. A methodology that collapses all decisions into a single measure provides little incentive for product providers to invest in new features that aren’t captured in this measure; even where there’s demonstrable market value and/or demand. In weighing the consequences of success against failure i.e passing or failing a performance test, the rational decision for a trustee may be to prioritise ‘passing’ a performance test over member risks or member outcomes.

In conclusion, QSuper’s key concern is the proposed treatment of lifecycle products may lead to lifecycle funds failing the performance test, not due to any underperformance but due to a failure of methodology.

**Treasury Laws Amendment (Your Future, Your Super—Improving Accountability and Member Outcomes) Regulations 2021**

Portfolio holdings disclosure

QSuper fundamentally believes in transparency and the need to provide an appropriate level of information to our members to allow them to make informed decision. However, we strongly question whether:

• the granularity of information will lead to better member understanding (and outcomes);

• inconsistency of disclosure requirements between superannuation funds and other market participants will disadvantage funds (and therefore members); and

• advantages achieved for members through insourced investment management arrangements will be eroded.

Inconsistency of disclosure requirements

The underlying principle around portfolio holding disclosure is to increase transparency to allow members to better understand where their superannuation savings are invested and ultimately assist them to make more informed decisions.

However, requiring superannuation funds to disclose all positions down to security level:

a) does not benefit member understanding; and

b) widens the information asymmetry where superannuation funds will now be required to publish full details of derivative and physical exposures, which allows other market participants to transact against the interests of superannuation fund members.

QSuper is concerned that the volume and complexity of data required (thousands of lines of data at an individual security level) may be misleading and complicated for members to understand.

The Explanatory Statement accompanying the draft regulations goes as far as to note that “Most members will rely on professional advisers or reports by professional investors and analysts, which are expected to make use of data being disclosed through interpretation and communication of it more generally to the market”. Given the modest number of members who avail themselves of professional advisers, the provision of data at security level (likely to run to tens of thousands of lines) is unlikely to be meaningful for the majority of individual members.

Further, the statement in the Explanatory Statement accompanying the regulations that acknowledges that broader market participants will analyse and use the data for the commercial purposes of those market participants is of some concern. As a result of the proposals, market participants will have access to the full listing of open positions and have an awareness of where sizeable positions in certain markets exist and be able to interrogate this information as a basis of anticipating the direction and size of fund trades. This will therefore afford them advantages in transacting, particularly when pricing outright trades and also the extension, or “rolling”, of exposures.

No other financial markets participant is currently required to disclose at this level, thus allowing for an efficient and fair market place. These proposals effectively hold superannuation funds to a standard more onerous than other financial institutions/Australian Financial Services Licensees. The likely distortion in pricing that this information asymmetry will give rise to may ultimately be borne by members within their superannuation balances and lead to lower retirement incomes. While there is a case that can be made that this information should be available to regulators (of a confidential basis) for transparency, requiring it to be published in the public domain (at the level of granularity proposed) does not meet the intent of providing members with meaningful information to make informed decisions and also disadvantages funds from participating in markets on behalf of their members.

Insourced Investment Management – loss of advantages

The Explanatory Statement accompanying the regulations identifies that “under the framework in the legislation, funds are required to report on assets held directly and by associated entities and reporting the holdings of the first non associated entity.”

In effect the legislation requires look through and disclosure of the final investment assets held directly by a trustee or an associated in-house entity. However, where investments are made through external structures (in conjunction with other investors) the ‘asset’ disclosed is effectively the investment in the external structure and not a look-through to the final investment asset. This means Funds which have insourced investment management responsibilities will be held to a more onerous disclosure burden.

Normally, insourced arrangements are undertaken to directly benefit members e.g. through more direct governance arrangements (control/manager supervision, transparency, flexibility to protect members interests), strategic benefits (speed to market), alignment (single client focus) and fee savings. As such, the requirement to disclose all investments held in Associated Entities may result in adverse implications for those funds which seek to deliver member benefits through insourcing.

As stated above, QSuper believes in disclosure that provides an appropriate level of information to our members in order to allow them to make informed decisions. Following are comments in relation to the proposals in the regulation relating to particular asset classes.

Unlisted assets

Many funds have sought investment in private asset classes (real estate, infrastructure, private equity) as they can deliver key diversifying benefits to members. The long-term, stable returns (often linked to CPI) with lower sensitivity to broad economic activity provide opportunities to generate strong investment returns for members.

It is acknowledged that the publication of the names of private assets held is unlikely to cause any issues with confidentiality. However, the valuations of these assets are considerably more commercially sensitive. Publishing a specific dollar value against these assets is unlikely to aid members in their decision making but is likely to limit the ability of funds to transact in those assets at competitive prices.

Should the Treasury Laws Amendment (Your Future, Your Super) Bill 2021 be enacted, the removal of the allowance for up to 5% of an investment option’s assets to be exempt from publication as part of the portfolio holdings disclosure regime (if the investment items are commercially sensitive) will have material market implications that are not in the best financial interest of members. The 5% exemption allows superannuation funds to exercise discretion around commercially sensitive assets for example, which were under negotiation (i.e. sale of unlisted assets).

QSuper proposes that publishing the names of assets without valuations is sufficient to satisfy member best interest without compromising a fund’s ability to transact on these assets.

Derivatives

The regulations require funds to publish full lists of derivative positions which is likely to be extremely lengthy for some funds that hold numerous positions. This is unlikely to aid members’ understanding, and the requirement for all positions to be reported (without any ‘netting off’ of open positions) requires members to have a sufficient level of sophistication to calculate these positions as an aggregate. QSuper contends this will not achieve the transparency sought by the policy underlying the legislation. However, it will inform the financial market, providing detailed information of the positions held by superannuation funds, which will allow that information to be used for the benefit of other market participants to the detriment of superannuation funds.

Listed assets

Listed securities are likely to represent a material part of a fund’s holdings, albeit spread across different security types, the values of which are already publicly available. From an industry wide perspective, QSuper believes this information may be more useful for members at an aggregated level (i.e. for equities covering regional exposures, market cap/sector split/value/bespoke indices, for bond holdings covering splits between sectors, regional exposure, rating composition/credit grade, duration etc) as these may offer a member better insight into the underlying strategy for their superannuation fund’s exposures.

Thank you for your consideration, if you would like to discuss this or any other matter, please contact Chris Ramsay, Senior Manager – External Affairs and Policy via 07 3029 9666 or christopher.ramsay@qsuper.qld.gov.au.

Yours sincerely



Michael Pennisi

**Chief Executive Officer**

**QSuper**