Retirement Income Covenant Position Paper   19 July 2021.

'The Covenant will codify the requirements and obligations for superannuation trustees to improve retirement outcomes for individuals, while enabling choice and competition in the retirement phase.

Some personal experiences with Treasury, which suggest that you approach any of their intentions and propositions with a large caveat.

Case 1. Family and Community Services and Veterans Affairs (Legislative Amendment Income Streams) Bill 2004.

I apparently was the only person in this country, who was prepared to do something about Treasury's decision to restrict the Guarantee on Lifetime Income Streams to 10 years in lieu of the lesser of Life Expectancy or 20 years. Who knows why Treasury wanted to do this; was it because they formed an erroneous view based on flawed assumptions, that the longer guarantee period was likely to enhance an annuitant's social security benefits based on the non- assessable component or was it that AMP, at that stage, was the only organization offering a genuine Guaranteed Lifetime Annuity, which had hitherto provided for a guaranteed payment of income for the lesser of Life Expectancy or 20 Years. That was one way of course of bringing the leader back to the field.

With the assistance of my local MP, a meeting was arranged sometime in 2002 in Parliament House between myself, a 'bevy' of Treasury officials and Senator Kemp, the then Assistant Treasurer. I came away from that meeting in a state of disbelief and disenchantment, having witnessed a group of Treasury officials knowingly and deliberately misleading a Minister of the Crown, in order to justify their erroneous and flawed stance.

My persistence in respect of this patently unnecessary and inequitable decision orchestrated by Treasury officials, led me to a meeting with Senator Coonan, late in 2003, who had then become the Minister of Revenue and Assistant Treasurer. Senator Coonan was able to see through Treasury obfuscations, which finally led to the Government announcement that the Guarantee period for Lifetime Income Streams would be the lesser of Life Expectancy or20 Years. This was enshrined in the Act referred to above.

I came away from that experience asking myself why would these people, even in the knowledge that they were wrong, prefer to interfere so unnecessarily with the way of life of ordinary people merely looking for certainty and peace of mind

Case 2 Social Services Legislative Amendment(Defined Benefit Income Stream) Act 2015.

Why did Treasury knowingly and deliberately weaponize the then Minister for Social Security, the Hon Scott Morrison with the narrative that the Government was cracking down on a 'rort', which was allowing 48,000 superannuants on high incomes to effectively fly under the 'radar' under the Income Test for Pensioners and providing examples of Defined Benefit Pensioners on $120K per year but still being able to access the Age Pension.

Why did Treasury ignore their own figures, which showed that only 0.26% of the 48,000 had Defined Benefit Pensions of over $84,000 while 36,000 or 71% on Age Pension had Defined Benefit Pensions of less than $40,000 and even worse 66% or 28,000 had Defined Benefit Pensions of less than $30,000. These are Government figures.

How does Treasury, who are purporting to be concerned about equitable, sustainable lifestyle for retirees feel about being the architect of an 80 year old widow on a Defined Benefit Pension of $21,398 losing $298.84 pension per fortnight (actual case study).

Well done!

My meeting with Christian Porter who had become, the Minister for Social Security about this disgraceful piece of dishonest and 'legislative overkill was unsuccessful. Not surprisingly , whilst acknowledging in his office that, on the basis of my submission, he now understands what this is all about, the Minister was comfortable in relying on Treasury advice.

It is my opinion that the Retirement Income Covenant proposal is merely a 'camouflage' for Treasury's obsession with their perceived evil of Bequests and for Australians daring to have the sheer audacity to leave assets to their children.

How extraordinary is that your' alter ego', is expressing concern about how the older generation is contributing to or is the cause of the parlous state of the younger generation.

Is it not therefore a good thing for the older generation to contribute to the welfare of their children by assisting in home purchases or perhaps giving them the ability to make non concessional super contributions either in life or death. There is already a superannuation death tax.

We are a 'cradle to grave 'society. This is part of our freedom and our way of life and the thought of the confiscation of one's super assets into the hands of Trustees of Super funds, who will determine how much will be paid, for how long, what amount they may be able to access , how many times they might be able to 'go to the well' so to speak and ultimately the forfeiture of their funds on death, risks bringing an end to the superannuation 'pillar of support '' as we now know it.

This would be particularly the case, in my view, within our most wonderful 'ethnic'communities, whose work contributions in this country, are beyond measurement. Getting between 'them and their kids' will not be tolerated by them.

You have formed the view that retirees are not living as well as they should be in in retirement and that presumably is evidenced by the view that retirees die with over 90% of the assets they had at retirement.

What comprises these assets, which are counted ?

Certainly, their house would not have lost value and their super is subject to draw down rules so how can superannuation be the reason for this wonderful achievement.

Implied in your criticism is that seeing it is alleged they are not spending down their super and because of the tax concessions, they are taking advantage of the Government.

It seems that because of tax concessions and employer contributions, the government believes that it has some over-arching control over how it should be spent.

There are 'draw down 'rules in place so where is the evidence that their super balances are the principal reason for successful asset retention? In addition, Employer Contributions have never been other than part of salary packaging arrangements and have never been an added benefit to the employee.

On the other hand, Government however is doing everything possible to improve super benefits, with increased contribution ability, abolishing the work test and in particular 'downsizer contributions.

Incidentally a 'Downsizer Contribution' results in more assets being assessable for Social Security purposes where for example $300,000 tied up in the non assessable house, becomes an assessable asset.

In your process of seemingly 'cherry picking 'various parts of the Retirement Income Review, it is appropriate to make reference to the following:-

"Retires generally have higher levels of satisfaction than working age people …….rates of financial stress generally decline as households approach and enter retirement'

The surveys suggest that current retirees :_

'Generally, feel happier than in working life … typically have the same level of satisfaction with their finances compared to just before retirement and are less financially stressed than employed people"

The question is then, who among you would consider they are in the position of passing judgement on a generation, who in terms of discipline, work ethic, work commitment, non- government assisted accomplishment and the ability to have successfully faced up to the vicissitudes of life, have set the gold standard.

Your response might be well, we are talking about the future here. Well, if that is the case your whole proposition, using current examples lacks substance.

The generation you are citing, educated themselves at their own cost, bought houses, paid off mortgages, educated and continue to support their children and yet you have arrived at the conclusion that this generation of retirees do not know how to look after themselves in retirement.

On the basis that that this generation of retirees have maintained their asset base, then excluding their home, have they not assisted in the overall task of funding our social security demands by either forfeiting their eligibility for Social Security benefits because of their asset base or having reduced benefits because of their asset base.

Continuing on the line of existing retirees retaining their asset base (and the inherent sin of that) if not withstanding the 'draw down ' rules, there has not been the dramatic reduction in Account Based Pension values, then might it be too much to expect that this could arguably be due to the competence, skill and client commitment of that incessant and constant government and regulator maligned group known as Financial Advisers. They have managed to structure sound and stable income streams with portfolios, which have been able to match in some instances the 'drawdown' requirements year to year by investment performance when expressed as a percentage of the capital base.

The retention of assets has never been, in my experience, the objective of retirees, but rather a 'non intended' co-incidental result and when that is achieved it should be applauded and not attacked as though those responsible have been guilty of some nefarious government defrauding act .

The reality is that there are no losers in such a scenario. Who would seriously suggest that assisting the next generation is not more likely to have them less dependent on government support or not dependent at all on such support.

The 'mantra' is that the Retirement Income Covenant will result in retirees having a better standard of living in retirement than what is presently enjoyed and they will have that income for life. Further that it will be the responsibility of the Trustees to provide that.

A better standard of living in retirement compared to what ------ where is the benchmark?

With respect, this is just 'follow the 'yellow brick road 'territory. It seems to matter little that no one, absolutely, no one knows how this will be achieved, but notwithstanding that rather important if not fundamental element, let us proceed down the 'yellow brick road' where the Trustees under government demands will become the 'Wizards of Oz'.

Treasury has with 'ex cathedra' exhortation demanded that Trustees create an income stream solution which will provide retirees a better standard of living in retirement than what presently exists. You simply cannot honestly represent that this will be the outcome and if any financial adviser made a representation, such as, if you became our client then by reason of our management of your funds, we will provide you with a better standard of living in retirement than what otherwise exists, they would be immediately disbarred for life.

In this whole period since 2018, where is one example of what this income stream would look like? Where are the 30 year cash flow projections based on, say CPI plus 3%, what happens to the capital in respect of a 25% decline in market value, where is the capital protection, if any, what happens in the event of death. Absolute silence apart from a 'fairytale promise'.

One would have thought that the market would have been 'off and running' had there been a genuine demand for such a product. There has not even been any significant increase in the take up of any form of Annuities in this period.

Where is this magic product?

The role of the Trustee:

On what basis can it be assumed that Trustees of large public funds have the acumen to either create or manage this notional product. Trustee Boards are made up of a diverse group. Many as a sinecure for past or continuing relationships, others because they represent different groups but few I would suspect because of their financial acumen.

Who are their masters and to whom do they perceive they owe their primary obligation?.

Historically one would be constrained to the view that retention of assets in the fund at all costs would be high on the list.

Is the scenario likely to be that Trustees, with a vested interest in retaining assets in their fund, will be relieved of the obligation to provide objective advice and then be able to hide behind the removal of impediments which would otherwise demand the right of a member to obtain independent advice ????

What exactly does the following mean?

Page 5 penultimate paragraph:

"The Government welcomes feedback from stakeholders on barriers to providing appropriate guidance that could prevent members from using their superannuation to take up retirement products that would be in their interest or otherwise inhibit trustees providing guidance to members".

Seemingly without the intimate knowledge of a member's full circumstances, which after all is the 'sine qua non' of being able to provide objective advice, the Trustee has been provided with a 'free pass' and an exoneration from the independent objective advice process. The Trustee not being precluded from providing guidance (what form does that take) then is able to suggest that their 'in house' product is simply in their interest. Who is the arbiter of that?

No best interest obligations here for Trustees!

The Non Sequiturs:

The foremost key observation from the Retirement Income Review Final Report is

"**the Australian Retirement income system is effective sound and broadly sustainable**

On Page 3, you purport to lament the fact that because of the complexities of making these multiple decisions and lack of advice that some retirees might default to a 'not fit for purpose' position. Perhaps there should be an acknowledgement that on the other hand, retirees, who have the benefit of sound financial advice seemingly fall into the category of those 70%, who are very comfortable and secure in their retirement.

Yet Page 5, previously referred to clearly threatens the availability of independent financial advice.

The fact is that good financial advisers, have been the key to our successful retirement regime, they are the only people 'in the chain', who sit opposite clients in boardrooms, plan and strategise with them and show a preparedness to travel through life with them.

Further, when it comes to trust, I would be absolutely confident that in the eyes of mature Australian retirees, Financial Advisers would rate far more highly than politicians, bureaucrats Journalists and Lawyers.

Not only is this Paper hiding behind an agenda to eliminate Bequests, a concept of pooled funding and the forfeiture of assets, but it is also seeking in a duplicitous manner to eliminate objective advice from the Retirement income picture and deliver the control and custody of retirement funds into the hands of large public superannuation entities in perpetuity.

You complain about the complexity of retirement planning yet here you add layers of confusion, which will not be resolved in the minds of retirees in the absence of independent, as compared with non--independent and unfettered 'intra fund' advice.

Now I fully expect that most of your other contributors will deal more kindly with the Position Paper, seeking advantage from the possibilities that they see, or how they can be advantaged by a contribution of praise or acquiescence --- 'the Stakeholders' in your words.

On the other hand, I simply have valued the privilege and accepted the commitment of looking after people in their lives, a role which I have executed in a most passionate manner.

I do not come ‘to the table’ with ‘forked tongue’ and I have no duplicitous agenda to prosecute.

I simply care for people and I abhor attempts to mislead them. That, is my ‘raison d’etre’

So the issues of when to retire, whether to keep money in super , how to invest savings , how to draw down savings both in and outside super, future expenditure and capital needs, the long term implications of these decisions and their complex interaction with other systems like tax , social security, aged care and housing (page 3**)**

fear not Retiree,

because your friendly Super Trustee, who knows nothing really of your personal circumstances and does not care, is here to maximise your retirement income, manage risks to the sustainability and stability of your retirement income and provide you with some flexible???? access to savings (can I buy a car, can I buy a caravan, my daughters has had to move out suddenly can I help her please, can I go overseas?)

HALLELUJAH!

Final Words :

My background is probably irrelevant to you, however my working life has covered 10 years in an Attorney General’s Department, 21 years in a Law Practice and 36 years providing advice to people.

I suppose it could be said that this might have equipped me with a reasonably profound understanding of people, their attitudes, dispositions, hopes, dreams and expectations of our present older generation in particular, a group subject to a unique form of ‘elder abuse’ by various government instrumentalities, with this Paper no exception. In addition, I have become well used to the machinations of government bureaucracy.

My original ‘driver’ in my profession was to make superannuation available to the working class. I did not think that superannuation should be the ‘demesne ‘of only Public Servants, and employees of banks, insurance and large oil companies.

I enjoyed some interesting battles in trying to persuade employers that they should establish a superannuation plan for their employees------long before superannuation became compulsory.

I was also a ‘believer’ in Annuities of the capital guaranteed variety. Probably responsible for more than most, in having retirees embrace this income stream option. In contrast to the ‘lucky dip’ option now being propounded, here was certainty where the Annuitant could say to his partner and or children, even if a bus knocks me down tomorrow and kills me, this amount will be paid for the next 17.8 years, for example, and it will be indexed to the CPI. Holders of such Annuities had peace of mind, income stream certainty, not subject in any way to market or interest rate volatility and were prepared to trade off their purchase capital for the certainty provided by the guaranteed longevity of the arrangement, no matter what. Of course, to provide that guarantee requires significant investments in ‘long term bonds’ to support the guarantee, which in turn affects investment returns, which are now subject to a ‘scoreboard’ rating as the quintessential determinant of performance. Unless of course you can simply dial up a return because you do not have to value your unlisted assets.

It is a sad reflection of where we are, that an educated, responsible and rational 81 year old, not lacking in intellect, has come to the view that in making this submission, one should do so in a semi anonymous way. This is not done in a flippant manner or out of disrespect, however the vindictive 'reign of terror' being conducted by Government and their Regulatory arms on Financial Advisers, without good cause or bonafides, demands a prudent 'self- preservation' approach.

What an indictment!

So for the time being:-

Max

0408 649 907

maxieludo@gmail.com