



23 December 2021

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Dear Chair

Aware Super welcomes the opportunity to provide comment on the Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 (the Bill). This submission relates specifically to the Retirement Income Covenant measures in the Bill (Schedule 9).

Aware Super continues to strongly support implementation of the Retirement Income Covenant (the Covenant), and we look forward to the passage of these measures through the Parliament.

Please find attached a copy of our submission in response to the exposure draft of the Covenant for your reference.

We believe the Covenant needs to be supported by a strong foundation of appropriate support, guidance and advice for members as they approach, enter, and move through retirement, and our submission in response to the draft Covenant (attached) legislation highlights a range of additional changes required to support the implementation of the Covenant.

However, while it is important these issues are addressed, they should not be used to delay passage of this important reform.

We also note that the process to address some of these issues has already commenced, with ASIC currently consulting on changes to relief for calculators and retirement projections, and Treasury consulting on the Terms of Reference for the Quality of Advice review.

Aware Super is pleased to see these matters progressing, and we look forward to being involved in the ongoing discussion around how to provide the best possible retirement outcomes for members.

Yours sincerely

A large black rectangular box redacting the signature of Andrea Forbes.

Andrea Forbes
Head of Government Relations and Policy

Attachment: Aware Super submission – Retirement Income Covenant Draft Legislation



Retirement Income Covenant Exposure Draft Legislation

Aware Super Submission

October 2021

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Executive Summary

Aware Super welcomes the opportunity to comment on exposure draft legislation relating to the introduction of a Retirement Income Covenant (Covenant).

As noted in our previous submission to the Retirement Incomes Covenant Position Paper, Aware Super supports the inclusion of the Covenant into the Superannuation Industry Supervision) Act 1993 (the SIS Act) in order to recognise the importance of retirement incomes as part of the superannuation system. Elevating retirement incomes in the SIS Act will ensure that the industry prioritises retirement income strategy and is better positioned to meet the needs of all retired members.

We note that the draft legislation and explanatory materials (EM) closely mirror the proposals set out in the recent Retirement Incomes Covenant Position paper (the Position Paper). Aware Super continues to be supportive of this approach.

There are number of related retirement policy issues that we have also highlighted.

We continue to have concerns around the ability to provide appropriate, personalised guidance and support to members as they plan and move through their retirement.

While we acknowledge that the Government intends to explore these issues further in its Quality of Advice review in 2022, we recommend early consideration of regulatory requirements that constrain a funds' ability to offer meaningful, tailored member information. For example, we have recommended that ASIC prioritise revisions to RG 229 (and [CO 11/1227]), and RG 167 Part D ([CO 05/1122]) to allow tailored income projections to be provided to members. We recognise that any refinement of existing advice provisions must not compromise member protection.

We have also recommended areas where the safe and secure provision of data would enhance member outcomes.

About Aware Super

Aware Super has been the fund for people who value the community since 1992. We're one of Australia's largest funds and we're continuing to grow.

We merged with VicSuper and WA Super in 2020 and manage approximately \$150 billion in savings, including \$32.6 billion in retirement assets at 30 June 2021. Our members—including teachers, nurses, public servants and emergency services officers—work in roles that support our community, and they expect us to do the same by investing in ways that do well for them, and good for all.

Recommendations

1. Ensure appropriate guidance is made available by early 2022 to provide time for trustee compliance with Covenant obligations by 1 July 2022.
2. Provide guidance to ensure trustees consider real income when considering their Strategy and communicating with members.
3. Ensure that all language in the legislation, explanatory materials and guidance remains product-neutral and does not push trustees toward specific strategies or approaches.
4. Prioritise ASIC revisions to RG 229 (and [CO 11/1227]), and RG 167 Part D ([CO 05/1122]) to allow tailored income projections to be provided to members.
5. Include in the Terms of Reference for the Quality of Advice Review the role of intrafund advice as a mechanism for delivering high quality, affordable advice to members, including for members approaching, entering and living in retirement.
6. Ensure the implementation of the Consumer Data Right for superannuation allows members to provide their super fund access to appropriate MyGov, ATO and Centrelink data to support retirement planning.
7. Prioritise systems and processes to allow for aggregated, deidentified member data to be provided to superannuation funds from key Government agencies, in particular the ATO and Centrelink.
8. Explore options for other existing research, such as the HILDA survey, to be used to provide data sources for broader research on retirement policy issues.

Detailed Comments

1. Trustee obligations and Covenant objectives

Trustee obligations

Aware Super supports the approach taken to the trustee obligations around development and review of an appropriate Retirement Income Strategy (Strategy).

There is no question that retirement incomes should be elevated to the level of the existing SIS Act covenants. However, maintaining the ability for trustees to tailor their approach to the needs of members is key to ensuring that funds are able to deliver the best possible retirement outcomes for their members. The approach taken in the draft legislation largely balances these goals.

We also welcome the distinction between an internal strategy and the document that trustees are required to make publicly available. The ability to keep a more detailed Strategy that is an internal document, while tailoring a summary of the information relevant to members, is likely to allow funds to focus on developing more detailed and comprehensive internal strategic documents.

However, we anticipate the trustee obligations outlined in the Covenant will need to be supported by additional APRA guidance. It will be important that this guidance is available as soon as possible, and no later than early 2022, in order for trustees to be able to comply with the 1 July 2022 deadline for having a Strategy in place. This remains an extremely short timeframe for implementation, so it will be important to ensure that trustees have the guidance they need to make all necessary decisions.

We encourage Government and regulators to work closely to ensure additional guidance is drafted and provided to trustees in parallel with the progression of legislation through the Parliament.

Recommendation

1. Ensure appropriate guidance is made available by early 2022 to provide time for trustee compliance with Covenant obligations by 1 July 2022.

Covenant objectives

We continue to support the three objectives proposed for trustees in developing their Strategy, and welcome the clear guidance in the EM contextualising the kinds of factors that might be considered within each objective.

Aware Super welcomes the inclusion of a specific requirement for trustees to balance the three objectives. As we noted in our previous submission, without a clear directive there would remain the risk that trustees and regulators default to the focus on returns that currently drives behaviour in the accumulation phase.

To reinforce the need to take a member-centric approach to balancing and trading off between these objectives, it will be important to ensure that guidance provides the clear context to support trustees in making these important decisions.

As noted in our previous submission, we also recommend the Government clarifies the income objective further, with supporting guidance from APRA, to specify that it relates to the provision of *real* income in retirement (that is, in today's dollars). Inflation plays a central role in retirement outcomes, which ultimately aim to provide retirees with the purchasing power to meet their needs/desired lifestyle.

This approach would also align with existing ASIC guidance that trustees should undertake projections in real terms, ensuring a standardised approach to communicating retirement income targets, projections and plans to members.

Recommendation

2. Provide guidance to ensure trustees consider real income when considering their Strategy and communicating with members.

The importance of product and strategy neutrality

While we are supportive of the three objectives specified in the Covenant, it is important that language within explanatory materials does not, intentionally or unintentionally, appear to favour specific product types or strategic approaches.

For example, the EM clearly (and correctly) acknowledges that, for some cohorts of members, "the Age Pension may be sufficient without additional sources of investment, inflation and longevity risk protection."¹

However, the EM also describes "stable" income as being "broadly constant" over the period of retirement – this does not necessarily align with the above statement and is an approach which may not be appropriate for all members.

Given the Retirement Income Review finding that spending may fall in real terms as people age, it may be appropriate to consider strategies that align with this with those spending changes for some cohorts of members.

We also note there are inherent difficulties in formulating a stable and reliable income when the start date and starting amounts are known, but the end date is never known, and that this is a very large contributor to retirees' conservative drawdown strategies.

It is important that regulatory settings and associated guidance do not make trustees feel they are bound to certain product solutions, such as annuities, which may not be suitable for some or all cohorts of their membership.

¹ EM 1.44

Recommendation

3. Ensure that all language in the legislation, explanatory materials and guidance remains product-neutral and does not push trustees toward specific strategies or approaches.

Interaction with other regulatory requirements

Aware Super welcomes the clarifications provided in the EM regarding the intended relationship between the Covenant obligations and other laws, including the financial advice regulatory framework and anti-hawking requirements.

Given the significant number of new, overlapping regulatory requirements being introduced in the superannuation system, clarification of the intended interaction between measures will continue to be a useful exercise at the policy development stage.

Aware Super also recommends the Government consider other policy settings in terms of their impact on trustees developing and implementing retirement income strategies. For example:

- the impact of policies such as minimum drawdown rates on retiree perceptions and behaviour, and the need for long-term certainty on these policies that supports trustees in developing appropriate retirement strategies, potentially with alternative drawdown pathways, should be considered by Government.
- given the importance of the pre-retirement phase to retirement strategies and long-term retirement outcomes, policy settings in relation to this phase (including, for example, performance assessments) should be sufficiently nuanced to ensure that trustees are incentivised to include consider the differing needs and objectives of these members in their Strategy and can take appropriate steps to ensure these members are properly supported.
- any future performance measurement of retirement products will also need to consider the three Covenant objectives, particularly risk, as well as the appropriateness of the fund's strategy to its members needs and objectives.

2. Providing assistance and guidance to members

Supporting member decision-making

Aware Super believes there is a significant role for trustees to play in helping members to engage with their super and plan for retirement in a way that ensures they meet their retirement needs.

The support members seek and require as they approach retirement will differ between individuals based on a range of factors, and will range from the need for comprehensive advice to simply confirming or validating what a member has planned for themselves.

However, it is important for all pre-retirees and retirees, regardless of their account balance size, to be able to talk through their financial challenges and goals, so they can feel confident and secure as they leave paid work. Products to help members achieve their goals should be a by-product of those considerations, rather than the starting point.

While the issues listed below are not directly relevant to the drafting of the Covenant legislation, they should be considered priority issues for Government to ensure that the implementation of the Covenant is not constrained by difficulties in providing appropriate guidance, assistance and advice to members.

Aware Super has also raised these issues in previous submissions, and would be pleased to provide additional information and context to support Government in addressing them in a timely and effective manner.

Income projections and calculators

As noted in the EM, there is a clear role for tools such as income projections and calculators to support decision making, particularly as members in the pre-retirement stage consider their retirement needs and options.

Aware Super considers the ability to provide clear, tailored income projections to members across a number of communication channels is key to improve member engagement in relation to retirement incomes.

Income projections provided on statements and many retirement income calculators rely on the RG 229 (and [CO 11/1227]), and RG 167 Part D ([CO 05/1122]). However, the ability to provide meaningful, tailored information is constrained by the requirement to use standard assumptions that:

- may not accurately reflect a member's superannuation investments and their likely investment outcomes; and
- cannot be aligned with projections from more sophisticated calculators that funds may develop for use by their members in accordance with *ASIC Corporations (Generic Calculators) Instrument 2016/207*.

This means that retirement income projections provided on an annual statement may be at best confusing, and at worst actively misleading, to members seeking to engage with their superannuation. This is concerning, given academic research demonstrates how effective

projections can be in promoting engagement, when funds do provide projections on annual statements.

It will also make it difficult for members to easily understand the implications of decisions they may make in relation to investment approaches, products and funds in an environment where individuals may be choosing whether to remain with their current superannuation fund as they enter retirement, change funds, open an SMSF, take a lump sum or open an income stream.

The Class Order [CO 11/1227] requires urgent review to make sure statement projections are member friendly, reflect a members' actual investment strategy, align with projections provided through the fund's retirement calculator and avoids member confusion by enabling consistent messaging across various communications, tools and channels. We understand there is an upcoming consultation on the Class Order, and we look forward to engaging with ASIC to address these issues.

Without these changes, an important tool for informing and engaging members will continue to be limited in its usefulness.

Recommendation

4. Prioritise ASIC revisions to RG 229 (and [CO 11/1227]), and RG 167 Part D ([CO 05/1122]) to allow tailored income projections to be provided to members.

The role of intrafund advice

The provision of cost effective and affordable advice is critical to ensuring more members have access to adequate support in the lead up to, and through, retirement.

Where a member's needs are relatively straightforward, an expanded intrafund advice framework will be integral to this process. Guidance and advice offered through the intrafund channel in the context of the Covenant should be regarded as being in members' best financial interests.

There will always be a segment of members who will seek more comprehensive advice for reasons of complexity, more challenging financial or personal needs, or because they simply prefer to deal face to face. However, we anticipate that this will not be the most appropriate or cost-effective approach for a majority of members.

Multiple studies have shown that most members will not seek advice, or pay the true cost to serve for full personal advice, despite the clear need for assistance through our complex retirement system. The recent exodus of advisers from the industry will only serve to further limit the number of members receiving advice in future.

For intrafund advice to be an effective mechanism for the delivery of retirement advice, trustees will need to be able to consider factors including:

- Social security entitlements;
- other relevant circumstances outside of superannuation, such as home ownership;
- the member's spouse/partner and their circumstances where appropriate.

Aware super considers it is possible to appropriately frame intrafund advice requirements to allow this to occur in a way that is cost effective and remains in the best financial interests of all members.

It is also important that retirement advice, whether comprehensive or delivered on a scalable basis, is not considered a point-in-time need but as something members will access throughout their retirement journey.

Intrafund advice is currently framed as being for one-off advice and does not consider scalable, low-cost forms of advice that do not create an undue cost subsidy across the fund. Scalable forms of intrafund advice, such as digital tools that do not have a meaningful per-use fee, should be able to be accessed on an ongoing basis, so that members can be encouraged to regularly check in on their progress (for example, on an annual basis).

Aware Super recommends these issues are specifically addressed as part of the 2022 Quality of Advice review process, with the goal of ensuring that an appropriate level of retirement advice can be provided through the intrafund advice process, and appropriate pathways can be developed to ensure members can easily access the right mix of guidance and advice for their circumstances.

Recommendation

5. Include in the Terms of Reference for the Quality of Advice Review the role of intrafund advice as a mechanism for delivering high quality, affordable advice to members, including for members approaching, entering and living in retirement.

Improving data available to funds

A key point of discussion around how trustees will implement the Covenant has been around the role of various types of data in helping trustees understand members and their needs.

We support the use of the kinds of data highlighted in the EM, such as member surveys and publicly available data.

Aware Super is well progressed in understanding our members and developing relevant cohorts based on member needs. However, the work we have undertaken has highlighted the importance of good information being available to trustees at the aggregate fund level and the individual member level. It is unlikely that existing data sources will provide trustees with the desired level of appropriate, timely and cost-effective data to support their Strategies.

We suggest guidelines be developed for the use of a) shared identifiable data with consent, and stringent security protections, and b) de-identified data for general usage.

Streamlining access to individual member data

Access to appropriate MyGov, ATO and Centrelink data with members' permission could present an efficient means for sourcing relevant member data to feed into the retirement planning process, reducing both frictions for members and the cost of fact finds in advice settings.

Time and cost efficiencies for both members and funds could be achieved by allowing data to be accessed by funds, with consent, in a safe and seamless way.

This data could be used to:

- feed into digital tools;
- support call centre staff to ensure delivery of relevant information;
- streamline the provision of advice.

Current regulations create barriers to this process and subject members to onerous fact finds and the production of 50-80 page Statements of Advice that make it impractical to provide members with access to relevant, tailored and timely information.

The progression of the Consumer Data Right for superannuation could be used to support this improvement in data accessibility.

Aggregated de-identified data

At a more general level, member-level data should also be able to be fed back into the superannuation industry, both at a whole-of-industry and a fund level.

While we understand this may take time to implement, prioritising an uplift in terms of data insights provided back to superannuation trustees in parallel with the implementation of the Covenant is likely to assist all trustees in understanding (or confirming their existing understanding) of their members' circumstances outside of the fund.

This kind of data will support funds in undertaking cohort analysis to support the development of their Strategy, as well as allowing them to track broader trends in the characteristics of their members over time.

We also suggest the Government expands the Household, Income and Labour Dynamics in Australia (HILDA) survey to capture participants over age 65 and combine this data (at the member level) with relevant data from the ATO and Centrelink to collate an appropriately de-identified database for research purposes and to inform the ongoing development of retirement policy.

Improved access to higher quality data sources for research purposes would serve to accelerate a broader understanding of retirement and assist funds as they seek to cohort members and develop fit for purpose retirement solutions.

Recommendation

6. Ensure the implementation of the Consumer Data Right for superannuation allows members to provide their super fund access to appropriate MyGov, ATO and Centrelink data to support retirement planning.
7. Prioritise systems and processes to allow for aggregated, deidentified member data to be provided to superannuation funds from key Government agencies, in particular the ATO and Centrelink.
8. Explore options for other existing research, such as the HILDA survey, to be used to provide data sources for broader research on retirement policy issues.