9 February 2024

Lynn Kelly
First Assistant Secretary
Retirement Advice and Investment Division
Treasury
Langton Cres
Parkes ACT 2600
Via email: retirement@treasury.gov.au

Dear Ms Kelly,

RE: Retirement Phase of Superannuation – Discussion Paper

The FSC welcomes the opportunity to make comment on the discussion paper on the retirement phase of superannuation. The FSC believes that getting the settings right for the retirement phase is just as important as getting them right for the accumulation phase.

The focus of the retirement phase should be on assisting customers into products that meet their individual needs and goals so they are utilising all three pillars of the retirement income system. This should be done by providing them with the tools necessary to make informed and confident decisions, rather than by taking away their control and agency through compelling them. The FSC believes there is a high level of distrust among the public in relation to a Government-led product design and as such, the take up of a standardised product would not be high.

Attached to this letter, the FSC has made a more fulsome submission however, there are a few matters we wish to highlight.

About the Financial Services Council

The FSC is a peak body which sets mandatory Standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services. Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, and financial advice licensees.

The financial services industry is responsible for investing more than $3 trillion on behalf of over 15.6 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is one of the largest pools of managed funds in the world.

Defaulting Into Retirement Products Risks Consumer Harms

The FSC is not supportive of defaulting customers into a retirement product, whether that product is standardised or not. There are many reasons, which are more fully explored in the FSC's submission but include:

- Defaulting assumes that there is some sort of archetype of retired customers where a single, one-size-fits-all approach is suitable and that is simply not the case.
- Defaulting can have adverse effects on customers retirement income if they are placed into a product that is not suitable for them.
- Defaulting may also have an impact on competition within the sector, discouraging contact

with customers, product innovation and good customer service.

- Defaulting does not improve financial literacy outcomes because it discourages engagement with the superannuation system.
- Defaulting may lock individuals into products that don't work for them for a long time, potentially forever; and
- Defaulting has technical implications for funds including that a fund simply may not know the bank account details that the customer wishes to have their payments sent to.

Standardised Products

The FSC is not supportive of any standardised or suggested product. As previously noted, a standardised product assumes that retirement can be approached with a one-size-fits-all mentality, and this is not the case.

Each retiree's income needs will be different depending on their circumstances and standardisation creates a risk that people will be placed into products that don't meet their needs. This is especially true because people may assume, much like the current issue with minimum drawdowns, that a Government standard is a recommended product.

Further, the FSC does not believe take up of a standardised product would be high, owing to the fact consumer sentiment and trust for Government designed products does not appear to be high. As such, superannuation funds could spend significant resources creating products that meet the Government standard but that consumers do not ultimately want.

The FSC is concerned that any move to create a standardised product may result in poor consumer outcomes, particularly when combined with a default retirement scheme. Further, it may stifle innovation and competition by encouraging funds to create cookie cutter products.

Providing Better Guidance and Advice is Paramount

The FSC is supportive of any moves by Government that will help to decrease the complexity of the system and improve financial literacy. One of the best ways to do this is to provide more opportunities for education, guidance, and access to financial advice.

Both Government and industry have a role to play in improving access to these measures however, superannuation funds require more certainty about what advice and guidance they can provide. This can be achieved by implementing the recommendations of the Quality of Advice Review as well as encouraging regulators to provide more guidance in relation to the implementation of the Retirement Income Covenant and other regulatory matters such as the provision of calculators.

Retirement Products Are Inherently Non-Comparable Through a Performance Test

The FSC is not supportive of introducing a performance test on retirement products. Retirement products are inherently non-comparable because they offer such a wide variety of benefits. The results of any performance test may unreasonably influence people to make rash decisions about their retirement products, which will lead to poor consumer outcomes if they switch away from a product that suited their needs (and perhaps they had previously sought financial advice on) into a product that more closely hugged a general benchmark.

Stability of Regulatory Settings

Constant regulatory changes within the superannuation system creates complexity and leads to uncertainty among both customers and superannuation funds. This also hinders the take up of products as customers do not have certainty that the current settings will continue to apply in the long term, leading to poor, and sometimes unjust outcomes.

One way to reduce the complexity in the retirement income system is to get the right settings in place and then allow it to flourish. Continual tinkering at the edges of regulation places a significant resource burden on industry and creates confusion and uncertainty for consumers, particularly those who are heading into retirement.

In its submission, the FSC provides several tangible examples of how regulatory certainty can be provided, including creating a regulatory grid to outline upcoming regulatory changes and ensuring the grandfathering of regulatory settings for existing products.

Further Consultation Is Necessary

The FSC and its members welcome the start of the conversation on the future of the retirement system. The proposals within the paper require deep consideration and further consultation following the closure of this consultation.

The FSC encourages Government to communicate with industry about its expected timeframes for future work and continue to collaborate to ensure the best outcomes for consumers.

If you have any questions about our response, please do not hesitate to contact me.

Yours sincerely,

Kirsten Samuels
Policy Director, Superannuation and Innovation

1.0 Summary of Recommendations

1 Government clearly defines the problem it is trying to solve through the Discussion Paper before implementing any further regulatory change.

2 Government to carefully consider the implementation timelines to ensure that they are optimised across the various reform packages happening in the superannuation sector and communicate these timelines to industry as soon as practicable.

3 Government should provide the tools for people to utilise the pillars of the retirement system in a way that is most efficient and suitable for their personal circumstances and goals, rather than compel them through defaulting or standardised products.

4 Government encourages APRA and ASIC to provide clarity to superannuation funds about how they can best implement the Retirement Income Covenant in the current legislative context, including providing practical examples and case studies.

5 The Government should work to increase financial literacy as a key pillar of improving retirement outcomes to ensure that Australians are making the most of their superannuation throughout their lifetime.

6 Government allows the superannuation system to flourish with certainty by providing stability in the policy settings following several years of significant change.

7 Government provides access to important Government held data, such as Age Pension eligibility and assets and income, in a secure and consumer led way.

8 Government provides a pathway for superannuation funds to more easily become accredited data recipients under the CDR scheme that is protected through a consent model and primary purpose safeguards.

9 Government provides the ability for superannuation funds to assist customers with determining their eligibility for the Age Pension as well as assisting customers to apply.

10 The FSC is supportive of allowing for nudge communications from the superannuation fund to its customers, provided there was an appropriate definition as to what that communication could entail.

11 Government reviews anti-hawking legislation and provide greater clarity to superannuation funds about their ability to provide guidance and nudges in the context of the hawking prohibition.

12 The FSC is not supportive of defaulting people into retirement products, whether the product is the standardised product recommended in the paper or not.

13 The Government continues to implement the recommendations of the Quality of Advice Review that provide clarity to superannuation funds about their ability to provide financial advice to their customers.

14 The Retirement Income Covenant should not be extended to self-managed superannuation funds or small APRA regulated funds.

15 Government allows industry time to create a standardised product disclosure framework, rather than implementing a Government led version, to ensure it is appropriate, and doesn't stifle innovation.

16 The FSC is not supportive of the creation of a performance test for retirement products due to the wide range of benefits and offerings across the entire product pool, which make them inherently non-comparable.

17 Government reduces regulatory barriers that prevent the wind up of legacy products and prevent customers being moved to alternative and more suitable arrangements easily.

18 Government considers the impact of means testing for the Age Pension settings that are heavily skewed against lifetime income streams on the take up of those products.

19 Government provides certainty to customers of lifetime products by entrenching grandfathering of regulatory settings into any new regulatory changes.

20 Government considers amending the capital requirements that apply to lifetime income products to adequately balance the cost and the risks.

21 Government considers extending the financial claims scheme to retirement income products to provide a level of certainty to consumers and increase confidence in the take up of lifetime income products.

22 The FSC is not supportive of the introduction of any standardised or suggested product. Any such product may have the impact of being seen as a government recommended “best product” and may have negative consequences on consumers.

2.0 The Problem To Solve

Ensuring that the regulatory settings are correct within the superannuation system, across the lifecycle, is of paramount importance. The discussion paper on the Retirement Phase of Superannuation (**the Discussion Paper**) outlines a number of measures that Government is considering in order to make improvements to the system, however, it is not entirely clear what problem the Government is trying to address.

There are certainly many changes that can be made to the retirement system to make it easier for people to make choices about their retirement and for superannuation funds to create innovative products that meet the needs of their customers. FSC superannuation fund members are also working hard to create and implement retirement income strategies under the Retirement Income Covenant (**RIC**).

From the FSC's perspective, the Government should be seeking to create a retirement system that is innovative, with flexibility for superannuation funds to create products that serve their customers. Government should also work to provide the tools necessary for people to make informed choices about their superannuation from their first job, through to retirement, emphasising choice and encouraging engagement.

The FSC agrees with the notion that improving people's perception of superannuation, so that they view it as a source of retirement income, and not a nest egg, may improve people's relationship with their superannuation and therefore improve retirement outcomes. That said, it is also true that a person might not wish to draw down more than the minimum on their superannuation because this meets their financial needs. Choice of how a person uses their superannuation is key.

The FSC submits that the Government should be clear on the problem statement before implementing any further changes.

Recommendation 1

Government clearly define the problem it is trying to solve through the Discussion Paper before implementing any further regulatory change.

2.1 Overarching Principles

When considering the response to the Discussion Paper, the FSC has considered several high-level principles:

1. Choice should be encouraged and at the forefront of policy decisions.

Consumer choice should always be at the centre of Australia's superannuation system, meaning choice of fund, choice of product, and choice of investment options. Not every person will choose to make an active choice, but choice should not be discouraged.

2. Superannuation should be used as a source of retirement income.

The proposed objective of superannuation (the legislation for which remains under debate in Parliament at the time of writing) points to the importance of preserving savings for retirement. The FSC agrees with the proposition that changes to the superannuation system should always remain focused on the ultimate goal of a dignified retirement.

3. ***Increasing financial literacy throughout the customer's lifecycle will support better outcomes.***

Part of the road to retirement requires an uplift in consumer financial literacy, and empowering people to engage more with their superannuation over their lifetime will ultimately create better outcomes at retirement.

4. ***The superannuation system should be simple, accessible, and stable.***

The superannuation system is inherently complex. The more assistance both superannuation funds and Government can provide to consumers to help demystify the system, the better. This includes Government providing a stable regulatory environment to ensure stability within the system.

5. ***There is no one-size fits all approach to superannuation.***

Every person has a variety of needs and circumstances that will make their financial and lifestyle position unique. This is true during the accumulation phase but is especially true in the retirement phase, when the decision a person makes, affects their quality of life. Default products are a one-size fits all approach and may lead to poor consumer outcomes if the wrong people are defaulted.

6. ***Defaulting will likely have adverse consequences when a person is placed in a product that is not appropriate for them.***

There is a significant risk of consumer harm if defaulting customers into retirement products without their knowledge became the industry norm. The Government should focus on providing people with the tools necessary to make confident decisions about their finances rather than focussing on a small number of totally disengaged customers.

7. ***A standardised approach to superannuation will have adverse impacts on product innovation and will ultimately not be good for consumers.***

Superannuation funds should be encouraged to view product creation with an innovative lens, creating solutions that are tailored to their customer base. Creating a standard product will stifle innovation by creating a product template that the lay person will assume is the default, and/or best product, simply because the Government has endorsed it.

3.0 The Impact of Good Retirement Product Settings

Australia's superannuation system is often considered to be world class. With a current asset pool of $3.5 trillion and the system projected to grow to almost $14 trillion by 2060,[1] it is important that the right settings are maintained to help Australia's population into retirement.

In early 2023, the FSC released its Roadmap for Australian Retirement Income Policy (**the Roadmap**) which advocated for a strong pipeline of policy change to help Australians move more efficiently into retirement. The Roadmap indicated the right settings include:

- Shifting the focus of superannuation towards retirement drawdown rather than a nest egg
- Removing inhibitors to creating a better retirement solutions market
- Addressing perceived impacts of interacting policy items including pension means tests.

Australians work hard for their retirement savings over the course of their working life and strong policy settings should give people the confidence to enjoy the highest standard of living after they retire.

3.1 The Current Context and Future Outlook

Currently, there are approximately 4.4 million retirees, enjoying retirement with the help of their superannuation balances and other retirement income sources. This number is expected to grow to 7.2M in the next decade.[2]

The overwhelming majority of assets are in pension type products (80.8% in 2022) and the take-up of other retirement products is low with just 19.1% utilising a lump sum payment, and 0.1% in annuities.[3] According to FSC research, this trend is expected to continue with take up of lump sum payments dropping to 13.7% in 2040 and 12% in 2060.[4] Annuity take up is expected to remain at 0.1% throughout that timeline.[5]

Of those retirees in pension products, most are only drawing down close to the minimum rate for their age group. This is expected to continue into the future, with the average 65-year-old withdrawing 6% in 2022, and 7% in 2040 and 2060.[6]

The current drawdown behaviour of retirees can, in some instances, leave a significant balance once the person dies. Although some may wish to leave a bequest to their estate, and this is a perfectly acceptable goal, retirees deserve access to services that will help them determine what is the optimal use of their funds (including leaving an inheritance if they so wish). With improvements to the retirement income system, there could be a significant increase in the rate of benefits paid out to retirees over the next several decades, increasing by $22.5 billion in 2040 and $42.4 billion in 2060.[7] Importantly, this result is predicated on more optimal drawdown of account based pensions, before any benefits that could arise from deferred income streams.

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[1] NMG Consulting. (n.d.). A roadmap for Australian Retirement Income Policy. NMG Consulting for the Financial Services Council. (Link) p. 12
[2] Ibid p. 9
[3] Ibid p.12
[4] Ibid
[5] Ibid
[6] Ibid
[7] Ibid p. 11

In 2022, 11% of the total benefits paid ($172.1 billion) were death benefits. Using the same analysis as above, changes to the retirement income policy settings will also affect the amount of money that could be exiting the system as a death benefit, decreasing by $5.7 billion in 2040 and $26.9 billion in 2060.[8]

Finally, access to advice is a major factor in planning for retirement but the vast majority of Australian retirees were not advised in 2022 (84 per cent).[9] In the next decade, this number, based on current settings, is only expected to marginally improve to 70 percent.[10] The FSC welcomes the Government's work implementing the recommendations of the Quality of Advice review (**QAR**), including the ability for superannuation funds to provide advice to their customers.

The Quality of Advice Review

It should be noted that Treasury's discussion paper is focussing on the future based on the current policy context. Given several recommendations of the QAR are in the process of being executed, it is important that any changes to retirement policy be considered appropriately in the context of a future where the QAR is implemented and impactful. This can be difficult to do because it is unknown how those reforms will ultimately impact customers.

While there are certainly measures that can be done now, separate to the QAR reforms, that will have an impact on retirement incomes, the FSC holds concerns about too much change too quickly, without due consideration of the impact on consumers and on superannuation funds.

The FSC asks Government to carefully consider the implementation timelines to ensure that they are optimised across the various reform packages happening in the sector and communicate these timelines to industry as soon as practicable.

Recommendation 2

Government to carefully consider the implementation timelines to ensure that they are optimised across the various reform packages happening in the superannuation sector and communicate these timelines to industry as soon as practicable.

[8] Ibid p. 11
[9] NMG Consulting. (n.d.). A roadmap for Australian Retirement Income Policy. NMG Consulting for the Financial Services Council. (Link) p.9
[10] Ibid

4.0 Supporting Members to Navigate Retirement Income

4.1 Consultation Questions

4.1.1 Please provide comments on the issues facing members identified in this section.

Complexity In the System

The Discussion Paper notes planning for retirement is inherently complex, and better tools, information, and guidance are needed to help retirees confidently make decisions.

One of the biggest issues with relation to navigation of retirement is the complexity of the system. Varying tax settings, means testing, as well as partial and full access to social security are some of the matters that create complexity. This is combined with the already difficult hurdle of the unknowns of retirement, particularly health and longevity related factors, and the complex aged care system, and means that retirees often struggle to know what to do to optimise their retirement funds.

While some of this complexity is removed with better access to financial advice, not every Australian will be advised, even with full implementation of the QAR. The FSC is supportive of Government taking measures to create services that help retirees navigate these issues, for free.

More information about suggested improvements to Government calculators and superannuation fund provided calculators can be found in Section 4.2.1.

In addition, Government should seek to consult widely with industry and the community in relation to how legislative and regulatory measures can be implemented to decrease the complexity of the system in a holistic way.

Access to Financial Advice

The FSC has welcomed moves by Government to increase access to financial advice, across the superannuation lifecycle. The cost of comprehensive financial advice has historically been prohibitively expensive for most retirees and the anti-hawking rules have made it difficult for superannuation funds to engage members on retirement products.

As noted above, the current level of retirees taking up financial advice stands at just under 16 per cent. Providing better access to financial advice is paramount and a key step towards this is in clarifying the ability of funds to provide advice to their customers.

Standardised Wording

Government has indicated that it would like to undertake work to standardise wording and descriptions about products and services to make it easier to navigate the retirement income system. While the FSC is supportive of measures that would make it easier on consumers to understand, it is important that any standardised wording is impartial and does not unduly influence consumers decisions.

Nest-Egg Mentality

The FSC agrees with the Discussion Paper’s proposition that many retirees avoid drawing down on their superannuation because they see it as a nest-egg, rather than a source of income and how this operates with other sources of retirement income. In its Roadmap, the FSC noted one of the best ways to reframe this for retirees was to define the system and customer success around metrics related to retirement and drawdown, and to shift superannuation fund reporting towards retirement estimates and drawdown choices. This shift in thinking reframes the goal of superannuation to remain focussed on retirement and adequate drawdown rates.

Another way to make retirement income more central to people's thinking in the accumulation phase would be to clarify superannuation funds ability to place estimates of retirement income, not just final balance, on statements and within estimate calculators and, in fact, require funds to do so in both the pre- and post-retirement phases. This will increase the focus on income in retirement for customers.

More information about potential changes to calculators can be found in section 4.2.1.

It should be noted that although this may impact some people negatively in retirement because they do not utilise their superannuation in an effective and efficient way, there are some circumstances where a person may choose to utilise the minimum drawdown due to their personal financial circumstances, and this is an acceptable outcome. For example, retirees may have other adequate sources of income outside of superannuation, or minimum drawdown requirements are all they need.

It should also be noted that it is acceptable for people to want to leave a bequest or inheritance when they die. For example a couple may arrange their finances in such a way that the surviving spouse relies on the bequest as their own retirement income.

The ultimate goal of the retirement system should be to have people utilise the pillars of the retirement system (age pension, superannuation, personal savings) in a way that is most efficient and suitable for their personal circumstances and goals. To do this, Government should provide them with the appropriate tools, including assisting superannuation funds to provide those tools, rather than use compulsion.

Recommendation 3

Government should provide the tools for people to utilise the pillars of the retirement system in a way that is most efficient and suitable for their personal circumstances and goals, rather than compel them through defaulting or standardised products.

Withdrawing at the Minimum

As previously stated, a significant amount of retirees are only withdrawing the minimum from their account-based pension. The FSC agrees with the Discussion Paper's proposition this is as a result of people assuming the default rate is the recommended or best rate. As noted above however, there are situations where the minimum drawdowns are the best fit for a particular consumer, or despite thinking that the default rate is the recommended rate, retirees may feel this is sufficient for their needs.

Many global pension schemes have positioned their systems as a minimum retirement income for life with flexibility for withdrawals above minimum to support higher standards of retirement living if a person has sufficient assets. For example the United Kingdom and Israel focus on flexibility above a minimum level of lifetime income, while Singapore and Hong Kong focus on a minimum level income requirement for life before flexibility is received. Conversely, Australia's system does not differentiate for consumers between the "minimum" (noting that the minimum drawdown rates are not in reference to a minimum level of lifetime income) and flexibility, and consumer understanding could be enhanced by implementing a similar concept across the system.

4.1.2 What actions are industry or other participants in the community taking to address the issues identified in this section?

FSC members are committed to implementing the requirements of the RIC. In their joint thematic review, APRA and ASIC noted that superannuation funds could be doing more to implement the requirements of the RIC. Specifically, the report commented on the disparate approach to advice and guidance that individual superannuation funds were taking. This ranged from not providing specific advice, encouraging their customers to get personal advice, and considering the ways to proactively inform members of the types of assistance that the superannuation fund has available.

The FSC has previously submitted that superannuation funds are limited in their abilities to assist customers into retirement and implement the RIC without the reforms of the QAR. However, APRA and ASIC have somewhat disagreed with this sentiment and noted that it is their belief that the RIC can be met within the current legislative settings.

The FSC has, therefore, sought further industry guidance from APRA and ASIC in relation to this, to give certainty to superannuation funds about how they may approach guidance without the implementation of the QAR. The FSC asks that Government encourage APRA and ASIC to continue working with industry and to provide clarity about how they can better implement the requirements of the RIC in the current legislative context.

Recommendation 4

Government encourage APRA and ASIC to provide clarity to superannuation funds about how they can best implement the Retirement Income Covenant in the current legislative context, including providing practical examples and case studies.

4.1.3 Of the approaches identified, what should be priorities and what risks should be considered as policy is developed? What other approaches, if any, should the Government consider?

As per the principles outlined above, the FSC believes that the Government should prioritise measures that encourage people to engage with their superannuation and increase their financial literacy. This is through the provision of guidance and clarifying rules for funds in relation to financial advice, so that they may do the same. Similarly, the Government should provide clarity to superannuation funds about their ability to engage their customers along the superannuation journey to nudge them to take action to ensure they are in the right product and receiving the right amount of income for their needs.

More information about the need for guidance, education, and communication is outlined below in section 4.2.5.

The Government should also prioritise better data sharing by allowing superannuation funds to more easily access important information about their customers, in a secure, customer led way. This includes allowing access to data held by the Department of Social Services (**DSS**) relating to the Age Pension and other social security payments, as well as tax data held by the Australian Tax Office (**ATO**).

More information about the needs for data can be found below in section 4.2.2.

The FSC and its members are not supportive of defaulting members into retirement income products. Retirement income is incredibly complex and should be tailored to a customer's needs. Defaulting suggests that there is a one-size fits all approach to retirement products when that is simply not the case. Allowing customers to be defaulted also discourages consumers from being engaged and may also create a disincentive for superannuation funds to engage their members. Defaulting may also cause consumer harm if people are defaulted into products that are ultimately not right for them.

The FSC is supportive of funds providing nudges to members to help engage them. This is distinct from defaulting a customer, which is not necessarily clear in the Discussion Paper. The FSC has outlined the key differences below. The FSC has outlined the key differences between defaulting and nudging in section 4.2.5.

It should be noted however, and as mentioned above, the impacts of the implementation of the QAR recommendations is unknown but should increase the amount of people who receive financial advice over their lifetime. There is potential for inconsistent or conflicting financial advice if it is received from both an independent adviser and from a superannuation fund, which is likely to create confusion for members and frustration for members and advisers alike. Therefore, to reduce these unintended consequences, the FSC believes that Trustees should be exempt from any obligations to provide information on retirement to their members if it is known to them that the member has a nominated financial adviser.

This would not exempt the Trustee from the obligation to provide non-advised members nearing retirement or in retirement with appropriate education and guidance to navigate retirement income.

4.2 Further Questions

4.2.1 What basic information do members most need to assist their understanding and simplify decision-making about retirement income?

ASIC's MoneySmart Retirement Planner Calculator

In order to make the best possible decisions, retirees require an understanding of the risks to their retirement income. At present, ASIC's Money Smart Retirement Planner Calculator is not optimised to consider all factors influencing a customer's retirement decisions. For example, it provides that all risks be ignored, requiring a fixed length of life, and fixed stable asset returns. This provides an unrealistic picture of outcomes and skews retirees to favour retirement products that do not adequately manage the risks. This is incongruent with the RIC which specifically requires that superannuation funds create strategies that manage expected risks such as longevity, investment, and inflation risks.

Superannuation Fund Calculators and Projections

ASIC provides relief to superannuation funds so that they may assist their members by providing superannuation calculators. The FSC submits however, that the rules around the provision of those calculators do not provide customers with a recommended product or a path or plan to enact a strategy, and therefore, the information remains of limited benefit.

While the FSC agrees with the policy intent to protect people from predatory product advertising, there are improvements that can be made to ASIC's guidance (**RG276**) which could make superannuation calculations more useful.

This includes providing certainty by expressly:

- allowing customers in the decumulation phase or over the age of 67 to be presented with retirement estimates.
- confirming trustees can name the specific investment option/s a customer is currently in

without this being considered promotion of a specific product. This will assist members to understand their current situation and do further research if necessary.

- allowing trustees to include projections in periodic statements or annual reports. These can be tailored to the individual or entirely generic graphs and charts.
- including the ability for customers to take action through the calculator once they have used an interactive retirement estimate to assess the effect of increased or reduced contributions, increased or reduced drawdowns and a change in investment options. RG276 should provide certainty to funds about the definition of promoting a financial product so that this can be achieved, subject to the appropriate disclaimers.
- permitting static retirement estimates to include the Age Pension, allowing superannuation funds to make and disclose reasonable assumptions about Age Pension benefits.
- allowing the provision of interactive forecasts to members who have not received contributions recently or who have a balance of less than $6,000, where the member has confirmed their details. Members with balances who have not contributed recently may have taken a career break or maternity leave and should not be disadvantaged by being unable to access such tools.

4.2.2 Where can government and industry reduce complexity in the retirement income system, and provide simpler consumer experiences?

Increased Financial Literacy

The FSC believes that both Government and industry have a role to play in reducing the complexity of the retirement system by providing appropriate education and guidance. Increasing the financial literacy of the whole population, including encouraging engagement with superannuation from school curriculum, onboarding, and all the way through to retirement, is paramount in improving balances in retirement.

The Household, Income, and Labour Dynamics in Australia (**HILDA**) Survey provides a measure of financial literacy amongst a sample of the Australian population. The 2022 results noted that there has been a slight decline in financial literacy since 2016 where the mean score (out of 5) for men fell from 4.1 to 4.0 and for women fell from 3.7 to 3.5.[11]

People born in non-English speaking countries and First Nations people are both more likely to have a score lower than the mean than those born in English speaking countries.[12] People who have completed a university degree are likely to have a higher mean score than those who completed high school, but those who completed high school are still more likely to have a higher score than those that did not complete high school.[13]

Interestingly, people in the retirement age bracket (65 and over) have a similar level of financial literacy as those in the 25-34 age bracket, with a mean score of 3.7. This is below the mean for those in the 35 – 44 age bracket (4.0) and the 45 – 54, and 55 – 64 age bracket (both 4.1).[14]

What this demonstrates is that there are significant differences in accessibility of financial education

[11] Melbourne Institute: Applied Economic & Social Research. (2022). *The Household, Income, and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 20.* The University of Melbourne. (Link) p. 64
[12] Ibid p. 65
[13] Ibid
[14] Ibid p. 64

across age, demographic, and educational background cohorts. Financial literacy has a significant impact on the decisions people make throughout their lifetime and, with regard to superannuation and retirement incomes, it affects matters such as the choice of both accumulation and retirement product and the purchasing of insurance.

Increased financial literacy should be a primary policy focus for Government, not just in relation to the retirement income system or superannuation settings but more generally. This includes encouraging people to more readily engage with their superannuation throughout the lifecycle to ensure that they are maximising their retirement balance and then using that balance effectively and efficiently into retirement.

Some suggested actions that could assist the population to improve their financial literacy include:

- providing regulatory certainty with regard to delivering financial literacy information resources with funds annual statements;
- enacting a mandatory unit in high school;
- utilising local council resources including running free courses at local libraries, particularly within and catered for culturally and linguistically diverse and vulnerable communities;
- further guidance from Government, perhaps delivered at tax time when consumers are most engaged with their finances;
- utilising existing financial institutions such as banks to provide counselling through a co-funding model; and
- co-funding with industry the provision of free webinars and local events.

Recommendation 5

The Government should work to increase financial literacy as a key pillar of improving retirement outcomes to ensure that Australians are making the most of their superannuation throughout their lifetime.

Stability in Superannuation Settings

As noted by the Discussion Paper, over the last several years there has been a significant amount of change to the superannuation system, especially focussed on the accumulation phase. This includes the introduction of MySuper default products, the Your Future Your Super (YFYS) package of reforms, including the performance test, downsizer contributions, the First Home Super Saver Scheme, changes to contribution eligibility rules, as well as proposed changes to tax settings for high balances. While these changes have in some ways improved outcomes for consumers, the raft of significant changes has led to considerable instability and increased complexity for both superannuation funds and their customers over the years.

One way to reduce the complexity in the retirement income system is to get the right settings in place and then allow it to flourish. Continual tinkering at the edges of regulation places a significant resource burden on industry and creates confusion and uncertainty for consumers, particularly those who are heading into retirement.

This is not to say that where a policy or regulatory setting is having an unintended consequence it should not be fixed, but rather, Government should focus on working with industry to get the settings right in the first instance so that further policy change is not required.

It is acknowledged that the Government has sought to give certainty on future superannuation settings through the legislation of an objective of superannuation. While the FSC supports this, it submits that this is only a first general step and there are many other ways in which stability of settings could be provided.

The FSC, along with several other financial services peak bodies have long called for, through the Finance Industry Council of Australia (**FICA**), a regulatory grid, similar to that provided in other jurisdictions like the UK. The Grid would provide certainty to industry by outlaying all the upcoming work in relation to financial services regulation. It would also ensure that all Government departments and the independent regulators have clear oversight of the various pieces of work to help ensure that regulation is consistent, and industry is not unduly over-burdened with regulatory change.

Other ways Government could ease the impact of regulatory change on superannuation funds include:

- encouraging regulators to adopt a 'one in, one out' process for regulatory changes;
- provide that Regulatory Impact Statements take into consideration the 'layering effect' of the full context of regulatory changes, rather than the new regulatory change in isolation; and
- ensure that new regulatory or legislative changes must, in coordination with industry, include estimates of cost increases to consumers as a result of added compliance costs to business.

Recommendation 6

Government allow the superannuation system to flourish with certainty by providing stability in the policy settings following several years of significant change.

Access to Data

The FSC has long advocated for access to Government held data sets to better serve their customers throughout their lifetime. Access to information such as Tax File Numbers (**TFNs**) can help superannuation funds to onboard their customers more easily while changes to contact information (such as change of name) received through Centrelink can help keep superannuation fund details up to date and assist with allocating contributions in a timely way. The FSC acknowledges that there is already provision for the ATO to provide TFN information in certain circumstances.

When it comes to the retirement phase, access to ATO, Australian Stock Exchange (**ASX**), and Centrelink data could assist with determining what products might be suitable for a member. Information such as pension eligibility, other income and assets, and partner status can all also assist a superannuation fund to create a complete picture of both the funds overall customer cohort or, when providing advice, an individual customer. This will assist funds with cohort analysis to create better, more useful, and innovative products and better meet the requirements of the RIC.

While superannuation customers can provide this data to superannuation funds, providing a streamlined way to easily provide this information could help consumers to provide certainty that the data is both accurate and current. For example, anecdotally FSC members have found that sometimes those that receive the Age Pension are unsure of exactly how much they are receiving in their payment. The Government provides confirmation of this in a letter at the commencement of the pension, but this changes over time and customers may be unsure of their current rate. Further, ongoing access directly from Centrelink will provide superannuation funds of a running update on pension access factors, such as income.

A number of data sets and potential use cases are outlined below:

Holder	Data Need	Use Case
ATO	TFN Information	Easier customer onboarding and better matching for ATO reporting.
Centrelink, Births, Deaths, and Marriages, Medicare, Banks	Customer contact information	Quicker Know Your Customer checking of customers at onboarding, timely monitoring of AML sanctions, better customer experience.
Births, Deaths, and Marriages	Births, deaths, and marriages information	Switching fees on/off and help to make suggestions on account changes.
ATO	Single touch payroll data	Adjusting private pension payments as needed.
ATO, ASX	Other income/assets	Enhancing the quality of financial advice
ATO, Centrelink	Pension eligibility information	Integrating government pension income eligibility as well as understanding when a person has had their pension application rejected.
ATO	Occupation information	Improving customer risk profiles and create better matching for group insurance.

Access to this data should, of course, be through a consumer-led model. This means that consumers always have control over when and how the data is provided to the fund, and appropriate safeguards are built in that protect both the superannuation fund and the consumer.

The FSC is supportive of including these data sets into the Consumer Data Right (CDR) so that customers may utilise this service, and its safety framework, to provide data to the fund, with access remaining opt in for both superannuation funds and consumers. However, the FSC is not supportive of requiring superannuation funds to access the CDR, nor is it supportive of extending the CDR, in its current form, to superannuation specific data, owing to the current lack of take up by consumers and the unclear use cases for a superannuation specific data set. That said, including the above Government data, along with the existing bank data would prove useful for superannuation funds in assisting their members both during accumulation and retirement.

In the absence of this data being provided in the CDR, the FSC is supportive of Financial Advisers being provided with access to the ATO portal through a similar model to the access provided to tax professionals. Other cost-effective ways to receive this information may be through existing superannuation channels including SuperStream and SuperMatch.

Recommendation 7

Government provide access to important Government held data, such as Age Pension eligibility and assets and income, in a secure and consumer led way.

Access to the CDR

Some of the data outlined above can theoretically currently be accessed through the CDR via the available bank transaction data (for example, if a person is receiving pension payments into a bank account). However, one of the main barriers to accessing of the CDR, from an FSC member perspective, is the process through which organisations can become an accredited data recipient.

Currently, to access CDR data, organisations must become an accredited data recipient. A process which requires significant scrutiny. While those wishing to access data should be thoroughly scrutinised, FSC members believe that setting excessive requirements to apply for status is detrimental to the overall effectiveness and uptake of the CDR scheme. The alternative of participating in the CDR through a third-party provider or trusted adviser exposes entities to significant costs.

There is currently a streamlined process in place for Authorised Deposit Taking Institutions (**ADIs**) to apply to become an accredited data recipient. This streamlined process means they do not have to provide an independent assurance report to establish information security capability. The streamlined form is just one quarter the length of the non-streamlined version. The Explanatory Memorandum for the Exposure Draft Legislation that implemented this streamlined process noted that “ADIs do not need to provide this evidence because they are already required to meet APRA’s CPS 234 information security standard”.[15]

Much like ADIs, superannuation funds are holders of Australian Financial Services Licenses (**AFSL**) meaning they are subject to significant scrutiny in order to receive and continue to hold said licence. In addition, superannuation funds are subject to APRA’s prudential standard CPS234 as well as the new prudential standard CPS230: Operational Resilience. Both of these standards require a high level of cyber and data security. It would therefore seem to be appropriate to extend the streamlined process to become an accredited data recipient to certain other organisations, such as other APRA regulated entities.

Recommendation 8

Government provides a pathway for superannuation funds to more easily become accredited data recipients under the CDR scheme that is protected through a consent model and primary purpose safeguards.

Assisting Customers to Apply for the Age Pension

The FSC is supportive of allowing superannuation funds to assist their customers to determine their eligibility for a partial or full Age Pension payment and to provide an easy means for their customers to then apply.

The Age Pension is an important pillar of the retirement income system, and although reliance on the Age Pension is expected to decrease as the superannuation system matures, it will still be an important facet of many people’s retirement income.

Superannuation funds are well placed to provide assistance to their customers about their eligibility for the Age Pension and assisting them to apply through an appropriate interface with their website or other means. This could be done through proper financial advice offered by the fund (presuming the Government’s commitment to allow funds to provide advice is implemented) or through nudges, depending on the customer.

More information about nudges is outlined below in section 4.2.5.

Recommendation 9

[15] Minister for Superannuation, Financial Services, and the Digital Economy. (2021). *EXPOSURE DRAFT EXPLANATORY MATERIALS: Competition and Consumer (Consumer Data Right) Amendment Rules (No. 2) 2021. (Link) p. 14*

Government provides the ability for superannuation funds to assist customers with determining their eligibility for the Age Pension as well as assisting customers to apply.

4.2.5 How might funds utilise guidance, nudges, defaults and other actions to assist members into better solutions for their retirement income?

Nudging Customers

The FSC wishes to draw a strong distinction between a nudge and a default that is not necessarily made clear in the Discussion Paper.

A nudge would be provided by a fund to encourage a customer to engage with their superannuation and their superannuation fund, both prior to retirement and during retirement. What this looks like could vary between funds but would ultimately require communication with the customer and for the customer to make a choice, either to accept the advice of the nudge, do something different to what is suggested, or not make any changes to their account.

With regard to the retirement phase, the FSC sees a difference between soft and hard nudges. Soft nudges may simply encourage the customer to get in contact, while a hard nudge might recommend a specific product. The important distinction to be made in both cases is that it places the emphasis on the choice of the customer and places the ultimate decision in their hands.

The FSC is supportive of allowing superannuation funds to nudge their customers into engaging with their superannuation. This may involve either soft or hard nudges. Parameters around nudging should be set however, to ensure that the language is appropriate and does not ultimately amount to defaulting. For example, letting a customer know that as they approach retirement, they need to make a decision about what retirement product they wish to utilise would be an acceptable nudge, while contacting a customer to let them know that they will be placed in a product when they retire, would not necessarily be acceptable.

Defining Nudge Communications

A nudge communication is driven by some personal data (such as age of the customer or the amount they currently contribute to their superannuation accumulation product), designed to encourage the customer to take an action that would improve their retirement outcome. While the nudge is driven by personal information, it does not provide specific guidance or advice. It does not necessarily drive customers to products within the entity's ecosystem.

Examples of nudges include:

- "You're approaching retirement, you should consider selecting a pension product".
- "60% of members in your age bracket contribute an extra $50 a fortnight on top of their mandatory contributions".
- A nudge to investors who make no additional contributions above the mandatory contribution.
- "You've been in pension phase for three years. Are you making the most of your Government entitlements?"
- A nudge to provide general educational information including government entitlements or financial literacy resources.

Recommendation 10

The FSC is supportive of allowing for nudge communications from the superannuation fund to its customers, provided there was an appropriate definition as to what that communication could entail.

Anti-Hawking Legislation

One of the barriers to assisting customers into retirement is the current legislative framework that prevents superannuation funds from pushing products to their customers. The FSC absolutely does not support pressure selling tactics however, it is important that funds can have conversations and prompt members to consider their retirement options including any retirement income product offerings without inadvertently being caught by the hawking prohibition.

Under the hawking prohibition, a person must not offer, or request or invite to ask or apply for financial products for issue or sale to a retail client if it is made in the course of, or because of, an unsolicited contact.

The hawking prohibition as it currently stands is an impediment for funds that are aiming to promote member interests and comply with the RIC to enable their retirement income strategy. This is because the boundary between provision of information or a PDS and an offer or invitation to apply for the product is unclear, given the legal interpretation of those terms and regulatory guidance.

Further clarity is needed to assist funds in providing guidance without contravening the legislation. For example, there are common scenarios where the giving of information such as a PDS containing an application form, is likely to constitute an actual or implied offer or invitation at law and therefore breach the hawking prohibition.

Recommendation 11

Government reviews anti-hawking legislation and provide greater clarity to superannuation funds about their ability to provide guidance and nudges in the context of the hawking prohibition.

Defaulting Members

The FSC is not supportive of defaulting customers into a retirement product, whether that product is the standardised product outlined in the Discussion Paper (which the FSC is also not supportive of) or not. There are many reasons for this, these are outlined below.

Defaulting assumes there is a one-size-fits-all approach to retirement income.

Defaulting assumes that there is some sort of archetype of retired customers where a single, one-size-fits-all approach is suitable and that is simply not the case.

The RIC requires that funds have a retirement income strategy that is informed by their customers. It is necessarily principles based to encourage funds to continue to innovate and provide solutions that meet the needs of their specific customers. This was done in acknowledgement of the fact that retirement is <u>not</u> a one-size-fits-all matter and that different funds will provide different products and services to their customers based on their unique circumstances.

Further, there may be genuine reasons why a customer has opted to keep their money in an accumulation account. This is a matter for them, and they should not be forced into a retirement product if it does not suit their individual financial needs.

Defaulting can have adverse effects on customers retirement income.

The FSC holds concerns that defaulting may lead to poor outcomes for consumers with academic research indicating that "opting for a default investment allocation (is) associated with lower overall pension balance"[16]

Learnings can also be taken from the current default system in place for the accumulation phase. According to APRA, in 2020, MySuper accounted for 63 per cent of all superannuation accounts, but only 37 per cent of total superannuation assets, with the average balance being $48,500, just 43% of the average balance of a choice product.[17] This suggests that as balances grow, people are more likely to make active choices, potentially moving away from the default system and that active choice of product can have a significant impact on superannuation balances.

On MySuper default products, the Productivity Commission, in its report; *Superannuation: Assessing Efficiency and Competitiveness* (**the Productivity Commission**) concluded that "a typical full-time worker who is in a median bottom-quartile MySuper fund[18] is projected to retire with a balance 45 per cent lower than if they were in the median top-quartile product.[19]

It should be noted the FSC is supportive of providing default products in the accumulation phase but that the importance of consumer choice is very evident. With the objective of superannuation almost finalised with a focus on dignified retirement, defaulting would not be consistent with these aims if it were to ultimately negatively affect a person's retirement income.

Defaulting will impact competition, discouraging contact with members and the creation of innovative retirement products.

Defaulting may also have an impact on competition within the sector, discouraging contact with customers, product innovation and good customer service. It is not necessarily in the best interests of members to be with the same fund for their entire life, and allowing defaults may encourage some funds to avoid contacting customers and allow them to languish in a product that is not necessarily suitable for them. This is at direct odds with the RIC and is a poor policy outcome.

Discouraging contact with customers may also have an impact on the level of customer service that superannuation funds provide. Financial Services Minister Stephen Jones has repeatedly pointed out his expectation that funds increase their customer service standards, whether that relates to internal and external dispute resolution, scam and fraud controls, or the implementation of the RIC.[20] The more engaged a customer is, the more service levels will be brought into sharp focus. FSC members are increasingly investing in best practice customer service levels with a strong focus on ultimate customer outcomes.

Defaulting does not improve financial literacy outcomes.

Defaulting discourages engagement with the superannuation system, which is at odds with good policy outcomes that increase financial literacy among the population. The more default options are provided, the less incentive there is to be engaged. As noted by Dobrescu et al, remaining passive

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[16] Dobrescu, L. I., Fan, X., Bateman, H., Newell, B., Ortmann, A., & Thorp, S. (2016). Retirement Savings: A Tale of Decisions and Defaults. The Economic Journal. P. 44

[17] APRA. (2021). Information Paper: Choice sector performance: improving outcomes for superannuation members. APRA. Link. p. 7

[18] By performance

[19] Productivity Commission. (2018). Superannuation: Assessing Efficiency and Competitiveness. Link. p. 531

[20] For example: AFR (Link), The Australian (Link)

on financial decisions can lead to “substantial reductions in… long-run wealth accumulation”.[21] As noted above, this was echoed in the Productivity Commission inquiry which remarked on the significantly lower balances for those in a MySuper default accumulation product.

Defaulting may lock individuals into products for a long time.

One of the other potential serious consequences of defaulting is that it may lock customers into products that don’t work for them, for a long time, potentially forever. If a customer were to be defaulted and then later wish to decide to change products or funds, this may be impossible and/or, as noted above, have significant consequences on the balance they can move to a different product.

As noted by Dobrescu et al. a non-reversible choice of retirement product “can lead to substantially different retirement savings profiles because… plans differ radically in their accrual patterns and risk characteristics”.[22]

The FSC submits it would be an incredibly perverse outcome to have someone who wishes to make a choice later in their retirement, severely affected by them being introduced into a default product. This is particularly true where that customer has not been contacted by the fund, or only very minimal contact has been made.

Defaulting has technical implications for funds.

There are some technical issues with defaulting a member into a retirement product, specifically, the fund may not know the bank account details that the customer wishes to have their payments sent to. This fundamental detail will necessitate the need for communication with the customer and in that case a customer may still not respond or may refuse to provide their bank account details.

In any case, communication with a customer during transition to retirement should be more than asking for banking details for the specific purpose of defaulting. Customers should be provided with appropriate tools and information to help them transition to retirement, rather than be contacted with the sole intention of defaulting them.

Recommendation 12

The FSC is not supportive of defaulting people into retirement products, whether the product is the standardised product recommended in the paper or not.

Totally Disengaged Customers

As noted above, the FSC is not supportive of defaulting. However, the FSC and its members have given careful consideration about what solutions might be available for a person who is truly ‘disengaged’ from their superannuation.

Although there are some circumstances where an individual’s personal financial circumstances make it appropriate for them to remain in an accumulation product after retirement, this is not true for everyone. And while the FSC is supportive of implementing strict guidelines around nudging customers, though all best efforts may be exhausted, there will be customers who do not engage with their superannuation. The tax implications of not moving into a retirement product mean that it could be appropriate, in very rare circumstances, to default a customer into a retirement product.

[21] Dobrescu, L. I., Fan, X., Bateman, H., Newell, B., Ortmann, A., & Thorp, S. (2016). Retirement Savings: A Tale of Decisions and Defaults. The Economic Journal. P. 43

[22] Ibid p. 3

The Meaning of 'Disengaged'

For clarity, the FSC suggests that there are levels of disengagement. The FSC submits that to be 'engaged' in their superannuation, a person does not need to be making regular active decisions about their products, investments, and income streams. In many instances a person may make an active choice of product and then trust the superannuation fund to then make decisions on their behalf.

For example, a person may choose to enter a balanced investment option from which they are 'disengaged' from further decisions about the underlying investments in that option. Another example would be a person choosing to enter a lifecycle product whose features change depending on their age. This is not considered 'disengaged'. Rather, disengagement is where a person is not interacting, and has not interacted with their account in some time.

There is also a scenario where a person trusts their superannuation fund to make a decision for them about what is an appropriate product. This would be akin to a 'default' but would still require that the member be engaged by informing the superannuation fund of their active choice to have themselves placed into a product that the superannuation fund determines best suits their needs. This has sometimes been defined as 'trustee assignment'[23] and the active choice of the consumer to engage in the superannuation fund in this way is what makes the distinction from hard defaulting.

Engagement in transition to retirement would mean actively selecting a retirement product, even if that product has a 'set and forget' style of management, or that selection is at the trustees discretion, following engagement from the customer.

The FSC submits that there may be plenty of reasons that a person appears disengaged, even though they intend to ultimately make an active choice. For example, the person may be experiencing medical or family hardships during the time the superannuation fund is attempting to contact them. They may also be unaware that the fund is trying to contact them because they have not kept their details up to date. For this reason, trying to define what a 'disengaged' person looks like is ultimately exceedingly difficult and the FSC is concerned that any definition will ultimately have adverse outcomes for consumers.

Solutions for Disengaged Customers

Determining the threshold question of when a person might be 'disengaged' is a difficult one and the risk of poor outcomes from defaulting a person into a product that doesn't meet their needs is too high. Although the FSC remains unconvinced that defaulting is appropriate in any circumstances, there are certain criteria the FSC believes should be considered, should the Government be minded pursuing defaulting. This includes:

1. The fund is certain that the person has reached preservation age and is no longer working.
2. The fund must have attempted to contact the customer through a variety of means and over a significant period of time. It would not be sufficient for the fund to have attempted to contact the customer only once, and only via, say, email. The fund should have attempted contact across multiple channels (email, phone, mail), several times, over a significant period of time.
3. The contact must have been personalised and specific, and the information clear and

[23] Bell, D., & Warren, G. (2023). *Pathways for directing members into retirement solutions: Who decides - fund trustee, adviser or member?* Connexus Institute (Link) p. 2

concise. It is not sufficient that a fund would send the communication as part of a mass communication to other, non-relevant customers, or hidden within other information.

4. The default should be product agnostic and up to the superannuation fund to determine as to structure and benefits.
5. The product must be easily unwound to ensure that someone who wishes to make an active choice later on, can do so easily.
6. The customer has advised where they would like the payments to be made. This indicates that the customer has had some interaction with the fund but does not negate the need for the rest of the criteria to be met.

Notwithstanding the above, the FSC still believes that this set of criterion is fraught with risks and could potentially be manipulated by bad faith actors to keep customers in products that do not necessarily work for them. It also raises questions about the burden of proof superannuation funds would be required to show, and what redress customers would have if they had negative consequences from a decision to default.

For this reason, the FSC's position remains that defaulting into retirement products is not desirable and should not become Government policy.

The Interaction with the ATO's Inactive Low-Balance Super Accounts

The Government already has a program in place to protect people with low balances or inactive superannuation accounts from erosion by fees. The ATO has a strong criteria in place for determining if an account is inactive, this being:

- no amount has been credited to the account within the last 16 months.
- the account balance is less than $6,000.
- the owner of the account has not met a prescribed condition of release
- the account is not a defined benefit account
- there is no insurance on the account; and
- the account is not held in a self-managed superannuation fund (**SMSF**) or a small Australian Prudential Regulation Authority (APRA) fund.

Funds within low balance and inactive accounts are transferred to the ATO for safekeeping (unless the member has otherwise specified). There may be scope for the Government to consider ways this program could assist people to better manage their superannuation.

Guidance and Advice

As previously noted, the FSC has made this submission under the assumption that the commitments the Government has already made to allowing superannuation funds to provide advice will be appropriately implemented.

Providing clarity to funds about their ability to provide financial advice is a key component of assisting customers into the retirement phase and will also assist them to provide general education and nudges by providing certainty as to the regulatory settings for the varying levels of advice.

The FSC Roadmap outlined some of the key benefits that better advice and guidance can provide to customers including:

- A better trade-off between lifetime and non-lifetime income stream products;
- More efficient interaction with Centrelink (and better understanding of entitlements);
- Management of non-superannuation assets across different products and tax scenarios;
- Consideration of aged care for both parents and self;
- Tax and estate planning issues more deliberately considered by individuals (and more efficient use); and
- Investing tailored to investors circumstances.[24]

Recommendation 13

The Government continues to implement the recommendations of the Quality of Advice Review that provide clarity to superannuation funds about their ability to provide financial advice to their customers.

4.2.6 Data is critical input for funds to provide better retirement income strategies. What processes are funds undertaking to collect, analyse, and apply data analysis to understand their membership? What barriers are there to better practices, and what policy approaches could help achieve better data use?

Please see section 4.2.2 above.

4.2.7 The retirement income covenant does not apply to SMSF trustees. What approaches do SMSF trustees take to manage risk, ensure they have access to savings, and maximise their income? Are there barriers to improving how SMSF trustees achieve these objectives, and what role can government or industry play to improve these outcomes?

The FSC does not believe it is appropriate to extend the RIC to SMSF trustees noting that each SMSF can only have a maximum of six members. While those people are, statistically, more likely to be of a higher level of financial literacy, the FSC does not believe it would be within the capacity of every single individual SMSF trustee (or directors of corporate trustees) to formulate a retirement income strategy for the fund.

For a similar reason the FSC does not believe it is appropriate to extend the RIC to small APRA regulated funds (**SAFs**).

Retirement income strategies are appropriate for large APRA regulated funds because they have a large customer cohort, often with varying needs and goals. This is not true for SMSFs and SAFs with regard to the number of members and not necessarily true with regard to varying needs and goals. For this reason, there would be little utility in extending the requirements of the RIC to SMSF and SAF customers.

Recommendation 14

The Retirement Income Covenant should not be extended to self-managed superannuation funds or small APRA regulated funds.

[24] NMG Consulting. (n.d.). A roadmap for Australian Retirement Income Policy. NMG Consulting for the Financial Services Council. (Link) p.11

5.0 Supporting Funds to Deliver Better Retirement Income Strategies

5.1 Consultation Questions

5.1.1 Please provide comments on the need to support competition and product comparison across the services and products funds provide in retirement, or the need for greater consumer protection.

The FSC is supportive of measures that increase and encourage competition among the superannuation industry. This includes completing a program of work that avoids the retention of legacy products.

More information on legacy products and product modernisation can be found below at section 5.1.2.

5.1.2 Of the approaches identified, what should be prioritised and what risks should be considered as policy is developed? What other approaches, if any, should Government consider?

Standardised Product Disclosure Framework

Standardised product disclosure frameworks have the potential to limit innovation, be restrictive, and ultimately costly with little benefit. Currently, Product Disclosure Statements can be incredibly long and not widely read by customers. They are also expensive to produce and update from a superannuation fund perspective. For this reason, an industry led disclosure regime is more desirable.

The FSC has previously advocated for the development of a disclosure framework for consumers to easily compare features and fees between comparable retirement income products. In the FSC's Roadmap, NMG noted that "consumers find it difficult to know what and how to compare retirement products, given the complexity of retirement".[25]

In the Roadmap, the FSC stated a case for an industry led framework that assesses post-retirement phase needs of individuals and compares products that may be suitable. This includes allowing the assessment of:

- the extent any income for life is certain or variable (to be able to compare different levels of 'guarantee');
- the extent of inflation protection (and how much that matters over time);
- flexibility to withdraw capital;
- fees & costs (which recognises the additional costs in retirement associated with the provision of longevity protection in retirement products), so that fees are not a 'race to the bottom' but value for what consumers pay for; and
- the extent of (and positive and negative impact of) market exposure.

The FSC is therefore supportive of the proposal to introduce a standardised product disclosure

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[25] NMG Consulting. (n.d.). A roadmap for Australian Retirement Income Policy. NMG Consulting for the Financial Services Council. (Link) p.22

framework in Australia but only if it is led by industry.

Recommendation 15

Government allows industry time to create a standardised product disclosure framework, rather than implementing a Government-led version, to ensure it is appropriate, and doesn't stifle innovation.

A Performance Test for Retirement Products

The FSC is not supportive of introducing a performance test on retirement products. Retirement products are inherently non-comparable because they offer such a wide variety of benefits and additions. Those benefits and additions are part of a package that includes investment performance and the varying make up of these packages make them hard to equate across the market.

As an example, a product may be heavily weighted to providing benefits to a person with disability. The FSC doubts the ability of such a product to perform "well" under a performance test when compared to a product that did not have such varied benefits.

The results of any performance test may also unreasonably influence people to make rash decisions about their retirement products, which may lead to poor consumer outcomes if they switch away from a product that suited their needs (and perhaps they had already sought financial advice on) into a product that more closely hugged the benchmark.

Any performance test introduced on retirement products will also likely stifle innovation. As has been evidenced recently, products in the MySuper default accumulation category have been found to be less innovative in favour of hugging the benchmark to ensure that it passes the test.[26] The benchmarks can stop funds from spreading investments to different and innovative areas, such as renewable energy, because the test is so rigid.

Instead, the FSC advocates for better access to advice, education, and guidance which will help customers to make decisions that are relevant to their individual circumstances.

Recommendation 16

The FSC is not supportive of the creation of a performance test for retirement products due to the wide range of benefits and offerings across the entire product pool, which make them inherently non-comparable.

Regulatory Barriers

It is inevitable some retirement products will not succeed due to, for example, insufficient take-up, ongoing product innovation, providers exiting the market, or superannuation fund closure. One of the key barriers to innovation in the retirement product space is the lack of action on product modernisation leading to a wide field of legacy products. To avoid legacy products, mechanisms should be in place for when products need to be closed or migrated to avoid adverse consequences for both customers and superannuation funds.

[26] National Australia Bank. (2023). Super Funds continue to increase allocation to international assets: NAB report. (Link).

This includes, but is not limited to:

- regulator guidance on product wind-up and migration for example the application of a successor funds transfer for a lifetime annuity for migrating at the product level;
- flexible takeover arrangements and process to support trustees (and stand-alone product providers) migrating members to similar options (without appropriate member protection and communication);
- trustee safe harbour where a product is wound-up within a superannuation fund; and
- accommodating supporting areas (e.g. social security) for individuals subject to product wind-ups.

Recommendation 17

Government reduce regulatory barriers that prevent the wind up of legacy products and prevent customers being moved to alternative and more suitable arrangements easily.

5.2 Further Questions

5.2.1 What barriers are there for product switching in retirement and are there opportunities to make product switching easier?

There are significant barriers to product switching which are not easy to solve.

One of the key issues for those in a lifetime income product is the movement from one pool of risk to another. A person who is in a lifetime product, cannot easily leave it without upsetting the risk calculations of the pool in which they are placed for that product. Constant movements in and out of the pool disrupt the calculations of mortality risk within the pool.

Even if a person were able to leave the pooled risk of a lifetime income product for another, they would not necessarily be able to easily transport their product settings between products. Any consideration of a single pooled risk provided either by Government or by superannuation funds collectively would not be a desirable outcome and exceedingly difficult to manage.

6.0 Making Lifetime Income Products More Accessible

6.1 Consultation Questions

6.1.1 Please provide any comment on the barriers in the supply and demand for lifetime income products?

The FSC broadly agrees with the barriers denoted in the Discussion Paper around the demand and supply of lifetime income products. Outlined below are some additional barriers FSC members see to product take up and design.

Means Testing of the Age Pension

The means testing settings for the Age Pension, particularly for part pension recipients is heavily skewed against those that have lifetime income streams, creating a disincentive where people feel they could be getting the pension.

For example, for a 65 year old, a lifetime income stream payment of $5,000 has an assessable value of $3,000 for the means test, with the assumption that 60 per cent is income and 40 per cent is capital.

On a payment of $5,000 from an account-based pension however (assuming the minimum drawdown from a balance of $100,000), the assessable value would be $2,250 (using the higher deeming threshold, i.e assume they have other deemed assets). This would reduce the Age Pension entitlement by $375.

If the customer is not using the minimum drawdown, the difference is larger. With a 6 per cent drawdown, the $5,000 payment would be assessed as only $1,880, much less than a lifetime income stream. The $560 reduction in the Age Pension would be more than 10% of the payment.

Further, while there is an asset-test discount, the benefit of this declines at older ages, while the income test skews in favour of deemed assets, such as account-based pensions. This skew can more than offset the benefit of the asset test discount.

Recommendation 18

Government considers the impact of means testing for the Age Pension settings that are heavily skewed against lifetime income streams on the take up of those products.

Longevity Products Are Not Suitable for Everyone

As noted by both the FSC Roadmap and the Discussion Paper, take up of longevity products is low. Although there may be a place for longevity products in a person's retirement income product package, longevity products are not for everyone. In particular, some people who are claiming the full Age Pension might not benefit from an annuity or other lifetime income product due to already receiving a guaranteed income stream via that means.

Changing Regulatory Settings and Rules

In addition, the FSC submits that the instability of the regulatory environment makes it undesirable for customers to invest in longevity products as they fear the rules may change, changing the outcome they had thought they had bought into, when the products, by design, are not completely flexible. This means that customers may wind up stuck in a product that, although was right for them at the time, may no longer be right for them.

The FSC recommends entrenching grandfathering of regulatory settings for current customers in any future regulatory changes. This would ensure continuation of settings such as tax and social security treatment and provide confidence that a person who makes a decision based on current settings has some certainty of the future state. Government should also ensure this intention is appropriately enshrined in any Explanatory Memorandums to provide clarity and certainty.

Alternatively, any future requirements should apply only to future retirees, where future retirees is defined in such a way that current or soon to be retired consumers are not captured.

Recommendation 19

Government provides certainty to customers of lifetime products by entrenching grandfathering of regulatory settings into any new regulatory changes.

Capital Requirements for Longevity Products

Currently, lifetime income products such as annuities are captured by the Life and General Insurance Capital (**LAGIC**) requirements. This means that providers must maintain a regulatory level of minimum capital to cover investment and longevity risks. These capital requirements are much higher than comparable products by Australian ADIs such as term deposits, making them costly to create.

Because superannuation funds cannot offer a longevity product itself without a life insurance licence, the pricing of these products and costs to deliver them are high and are hard to compete in the capital-lite superannuation industry.

Given superannuation funds have existing capital requirements, capital requirements for lifetime products could be somewhat reduced to balance the important consumer protections that securing the risk provides against the cost of providing it.

Recommendation 20

Government considers amending the capital requirements that apply to lifetime income products to adequately balance the cost and the risks.

Including Lifetime Income Products in the Financial Claims Scheme

The Financial Claims Scheme (**FCS**) provides protection to consumers who have funds deposited within Australian ADIs, in the unlikely event they should fail. The FCS provides a Government surety for balances up to $250,000 per account holder, per ADI. It also covers general insurance policies for claims up to $5,000.

Extending the FCS to lifetime income products could work towards providing a level of certainty for customers to invest in these products and thus encourage uptake.

Recommendation 21

Government considers extending the financial claims scheme to retirement income products to provide a level of certainty to consumers and increase confidence in the take up of lifetime income products.

Problems with Product Modernisation

As noted above, there are significant barriers to easily moving customers between retirement products due to lack of action in relation to product modernisation and closing of legacy products. For more information, please see section 5.1.2 above.

6.2 Further Questions

6.2.1 What is the role for a ‘suggested’ product in overcoming low take-up of lifetime income products?

The FSC is not supportive of any standardised or suggested product. As previously noted, a standardised product assumes that retirement can be approached with a one-size-fits-all mentality, and this is not the case.

Each retiree’s income needs will be different depending on their circumstances. This is true for all retirees whether low or high income, or whether they have complex or simple financial affairs. Standardisation creates a risk that people will be placed into products that don’t meet their needs. This is especially true because people may assume, much like the current issue with minimum drawdowns, that a Government standard is a recommended product.

One of the features of the standardised product outlined in the Discussion Paper is the deferred lifetime income stream (**DLI**) component. Having a DLI in a standardised product suggests that they are appropriate for most people. The FSC submits that this is untrue. While longevity products have a role to play in the retirement income stream, as discussed above, they are not necessarily appropriate for everyone. Lifetime income products can cost a significant portion of available capital and may not have the flexibility required for all people.

Further, it will stifle innovation. Similarly to the introduction of a performance test, standard or suggested products may encourage funds to hug an index, thinking that there may be regulatory intervention for anything that falls outside of that product.

The FSC also believes that there is a high level of distrust in the community for products designed and/or recommended by Government. As such, superannuation funds could spend a significant amount of time and resources creating a product that consumers ultimately do not want and do not take up.

Finally, the RIC has a strong focus on superannuation funds creating products designed for their customer base. This principles-based approach would seem to be at odds with the idea of a standardised product.

For these reasons, the FSC is not supportive of the regulation of a suggested or standardised product. Customers are better served by the provision of affordable advice and guidance and a competitive and innovative product market where retirees can find the right product (or mix of products) for their needs.

Recommendation 22

The FSC is not supportive of the introduction of any standardised or suggested product. Any such product may have the impact of being seen as a government recommended “best product” and may have negative consequences on consumers.

6.2.2 Do the barriers to managing longevity risk in the Australian market necessitate Government action? What Government action could assist funds in offering appropriate longevity protection to members?

Perception of Capital Loss

One of the key barriers to the take up of longevity products is the perception of capital loss. Many lifetime income products come with a death benefit to allay customer fears of losing a portion of their superannuation to an unused lifetime income stream. However, the capital access schedule (**CAS**) has constraints that under adverse market conditions might prevent a death benefit that would provide a complete return of the purchase price as with income or death benefit. Adjustments to the CAS to enable the death benefit to provide that rider would reduce retiree uncertainty and assist in take-up. Given the limited situations where this would occur, the cost to providers would be small.

6.2.3 Would an industry-standardised product(s) assist funds to develop and offer lifetime income products to their members?

See above section 6.2.1 for more information about standardised products.