

SUBMISSION

Submission to Treasury on the *Retirement Income Covenant: Position Paper*

10 August 2021

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Via email: superannuation@treasury.gov.au

10 August 2021

Dear Sir/Madam,

Retirement Income Covenant: Position Paper

The Association of Superannuation Funds of Australia (ASFA) is writing in response to your consultation on the Retirement Income Covenant Position Paper (Paper) released for feedback and comment on 19 July 2021.

About ASFA

ASFA is a nonprofit, non-political national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$3 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing over 90 per cent of the 16 million Australians with superannuation.

GENERAL COMMENTS

1. Retirement income covenant

ASFA supports the objective of improving the retirement incomes of members and of legislating a retirement income covenant.

It should be acknowledged, however, that while trustees can provide information, products, and tools to their members, ultimately members' income in retirement is a result of one or more decisions made by each member, including the impact of tax and social security, as well as aged care and housing needs.

Accordingly, members will need to be provided with appropriate information and tools with respect to their broader circumstances in order for them to maximise their income in retirement.

2. Importance of being principles based

ASFA member organisations strongly support the retirement income covenant being principles-based. Accordingly, it is very important that neither the legislation nor the guidance becomes prescriptive.

3. Implementation

The retirement income covenant is a positive step.

The capacity of the covenant to achieve its stated objectives will be greatly aided by measures to address some of the challenges faced by trustees in implementing a retirement income strategy for their fund, in particular:

- the availability of data about members
- the need for government to facilitate appropriate guidance processes, including through reforms to the regulatory framework surrounding advice.

3.1. Availability of data

The proposed Retirement Income Strategy is based on the view that trustees should identify and recognise the retirement income needs of members.

The data currently held by trustees with respect to their members is that which is necessary for them to manage the fund and administer members' benefits.

ASFA members have suggested that there is a need for government to support the industry in gathering more data on its members, including considering the current legislative constraints on this occurring.

3.2. Provision of advice and guidance

If there is one time in their life when financial guidance and advice is especially helpful to members it is when they are approaching retirement.

There are, however, barriers to the trustee's provision of guidance that will need to be addressed.

Accordingly, the Quality of Advice Review, to be performed in 2022, should have as a focus facilitating the provision of guidance to consumers who are approaching, or in, retirement.

Given a proportion of members do not, or will not, seek financial advice, providing guidance through such tools as calculators and projections can be extremely useful. Accordingly, there would be merit in the Quality of Advice Review including the provision of projections and calculators as part of trustee guidance.

4. Commencement date

The proposed commencement date is 1 July 2022.

ASFA members are supportive of the commencement date and consider that swift passage through Parliament, and timely provision of APRA guidance, will be important to enable trustees to prepare.

Members have indicated it would be helpful to have clarification in the Explanatory Memorandum that, while the retirement income strategy may need to be developed by 1 July 2022, the components of the strategy do not all need to be implemented at this time.

SPECIFIC COMMENTS

ASFA supports legislating the retirement income covenant and trustee developing a retirement income strategy for the members of their fund.

We have some observations about specific matters raised in the Paper, that are outlined in the Specific Comments section of the submission.

These observations generally are with respect to the implementation of the covenant, in particular the use of data and provision of guidance, and ensuring the regulatory regime is principles based.

Should you have any queries or comments in relation to the content of our submission, please contact me on (03) 9225 4021 or via email to fgalbraith@superannuation.asn.au.

Yours sincerely



Fiona Galbraith
Director, Policy

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Specific comments on the Position Paper

1. 'Nest egg' framing of superannuation

The Paper states

'The 'nest egg' framing of superannuation compounds the complexities around deciding how to manage their superannuation in retirement. Partly because they have only ever been primed to save as large a lump sum as possible, retirees struggle with the concept that superannuation is to be consumed to fund their retirement'.¹

The accrual of a defined pension benefit, as opposed to the accumulation of a lump sum, was one of the significant advantages of defined benefits schemes.

Given the preponderance of accumulation funds, one possibility to mitigate the 'nest-egg' framing of super would be to mandate the projection of income stream on members' annual benefit statements.

Recommendation 1

The projection of income stream on members' annual benefit statements should be mandated, once the Quality of Advice Review has been completed.

2. Calculators

Calculators are an extremely useful tool for members.

Calculators are able to illustrate to members the implications of key risks on retirement outcomes. Ideally they should include the illustration of lifetime retirement income streams alongside projections of income from account-based pensions to ensure that they reflect a range of retirement strategies/solutions available to members.

Given this, consideration could be given to reviewing the regulatory framework to enable trustees to be able to make calculators available to assist members in retirement.

3. Guidance generally

The scope of the Quality of Advice Review should include the issues of projections on annual member benefit statements and the provision of calculators.

This should include a holistic review of the assumptions to be used in the provision of all forms of guidance and advice, including projections and calculators, to ensure

- there is a common set of assumptions used across all guidance
- that the assumptions do not result in potentially misleading outcomes.

The Government should work with industry to address these issues. ASFA would be happy to coordinate an industry working group to work with Government on this.

Recommendation 2

The scope of the Quality of Advice Review should include the issues of projections on annual member benefit statements, as per recommendation 1, and the provision of calculators.

Recommendation 3

This should include a holistic review of the assumptions to be used on the provision of all forms of guidance and advice.

Recommendation 4

The Government should work with industry to address these issues.

¹ *Ibid*

4. Greater confidence to spend superannuation in retirement

The Paper observes that:

*‘People could have a higher standard of living in retirement if they had greater confidence to spend their super’.*²

Planning for retirement can involve provisioning for a period of some 20 to 30 years, or even longer, which serves to exacerbate any uncertainties about the future.

Trustees have a role to play here in improving members’ understanding and management of these risks, while the Government could address some of the factors that detrimentally affect members’ confidence, such as changes to superannuation, the age pension, residential aged care, and healthcare.

4.1 Barriers to new products have already been removed

The Paper notes that

*‘The Government has already legislated to remove barriers to the development of innovative retirement income products through changes to the tax treatment and the social security means test’.*³

ASFA members are appreciative of the Government removing the barriers to longevity products.

Any development of new products would need to be in the members’ best financial interests. In addition, trustees will need to determine how best to integrate the Design and Distribution Obligations with their implementation of the retirement income strategy of the fund, including the role of the Target Market Determination process.

Without the ability to deliver personalised factual information and guidance, and without access to appropriate member data, it may prove difficult for funds to develop new products or guide members towards existing ones. There may be a need to develop ‘safe harbours’, with appropriate member protections, to enable trustees to develop and deliver guidance on products and other solutions.

5. Appropriate guidance

5.1 Barriers to providing appropriate guidance

The main barrier to providing appropriate guidance and assistance to members are the current requirements and obligations surrounding ‘personal financial advice’.

For any guidance to be useful it would need to be take into consideration the member’s objectives, financial situation or needs. This means that any such guidance is likely to be considered to be personal financial advice, including where a reasonable person may expect the guidance to have considered one or more of these things.

Any general advice or information given to members is unable to consider the members’ financial situation, need or objectives, which significantly limits the kind of guidance that can be provided and how useful it is to members in determining their retirement income strategy.

The Quality of Advice Review in 2022 should adopt a particular focus on enabling trustees to provide guidance to members approaching, or in, retirement.

Recommendation 5

The Quality of Advice Review in 2022 should adopt a particular focus on enabling trustees to provide guidance to members approaching, or in, retirement.

² Op cit, Page 4

5.2 Access to affordable advice

The Paper states

*‘there are concerns regarding current laws and regulations governing guidance. These concerns, combined with barriers to seeking advice such as cost and lack of trust, can make it hard for people to make well-informed decisions about their retirement income’.*⁴

Given the complexities involved ideally a member should have access to personal financial advice.

Access to affordable advice has the potential to significantly improve a member’s income in retirement.

Given this, there would be benefit in the Quality of Advice Review examining the potential role of intra-fund advice with respect to retirement income.

Recommendation 6

The Quality of Advice Review should examine the potential role of intra-fund advice with respect to retirement income.

In order to improve members’ retirement incomes, it is imperative that the issues surrounding the provision of guidance and advice be addressed.

6. Proposed retirement income strategy principles

6.1 Strategy objectives

The Paper states that:

‘The strategy should outline how the trustee intends to assist their members to achieve the following objectives:

- *maximise their retirement income (taking into account the Age Pension and any other relevant income support payments identified by the trustee paid under the Social Security Act 1991 or the Veterans Entitlements Act 1986)*
- *manage risks to the sustainability and stability of their income*
- *have some flexible access to savings during retirement’.*⁵

ASFA supports these as the objectives to be achieved by a retirement income strategy.

7. What does a trustee retirement income strategy look like?

The Paper states that:

‘In effect, the strategy is a strategic document developed by the trustee that:

- *identifies and recognises the retirement income needs of the members of the fund; and*
- *presents a plan to build the fund’s capacity and capability to service those needs’.*

*The retirement income needs of members, and the plan to service those needs, may be different from fund to fund, or from cohort to cohort within a fund. There is significant flexibility for trustees to identify the particular needs of their members and develop a retirement income strategy that is suited to those particular needs’.*⁶

ASFA member appreciate the flexibility to develop a retirement income strategy that is suited to the particular retirement income needs of their members.

⁴ *Ibid*

⁵ *Ibid*

⁶ *Op cit, Page 7*

The retirement income needs of a member are a function of a complex interaction between different factors, including age at retirement; likely life expectancy; age at death; relationship status; financial dependants; home ownership; assets; income from other sources; debt and likely level of expenditure.

It can be difficult for the trustee to be able to identify the particular retirement needs of their members, as this is a function of personal information that would be provided to a financial adviser but largely is unknown to the trustee, as it does not relate to the members' superannuation.

To enable trustees to form a general picture of some of these factors across the Australian population, consideration should be given to enabling trustees to have access to ATO and Centrelink data, on a de-identified basis.

Consideration could also be given to expanding the HILDA data collection survey to include people over age 65, to provide a richer source of data for trustees to draw upon.

Recommendation 7

Consideration should be given to enabling trustees to have access to ATO and Centrelink data, on a de-identified, anonymous, basis.

Recommendation 8

Consideration could be given to expanding the HILDA data collection survey to include people over age 65.

Having access to more data will better inform trustees to be able to respond strategically.

With some of these factors a material difference from 'average' can materially alter a member's income needs in retirement and so there may be limits to the extent to which trustee can identify members' retirement needs with any degree of precision.

7.1 APRA Guidance

The Paper states that:

'APRA will publish guidance on how trustees can meet the retirement income strategy requirement consistent with the approach taken to guidance for other strategies required by the Superannuation Industry (Supervision) Act 1993'.⁷

It would be extremely useful if APRA were able to release draft guidance as soon as practicable, to assist the industry in preparing for the mooted 1 July 2022 commencement date.

Recommendation 9

APRA should release draft guidance as soon as practicable to assist trustees.

8. How is a trustee to determine cohorts of members

The Paper states that:

'For larger funds, it is anticipated that trustees will consider structuring their retirement income strategy for cohorts of their members. Different approaches may be required for different cohorts when a fund has a membership with diverse needs.'

Trustees are already expected to understand their membership composition and construct cohorts of members under APRA Prudential Standard SPS515 Strategic Planning and Member Outcomes'.⁸

⁷ Ibid

⁸ Op cit, Page 9

ASFA supports trustees structuring their retirement income strategy for cohorts of their members.

It will be helpful for trustees to construct cohorts of members but if the cohorts are based on matters other than those known to the trustee, such as age, gender and balance in the fund, the trustee will not necessarily be able to identify which members fall into which cohort with a high degree of confidence.

8.1 Accumulation phase versus retirement phase

When it comes to trustees understanding the membership composition and constructing cohorts of members there is a difference between the accumulation phase and the retirement phase.

In the accumulation phase the desired outcome for members is to maximise the amount of retirement benefit they accumulate, while balancing the protection afforded through the provision of insured benefits.

In the retirement phase each member will have different objectives, financial situations and needs - it is the combined effect of these that determine an appropriate outcome for each member.

This is recognised in the Paper with the need to balance the three retirement income objectives. There could be two members in the fund – the same age, gender, and similar account balance – whose personal circumstances mean that their optimal retirement income strategies differ significantly.

8.2 Relevant factors to identify meaningful cohorts

The Paper states that:

‘The factors used to identify cohorts of their members ... could include consideration of:

- *the size of a member’s superannuation balance*
- *whether a member is expected to receive a full, part- or nil-rate Age Pension at retirement*
- *whether a member is partnered or single*
- *whether a member owns their own home outright, owns their home with a mortgage, or is renting at retirement;*
- *the age a member retires and/or starts to draw down from their superannuation’.*⁹

We agree these are relevant and appropriate factors to take into consideration when determining a retirement income strategy.

The trustee will only be aware of the size of member’s balance in the fund, but not necessarily the member’s total super balance, and when a member has started to draw down from their super in the fund.

Generally, the trustee will not be aware if the members of the fund have super in another fund; how much Age Pension they are expected to receive; whether members are partnered and whether they own their home, have a mortgage or are renting.

8.3 Examples of cohorts

The Paper provides an example that:

*‘The trustee may determine that the retirement income strategy needs to be different for those who receive a full, part- or nil-rate of Age Pension at retirement. The trustee could determine how these cohorts are constructed using relevant Age Pension policy parameters’.*¹⁰

When it comes to the relevant Age Pension policy parameters, while the trustee will know members’ age, gender, and balance in the fund, generally they will not know members’ relationship status, other income, or assets.

⁹ *Ibid*

¹⁰ *Ibid*

Give the relevant Age Pension policy parameters are universal, the government could develop information, guidance and tools which could be made available on a public website, as well as used by super funds, to assist the Full Age Pension and Part Age Pension cohorts.

9. Retirement income – income support entitlements

The Paper states:

*‘The main income support entitlement relevant to developing a retirement income strategy is the Age Pension. However, depending on the fund’s membership, consideration of other income support payments by the trustee may be appropriate, such as the Disability Support Pension, Carer Payment, JobSeeker Payment and the Service Pension’.*¹¹

We agree the main income support entitlement relevant to developing a retirement income strategy is the Age Pension.

Given the trustee would have little information about other income support payments to which their fund’s membership may be entitled, it is unclear how a trustee would consider other income support payments when developing a retirement income strategy for their fund.

10. Trustees need to consider Age Pension eligibility in generality

The Paper states that:

*‘There are a range of factors that determine a person’s Age Pension eligibility that are not visible to trustees’.*¹²

This is an accurate and important statement.

10.1 Collecting information from members

The Paper goes on to state:

*‘in considering Age Pension eligibility for the strategy it is reasonable to expect trustees to either collect information from their members, or make informed assumptions about their members’ circumstances, to estimate their potential Age Pension entitlement for the purposes of developing a retirement income strategy’.*¹³

We query the statement that *‘it is reasonable to expect trustees to ... collect information from their members ... to estimate their potential Age Pension entitlement’.*

This information is personal and sensitive and, while it is information that would be provided by a member when receiving financial advice, it may not be appropriate for a trustee to collect this information from its members generally in order to develop a fund level retirement income strategy.

10.2 Member surveys and publicly available data

The Paper then states with respect to member’s assessable income and assets, home ownership and coupled status:

‘To identify their members’ other assessable assets and income, trustees could undertake member surveys, or use publicly available data (such as the Australian Bureau of Statistics’ Survey of Income and Housing, the Census, or the Household and Labour Dynamics of Australia Survey) to estimate the general patterns of their members’ assets and income ...

A trustee could survey their members or use publicly available data to determine whether there are a significant number of their members who are renting at in retirement [sic] ...

¹¹ *Op cit*, Page 10

¹² *Ibid*

¹³ *Ibid*

A trustee could survey their members or use publicly available data to determine whether their members are likely to be a member of a couple, and the assets and income of the other member of the couple'.¹⁴

While surveys may provide some useful data, we query the extent to which trustees could use publicly available data to estimate the income and assets, homeownership, and couple status of the members of their fund, or the assets and incomes of the other member of a couple.

Similarly, we query how the Age Pension rates and means test settings from Services Australia, and publicly available retirement calculators, will enable the trustee to consider the Age Pension eligibility of its members as a whole.

10.3 Transition from broad demographic data to actual member data

The Paper then states:

'While the use of broad demographic data to determine Age Pension eligibility is sufficient, trustees should aim to transition to using actual data on their membership where available to improve the accuracy of their estimations'.¹⁵

We query the extent to which it would be appropriate for the trustee to collect and store extended demographic data on their membership if this is not necessary for them to manage the fund and administer the members' benefits.

10.4 Other sources of income in retirement

The Paper then goes on to state:

'Trustees are not required to consider other sources of income their members may have in retirement, such as income from other superannuation funds, investments, or employment, when formulating their strategy. Should they decide to factor other income sources into their strategy, a trustee could obtain information on these other sources of income by surveying their members, or by making informed assumptions from publicly available data'.¹⁶

This appears to be at odds with the suggested requirement that trustees need to consider members' Age Pension eligibility.

11. Retirement income strategy objectives

11.1 Three retirement income strategy objectives

ASFA supports the three retirement income strategy objectives.

Regarding the third objective, we query the extent to which trustees could use publicly available data to estimate the savings and assets of their members to determine their likely need to access super savings.

11.2 Balancing the objectives

Key to achieving the overall objective – of improving members' income in retirement – will be the balancing of the three objectives.

The Paper states that:

'How the objectives are balanced is at the discretion of the trustee. An appropriate balance will depend on the characteristics of the members for whom the strategy is constructed. The trustee is best placed to know these characteristics and develop a strategy that accommodates them'.¹⁷

¹⁴ *Ibid*

¹⁵ *Op cit, Page 11*

¹⁶ *Ibid*

¹⁷ *Ibid*

We agree that an appropriate balance between the three objectives will depend on the characteristics of the member for whom a retirement income strategy is constructed.

We query, however, that *'the trustee is best placed to know these characteristics'* of the member – it is the individual themselves who knows these characteristics. The role of the trustee's retirement income strategy is to provide guidance and support to the members to assist them, given the characteristics of the member, to develop a strategy that balances the three objectives and accommodates their characteristics.

The Paper then states:

'When balancing the three objectives, trustees should identify how their proposed approach to assisting their members manage the risks to the sustainability and stability of their retirement income, and provide them with some flexible access to savings, would increase or decrease the retirement income of their members in generality'.¹⁸

We agree with this statement – the role of trustees is *to assist... their members [to] manage the risks to the sustainability and stability of their retirement income*. Ultimately it is the member who manages the risks to the sustainability and stability of their retirement income.

11.3 Examples of identifying the trade-offs between objectives

It is telling that both examples of a trustee identifying the trade-offs between objectives involve a trustee developing a retirement income product, as it is in the development of a new retirement income product where the trade-offs between objectives is most likely to occur.

The Paper gives an example that:

'A trustee proposes to assist their members to manage market risk by developing a retirement income product that uses a bucketing investment strategy. The trustee identifies that this product may increase the overall retirement income of their members who choose the investment strategy, depending on potential future investment returns, as it allows members to have greater exposure to growth assets while still having confidence they will not have to sell assets at a disadvantageous time'.¹⁹

The example does not define what is the bucketing investment strategy and states it *'may increase the overall retirement income of their members ... as it allows members to have greater exposure to growth assets'* without identifying what it is being compared against, for example an account-based pension, which could also provide exposure to growth assets.

12. Assisting members to balance the retirement income objectives

The Paper states that:

'The assistance provided by the trustee is at their discretion and should be informed by the particular needs of their membership. While some trustees may opt to develop their own retirement income solutions, trustees can consider whether directing members to any products or guidance materials offered by third-party providers or Government (such as the MoneySmart website) is appropriate for their members'.²⁰

We agree that the assistance could consist of trustees directing member to guidance materials offered by third party providers or government.

When it comes to directing members to particular products, however, any assistance provided by the trustee will need to ensure that they do not breach the prohibition on the hawking of financial products.

¹⁸ *Ibid*

¹⁹ *Op cit, Page 14*

²⁰ *Op cit, Page 15*

Given this, it may be worth reviewing the anti-hawking measures to ensure they do not act as a barrier to trustees proactively implementing their retirement income strategy.

13. Reviewing the strategy

13.1 Reviewing fund performance under the retirement income strategy

The Paper states that:

‘Trustees should review their fund’s performance against their retirement income strategy on at least an annual basis. ... This review of performance will involve an assessment of ... :

- *whether this assistance has been effective in meeting the objectives outlined in the strategy; and*
- *where assistance has not been effective, whether changes are required in order to meet the objectives outlined in the strategy’.*²¹

We support regularly reviewing the retirement income strategy.

When it comes to reviewing fund performance, in circumstances where the trustee’s retirement income strategy includes directing members to products or guidance materials offered by third-party providers or Government, we note the trustee may not be in a position to assess how effective this assistance has been.

²¹ *Ibid*