



17 June 2004

Mr Elton Humphery
Committee Secretary
Senate Community Affairs Legislation Committee
Parliament House
Canberra ACT 2600

By e-mail to: community.affairs.sen@aph.gov.au

Dear Mr Humphery

**Family and Community Services and Veterans' Affairs Legislation Amendment
(Income Streams) Bill 2004**

Thank you for inviting us to participate in your inquiry into the above Bill.

As discussed with your Christine McDonald today, we are unfortunately unavailable to appear at the public hearing to be held in Canberra on 18 June. However, we welcome the opportunity to make a submission to your inquiry and would like the Committee to take note of the following comments which reflect our position on the measures contained in the Bill.

- We observe that the Committee's specific terms of reference are "to examine the impact of the changes to asset test exemption on retirement income adequacy and take-up of income stream products". In this respect, we do not have any in-principle objection to the reduction in the assets test exemption from 100% to 50% for "asset-test exempt income streams" as defined in the Bill. In fact, we are more concerned with the impact that the Superannuation Industry (Supervision) Amendment Regulations 2004 (No. 2) will have on retirement income adequacy and the take-up of income stream products, and we note, thankfully, that those Regulations are now the subject of a separate inquiry to be conducted by the Senate Economics Legislation Committee.
- Under the present system applying to fixed term asset-test exempt income streams, if a person's life expectancy is greater than 15 years then they can select any term between 15 years and their life expectancy. As a consequence, the most popular term selected is 15 years.

Included in this Bill is a change to the definition of the term of the concessionally-treated term products. The new definition gives the term products the same term options as the new market-linked products. That is, the term is at a minimum equal to life expectancy at commencement or a maximum of the life expectancy of a person 5 years younger.

This new term has some adverse impacts for female retirees due to their significantly longer life expectancy than their male counterparts. For a woman of age pension age (63), her life expectancy is 21.54, meaning that the minimum term for a term product must be 22 years and the maximum term 26 years (based on a 58 year old female's life expectancy of 25.86). This compares with a minimum of 15 years and a maximum of 22 years under the current system.

This raises an issue of the ability of the market to provide these products. As it stands today, out of all the life offices that provide fixed term income streams (which will be the only option given the ban on self managed superannuation funds from providing such income streams under the Superannuation Industry (Supervision) Amendment Regulations 2004 (No.2)), our inquiries suggest that only four provide term products beyond 20 years, and even then no greater than 25 years.

In effect, this means that a female retiree will have significantly fewer choices of term options, both in quantity of suppliers as well as choice of terms. Note that this problem means that if the female is under 59 there will be NO term products available in the market place.

It should be noted that the reason why there are few providers of these longer term products (in the retail environment) is that there are no underlying investments that can be used to replicate the duration of the product liabilities. The rule changes will not mean that there will be an influx of new providers.

It brings us to the conclusion that female retirees may have extremely limited access to any form of complying fixed income products and will thus be restricted in their choices to products which require them to bear the investment risk, namely the market-linked and allocated products.

As an aside, the combination of the rule changes (that is, in this Bill and the Superannuation Industry (Supervision) Amendment Regulations 2004 (No.2)) gives the appearance that the retail product providers' interests have been given more consideration than the consumers'. The change to the term products could be construed as a condition to get approval for the new market-linked products. If so, then it could also be interpreted that to appease the providers of the term products whose market was being adversely affected by the term changes, it was agreed to eliminate competition by the banning of such products from self managed superannuation funds.

- The Bill provides that an asset-test exempt income stream commenced or purchased from 20 September 2004 will be eligible for a 50% exemption from the assets test.

It is not clear from the Bill whether an asset-test exempt income stream commenced or purchased before 20 September 2004 (and thus eligible for a 100% exemption from the assets test) will be able to be commuted and rolled-over to another asset-test exempt income stream after that date, with the 100% assets test exemption retained. It is our view that this should be the case to ensure that the grandfathering provisions are given proper effect and that consumers are not forced to remain with a particular product provider to ensure the original assets test exemption is preserved. We note at this point

that similar arrangements were accommodated from an income tax perspective when the definition of the undeducted purchase price of a pension or annuity was amended from 1 July 1994.

The Explanatory Memorandum to the Bill suggests that items 29 and 30 contemplate such a situation, by referring to "...principles determined by the Secretary, and specified in a disallowable instrument...[that] will cover certain asset-test exempt income streams that are purchased or acquired before 20 September 2004." However, we seek some clarification or commitment that such principles will in fact be developed and determined for the purposes stated, as the Bill itself leaves this issue open.

- The Bill introduces "market-linked income streams" as a new product that will be included as asset-test exempt income streams (as to 50%) from 20 September 2004, and specifies the conditions that such income streams must satisfy. For a regulated superannuation fund to be able to pay such an income stream, the Superannuation Industry (Supervision) Regulations 1994 must first be amended to reflect those conditions. While we are aware that relevant amendments to those Regulations are imminent, we are naturally concerned to ensure that they will mirror the provisions in the Bill so that any technical discrepancies (and unintended consequences) do not emerge.

Yours sincerely

Michael Lorimer
Director and Chair
SISFA