House of Representatives Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Review of the APRA Annual Report (Second Report) 2019

Division/Agency: Australian Prudential Regulation Authority
Question No: APRA01QON
Topic: Joint superannuation accounts
Reference: Hansard 5 August 2020 pp. 17
Member: Tim Wilson

Question:

CHAIR: Sure, but my question wasn't whether that happens; my question was: is there anything to stop them offering a product where, for instance, two spouses want to open a joint account, therefore reducing its liabilities, insurance and fees, versus having individual accounts where the super fund can effectively raid their retirement savings to double up on fees, insurance et cetera.

Mrs Rowell: I would need to confirm this on notice, but my understanding is that, in a normal APRA regulated superannuation fund, it is one member, one account. There isn't the facility to have joint accounts.

CHAIR: Just to clarify, I understand that there may not be the facility, but is there anything to stop it being offered?

Mrs Rowell: I don't believe it's contemplated under the law. I would have to confirm that on notice.

Answer:

The SIS Act or Regulations does not allow for joint superannuation accounts between spouses. In fact, the legal and operational framework for regulated superannuation funds can only operate on the basis of having accounts for each individual.
For example:

- there are legal provisions that deal with spouse contributions splitting to occur between spouses in Division 6.7 of the SIS Regulations. This is based on the very clear premise that superannuation interests are individual in nature and contributions made into superannuation are for the benefit of the individual member;
- there are contribution acceptance rules in the SIS Regulations that consider the individual member's age or employment status in determining whether contributions can be accepted in respect of that individual member. It is not a joint test looking at the status or ages of both spouses;
- the sole purpose test in the SIS Act requires trustees to only maintain superannuation funds for one or more of the purposes set out in the Act. Those purposes include providing benefits for each member on an individual basis, based on the circumstances of the individual member;
- an individual must satisfy a condition of release before they can access their superannuation benefits – there are no conditions of release that allow trustees to pay benefits that are jointly held by two or more members;

- the payment standards in the SIS Regulations only permit a trustee to pay a member's benefits to the member themselves or the member's legal personal representative; and
- determining the tax treatment of contributions and withdrawals would be highly complex for joint accounts and would likely require an overhaul of relevant superannuation and taxation legislation as well as extensive systems changes within superannuation funds and also possibly within the ATO – if one spouse is in the accumulation phase and the other is in the pension phase it would be difficult (if not impossible) to determine the tax consequences for each.