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Director
Retirement, Advice, and Investment Division
The Treasury
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Email: superannuation@treasury.gov.au

Dear Director,

Retirement Income Covenant Consultation Paper

IOOF welcomes the opportunity to provide feedback on Treasury's position paper, 'Retirement Income Covenant' dated 19 July 2021.

As one of Australia's leading superannuation fund providers with $185 billion in funds under administration and over 1.5 million members with a history dating back to 1846, IOOF is an organisation that is committed to looking after and securing the future of its clients and members. Following the recent acquisition of MLC, the combined entity has over $50 billion in funds under administration within retirement products, making IOOF one of the largest providers of retirement products in Australia.

IOOF is a strong supporter of policy settings that will enhance the retirement outcomes of all Australians. The introduction of the Retirement Income Covenant is an important step towards progressing the creation of a Retirement Income Framework that was considered by Treasury in its 2018 'Retirement Income Covenant' position paper and recommendations of the Financial Services Inquiry in 2014.

At the core of IOOF's client first culture is the delivery of quality financial advice, which recognises the importance that such advice can have on significantly improving the retirement outcomes of our members. We also recognise that both trustees and advisers have a critical role to play in providing guidance, support and advice to Australians in pre-retirement and throughout retirement. Separately, we also note that Treasury will conduct a Quality of Advice Review in 2022, to consider opportunities to increase the accessibility to advice, which we believe will be critical to complement and support the needs of members in pre-retirement and in retirement.

Retirement Income Framework

IOOF is supportive of the Retirement Income Framework, of which the Retirement Income Covenant is a component. We have set out some key observations and feedback in relation to the Retirement Income Framework.

Framework consideration 1: Better products and legacy product rationalisation

IOOF acknowledges the work the Government has done to date to remove barriers to the development of retirement products through changes to their treatment under relevant tax laws and social security means tests. The position paper envisages that trustees may develop retirement income strategies for specific member cohorts. To support the implementation of these strategies and encourage product innovation, the Government may wish to consider policy and regulatory settings targeting product design for certain cohorts (such as couples).

We recommend the Government also review existing legacy product arrangements that may no longer be in members' best financial interests. Members invested in these products would greatly benefit from Government reforms that facilitate product rationalisation without experiencing adverse financial consequences, and thus enabling members to move to modern products that would improve retirement outcomes.

Framework consideration 2: Better products – comparability measures

As noted in the position paper a key component of the retirement income framework is to enable comparability across retirement products. It is critical that product providers understand on what basis retirement products will be measured and compared.

Having a measure or metric provided by Government enables consistency and comparability to assist trustees with retirement income strategy design. As a result, we would support separate consultation between the Government and the industry to develop and finalise the basis on which it will measure and compare retirement products.

In particular, Government could consider whether retirement income products (particularly account-based pensions) could be assessed leveraging existing frameworks within the Your Future, Your Super and APRA Heatmap regimes.

We also note that whilst there are external providers that evaluate product performance, these are only available to subscribers at a cost and there are different evaluation approaches leading to inconsistent outcomes.

Importantly, with appropriate measures in place to compare retirement products, trustees and advisers are able to provide and facilitate more meaningful guidance, assistance and advice.

Framework consideration 3: Appropriate guidance

As noted in the position paper, an important element of the retirement income strategy will be the assistance that trustees can provide to their members, including the provision of factual information through to personal financial advice. IOOF recognises the increasing and pivotal role that trustees and advisers play to support Australians in the pre-retirement phase and in retirement.

The retirement phase can be daunting and complex. Each individual's circumstances and objectives in retirement will be unique, and the considerations driving decisions can vary greatly depending upon factors such as wealth held inside and outside of super, age pension entitlements, actual retirement age, desired retirement income and lifestyle, state of health, marital status and home ownership status. As a result, some members may benefit from full financial advice provided by an advice licensee, whereas for others, intra-fund advice or even the use of a simple tool or calculator might be appropriate.

A trustee has the discretion to formulate a retirement income strategy for all members of the fund or for specific cohorts, which could include consideration of a number of factors, including those suggested in the position paper (such as superannuation balance, marital status, home ownership and entitlement to age pension). Even though a trustee may not possess all of this information for every member on these specific elements, given the size and broad reach of larger funds, it is highly likely that cohorts could nevertheless be established based on these characteristics.

Although a strategy could be developed to address these specific cohorts in a general way, there is a risk that a member may invest in a product designated for their cohort, but it may not actually be suitable for that member when taking into account their individual circumstances. Furthermore, a product that may be deemed appropriate at the time of entry, may be subsequently less suitable due a member's personal circumstances having changed over time. In this instance, clarity needs to be provided on a trustee's role in the ongoing monitoring and understanding of a member's circumstances.

Greater clarity is also required on the interaction between the current laws[1] and regulations governing advice (also further discussed below under 'Implementation considerations') and the

[1] Including the recent decision of the Full Court of the High Court in *Westpac v ASIC*, which effectively brought personal communications that have some application to the member's individual circumstances into the ambit of personal advice.

position paper's proposal that trustees provide appropriate guidance to members to meet their retirement needs, particularly where that guidance needs to be based on that member's personal circumstances.

We recommend clearly defining the roles and responsibilities of superannuation trustees (as envisaged under the position paper) and advice licensees in providing guidance, support and advice as this will assist industry participants to achieve the desired retirement outcomes for all Australians.

In more clearly defining the role of the trustee, members would benefit, for example, if the regulatory scope of the trustee intra-fund advice model could be expanded, such as allowing for the provision of advice to a member's spouse and limited advice in relation to non-superannuation assets. Both of these factors drive age pension entitlements, and are significant considerations in developing the overall retirement income strategy for many people.

We understand that Treasury is separately conducting a Quality of Advice Review in 2022, which may provide the clarity required and consider the opportunities to increase the accessibility to advice.

This will be critical to provide certainty to trustees regarding the nature of the advice and assistance that may be provided to members and ensure compliance with relevant legislative requirements.

Retirement income strategy

IOOF supports the proposed requirement for trustees to develop a retirement income strategy, and in particular Treasury's principles-based approach providing trustees with flexibility to design a retirement income strategy based on their broad understanding of their membership.

IOOF has provided a response on the proposed retirement income strategy obligations and discretions of trustees using the framework presented in Appendix 1 of the position paper.

Obligation	Overview	IOOF comment
1. Core obligation	Trustees are required to implement and regularly review a retirement income strategy for members.	• Supportive, noting the clarity required to understand the measures to compare retirement products, clarity on guidance and advice and the implementation considerations set out below.
2. Member coverage	All members need to be covered by the strategy	• Supportive of flexibility afforded to trustees to determine the appropriate cohorts, which will enable alignment to existing cohorts (where applicable) under the Member Outcomes framework.
3. Sources of retirement income	Consider, at a minimum, members' interest in the fund, and Age Pension and tax implications when analysing retirement income.	• Whilst it is unlikely a trustee will have access to information at individual level to assess age pension entitlements and tax implications for all members, it can nevertheless take account of these factors in a general way. • We note that in formulating their retirement strategy, trustees have the flexibility to consider other sources of member income, where the data is available.
4. Maximising retirement income	Maximise members' retirement income as a cumulative concept across the whole of retirement.	• The meaning of 'maximising' income may be different for different members depending on individual circumstances, and acknowledge that maximising retirement income is to be balanced along with the other objectives noted in obligations (5) and (6). • The retirement income strategy is intended to be general in nature with no soft/hard defaults, and therefore trustees can guide/assist members on the appropriate solution to 'maximise' income based on a member's circumstances. • Clarity is required on regulatory scope of advice that trustees can provide and interaction with existing laws.
5. Managing risk	Consider how to assist members manage longevity and investment risks	• Sequencing risk and counter-party risk (in relation to 3rd party product providers) will also be relevant to ensure the sustainability and stability of any income stream. • Clarity is required on regulatory scope of advice that trustees can provide and interaction with existing laws.
6. Flexible access to savings	Consider how to assist members flexibly access savings during retirement	• Clarity is required on regulatory scope of advice that trustees can provide and interaction with existing laws.
7. Balancing strategy objectives	Consider how to balance obligations (4) to (6) when assisting members	• Clarity is required on regulatory scope of advice that trustees can provide and interaction with existing laws.
8. Reviewing the strategy	Undertake annual review of performance and review strategy every 3 years and communicate outcomes of review to members	• Supportive, as this complements existing regulatory obligations.

Implementation considerations

There are a number of implementation issues that the Government needs to consider, which are outlined below.

Interaction with other legislation and regulations

The interaction of the Retirement Income Covenant with legislative and regulatory requirements needs to be clarified to provide certainty to trustees and ensure compliance with existing laws, specifically:

- *Design and Distribution Obligations* - requires that products be designed with the particular target market in mind. Guidance from ASIC suggests that "in defining a target market …., an issuer should not assume that consumers will hold the product as part of a diversified portfolio” (RG 274.129). Although this statement relates to investment products, it becomes problematic when extended to superannuation and pension products.

- *‘Sole purpose test’* - super funds are to be maintained solely for the purposes of providing superannuation benefits. If trustees are required to take a more holistic approach to income in retirement, the narrow confines of the sole purpose test, particularly as applied since the Hayne Royal Commission, may act as an impediment to retirement income outcomes for members. An example of this is where a financial adviser who is remunerated for services through an account-based pension, cannot act as an advocate for their client with Services Australia in relation to the client’s Age pension, as this service is not linked to ‘superannuation’.
- *‘Anti-hawking’ provisions* - whilst we are supportive of the anti-hawking provisions, practical problems arise for trustees offering retirement solutions to accumulation members. Superannuation accumulation interest and super pensions are different financial products, even though generally one will lead to the other. For example, if in a phone call with a fund’s customer service team, a member with an accumulation interest signs up to a pension product, this may be considered unsolicited conduct, and therefore breach the anti-hawking provisions.

Timing concerns

IOOF notes the proposed implementation date of 1 July 2022. The industry is undergoing significant regulatory change including the Design and Distribution Obligations, updated RG97 fee disclosure regime, Your Future, Your Super reforms, upcoming APRA Choice and MySuper Heatmaps and Portfolio Holding Disclosure requirements.

This extensive regulatory agenda needs to be implemented and operationalised before any retirement income strategy can be meaningfully considered and developed. This is particularly relevant given the outcomes from the Your Super, Your Future performance tests and APRA Heatmaps may require trustees to undertake a review of their product portfolio and roadmap, which may have consequences more broadly for any existing retirement income products that they offer.

To provide trustees with greater opportunity to more carefully develop their retirement income strategy, we recommend that the Government defer implementation for 6 to 12 months, or at least allow for a transitional period, with the additional time ultimately benefiting members. This will also give trustees sufficient time to consider and understand future APRA guidance on the Retirement Income Covenant.

Furthermore, we encourage the Government to consider leveraging existing legislative frameworks as this would facilitate implementation of the Retirement Income Covenant at a time when the industry is experiencing substantial change.

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IOOF is supportive of policy settings that contribute to Australians having better retirement outcomes. To support trustees in developing a retirement income strategy clarification of how the current laws interact with the requirements under the proposed Retirement Income Covenant is important. Clearly defining the role and responsibilities of super trustees and advisers in providing support, guidance and advice is also crucial.

If you require any further information or would like to discuss any aspect of this submission, please contact Francine McMullen on francine.mcmullen@ioof.com.au.

Yours sincerely,

Mark Oliver
Chief Distribution Officer