Australian Government
The Treasury

Senate Committee on Economics

Inquiry into improving consumer experiences, choice, and outcomes in Australia's retirement system

23 February 2024

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Introduction

The Department of the Treasury welcomes the invitation by the Committee to make this submission to the inquiry into improving consumer experiences, choice, and outcomes in Australia's retirement system.

Treasury provides advice to the Government and implements policies and programs to achieve strong and sustainable economic and fiscal outcomes for Australians. This includes all aspects of retirement income policy, including superannuation and age pension policies, and on the adequacy of retirement incomes.

The Committee's invitation to make a submission requested Treasury take a particular focus on options available to improve consumer experiences in retirement. This includes how developments in the retirement income product market can be leveraged to improve outcomes for members as they may come to rely on aged care services.

The Committee also requested views on mechanisms in place to improve service performance standards across the superannuation sector and the role of insurance in superannuation. This submission provides an overview of Australia's reforms in these areas of focus and how these can serve to improve outcomes.

Improving Australians' outcomes in retirement

Growing role of superannuation

Superannuation is one of the core pillars of Australia's retirement income system. It plays a central role in retirement outcomes, through the compulsory savings of individuals' income during their working life, and then through the drawdown of these assets to fund their retirement.[1]

As the system matures and our population ages, a greater number of Australians are expected to move from the accumulation phase to the retirement phase of superannuation. There are currently 1.6 million people aged 65 and over receiving income from a superannuation product, but over the next 10 years, an estimated 2.5 million Australians will move from the accumulation to the retirement phase.[2] The superannuation system needs to support Australians both while they save for retirement and when they draw down on their superannuation savings to fund their retirement.

Furthermore, the superannuation sector must strive for continuous improvement in service standards to ensure trustees are responsive to best provide the security and income Australians need as they live longer and healthier lives in retirement.

The objective of superannuation

The Government has introduced legislation in Parliament to legislate the objective of superannuation: '**to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way**.'

The *Superannuation (Objective) Bill 2023* (the Objective Bill) is, as at 23 February, before the House of Representatives and on 30 November 2023, the Senate referred the provisions of the Objective Bill to the Senate Economics Legislation Committee for inquiry and report by 28 March 2024.

During the two rounds of public consultation on the Government's proposed objective, there was broad industry support for legislating the objective of superannuation and the Objective Bill and explanatory materials reflect the feedback received from stakeholders on the need to legislate an objective of superannuation to provide a shared direction for government, the superannuation industry and Australians.

The Objective Bill seeks to ensure that future changes to the superannuation system are compatible with its objective by requiring policy-makers to assess proposed changes to superannuation legislation for compatibility. Compatibility statements will be required to be presented to Parliament alongside most superannuation legislation following passage of the Objective Bill.

Legislating an objective of superannuation complements the long-standing legal and regulatory obligations of trustees of superannuation funds to have in place investment strategies that deliver the best financial outcomes for their members and does not alter superannuation trustees' existing obligations or how members' money can be invested or accessed. It does, however, serve as a reminder to them of their role in the superannuation system, including to support members holistically during their working life, and their transition to retirement.

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1 More than 15 million Australians are now benefiting from having a superannuation account and better retirement outcomes. Australia's superannuation pool has grown from around $148 billion in 1992 to $3.6 trillion in 2023 and will continue to grow. Total superannuation balances as a proportion of GDP are projected to almost double from 116 per cent in 2022–23 to around 218 per cent of GDP by 2062–63.

2 Treasury modelling.

In exceptional and unforeseen circumstances, there is an existing legal framework for the early release of superannuation which allows preserved superannuation savings to be released as a last resort for reasons for acute and rare incidents, such as permanent and temporary incapacity (including insurance payments), terminal medical conditions, compassionate grounds for specific expenses, and severe financial hardship. This principle is not changed by legislating the objective of superannuation – members will maintain recourse for early access for genuine and exceptional hardship.

Improvements to retirement phase outcomes

For many Australians, retirement represents a big and complicated life change. It is inherently challenging to navigate the different parts of the retirement income system, combine multiple income sources, consider the needs of your partner and dependents, and manage the numerous risks and changes in circumstances.

Since 1 July 2022, superannuation trustees have had an obligation under the retirement income covenant to formulate, review regularly and give effect to a retirement income strategy. The strategy must help members achieve and balance the following three objectives: maximise retirement income, manage risks to the sustainability and stability of that income, and maintain flexible access to capital.

The Treasury recently completed consultation on 9 February 2024 regarding the opportunities, barriers and challenges to improving the experience and outcomes of members in the retirement phase. The consultation paper focussed on examining three key areas:

- Supporting members to navigate the retirement income system,
- Supporting funds to deliver better retirement income products and services, and
- Making lifetime income products more accessible.

The Treasury is currently considering the feedback provided.

Lifetime income products

As noted in the 'Retirement phase of superannuation' discussion paper, in Australia, only 3.5 per cent of assets held in pension accounts are in annuities, while 84 per cent were held in account-based or allocated pensions.[3] Retirees can be reluctant to purchase annuities: a reticence that is not unique to Australia. The lack of annuitisation by retirees globally, despite the prevalent concern about outliving one's savings, is known as the 'annuity puzzle'. Over the last five years, the number of annuities held by Australian members has declined in both absolute terms and as a proportion of total member pension accounts.[4]

This is the case despite broader regulatory changes in 2017 to remove impediments to innovative product design, including extending the tax exemption on earnings in the retirement phase to these products. Since then, few new innovative products have come to market. Most funds only offer an account-based pension and a transition-to-retirement income stream product. Typical account-based pensions provide retirees with flexible access to capital, but without more guidance or active engagement from the retiree, they risk not effectively meeting the other two retirement income covenant objectives: maximising retirement income and managing risk.

3 APRA Annual Superannuation Bulletin June 2022, table 8. The remainder is in 'Transition to retirement' or other pension benefit account types.
4 APRA Annual Superannuation Bulletin June 2022, table 8.

Aged Care Taskforce

The Government is also considering related policy issues within the aged care sector. The Aged Care Taskforce ('the Taskforce') recently reviewed the funding arrangements for aged care to ensure the system is fair and equitable for all Australians, including advice on funding and contribution approaches. As population ageing will be an ongoing economic and fiscal challenge, the Taskforce also focussed on ensuring that aged care funding arrangements will support a sustainable system. The Taskforce's final report is yet to be released.

An exposure draft of the new Aged Care Act was released for public consultation on 14 December 2023. The new Aged Care Act outlines how funded aged care services will be provided to older people under the Commonwealth aged care system, with one of the objectives to provide sustainable funding arrangements for the delivery of funded aged care services.

Purpose of insurance in superannuation

Insurance remains a long-standing feature of the Australian superannuation system and has generally been provided on an opt-out basis to default members following the MySuper reforms.

Access to affordable group insurance is an important benefit of the superannuation system and its provision is generally consistent with the proposed objective of superannuation. Through group insurance, the superannuation system provides a safety net that can deliver valuable protection to the community and meets members' needs at reasonable cost.

Trustees are required to provide their MySuper members with insurance cover in respect of death and total and permanent disability (TPD). Trustees are also permitted, but not required, to provide their members with income protection insurance. Most trustees choose to also provide default insurance in choice superannuation products.[5] Superannuation trustees are prohibited from providing members with other types of insurance inside of superannuation under the conditions of release requirements contained in superannuation regulations.

As noted in the explanatory memorandum to the Objective Bill, insurance in superannuation can help members achieve a dignified retirement, for example where they experience early retirement due to incapacity or interrupted work patterns during their working life. There are also other circumstances where superannuation members or their dependants may access insurance benefits through superannuation, including being diagnosed with a terminal medical condition or death.

Trustees have an important role in setting the insurance offerings for their members. When designing insurance benefits, trustees are bound by their obligations in the superannuation legislation, including the best financial interests duty and obligation to not offer insurance that inappropriately erodes the retirement income of members.

This means that trustees must strike the right balance between providing affordable, high-quality insurance to fund members through group insurance that is appropriate for the group as-a-whole while not inappropriately eroding super balances through providing insurance that members may not want, need or able to claim on. Past reforms have sought to deal with this. The changes to opt-out insurance legislated through the Protecting Your Super Package were designed to protect inactive, low balance and young member accounts that are at particular risk of erosion from inappropriate or unnecessary insurance premiums.

5 Australian Securities and Investments Commission, *Insurance in superannuation: Industry progress on delivering better outcomes for members*, Report 760, March 2023.

Member services standards in the superannuation sector

The Committee also requested views on service standards in the superannuation sector. There is a robust legal and regulatory framework that governs how superannuation trustees deal with their members. As Australian Financial Services License (AFSL) holders, trustees have a range of legal obligations which govern how they interact with their members and the manner in which services are provided, this includes the general obligation to act efficiently, fairly, and honestly and to have appropriate dispute resolution schemes in place to handle complaints.

Superannuation trustees also have a range of specific obligations imposed on them including to act in the best financial interests of members and to transfer or rollover member benefits in accordance with the payment standards and timeframes prescribed in superannuation legislation.

When super funds do not meet their members' expectations, the Australian Financial Complaints Authority (AFCA) helps individuals and small businesses to resolve complaints about financial products and services, including superannuation. AFCA received 6,957 superannuation complaints in 2022-23.

The Government has highlighted its concern with service standards and is working with regulators to increase their scrutiny.[6]

For 2024, the Australian Securities and Investments Commission (ASIC) has added two new enforcement priorities including a focus on member services failures and misconduct relating to the erosion of superannuation balances.[7] As an example of its enforcement actions on member services, ASIC commenced civil penalty proceedings against Telstra Super for alleged failures to comply with internal dispute resolution requirements.[8] ASIC is also undertaking an industry review focussed on improving the delivery of superannuation fund member services, looking initially at trustee compliance with obligations related to death benefit claims.[9]

The Australian Prudential Regulation Authority (APRA) is also currently undertaking work that is expected to improve trustees' focus on member services. The Financial Accountability Regime (FAR), scheduled to come into effect from 15 March 2025, will impose a strengthened responsibility and accountability framework for superannuation trustees (as well as other financial service providers).[10] Further, APRA's prudential standard CPS 230 Operational Risk Management, effective from 1 July 2025, will require trustees to strengthen operational risk management and enhance third-party risk management by ensuring risks from material service providers are appropriately managed.[11]

Treasury will continue to work with the regulators and industry to lift member service standards within the superannuation sector and welcomes any recommendations from the Committee's final report.

6 The Hon Stephen Jones MP, *Address to the AFR Super and Wealth Summit 2023,* 31 October 2023.
7 ASIC's 2024 enforcement priorities in the superannuation sector.
8 ASIC Media Release, *ASIC takes civil penalty action against Telstra Super in Australian-first case*, 6 November 2023.
9 Keynote address by ASIC Deputy Chair Sarah Court at the Connexus Super Chair Forum, 1 February 2024.
10 APRA Media Release, *APRA and ASIC commence joint administration of the new Financial Accountability Regime,* 3 October 2023.
11 APRA Media Release, *APRA finalises new prudential standard on operational risk,* 17 July 2023.