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Dear Mr. Leveritt,

CONSULTATION PAPER 203 AGE PENSION ESTIMATES IN SUPERANNUATION FORECASTS: UPDATE TO RG 229

The Association of Superannuation Funds of Australia (ASFA) would like to provide this submission in relation to the Australian Securities and Investments Commission's (ASIC) Consultation Paper 203 *Age pension estimates in superannuation forecasts: update to RG 229*.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

ASFA is broadly supportive of the proposed amendments in Consultation Paper (CP) 203 *Age pension estimates in superannuation forecasts: Update to RG 229*.

A key policy platform for ASFA is member engagement. The provision of a benefit projection or retirement income estimate, ASFA believes, will contribute greatly to superannuation fund members better engaging with their retirement savings. ASFA supports ASIC's contention that a retirement estimate will provide superannuation fund members with an indication of how much money they may receive from their superannuation when they retire. This could then prompt the member to engage more thoroughly with their superannuation and possibly undertake further investigation into the adequacy of the super savings by seeking financial advice or using an appropriate superannuation calculator.

ASFA would like to make two specific comments regarding the CP.

1. The Age Pension

In previous submissions ASFA has raised the need for forecasts to also include a projected eligibility to the Age Pension. This is because approximately 70% of retirees are in receipt of at least a partial Age Pension and going forward it is expected that the Age Pension will continue to be relied upon to some extent by a significant proportion of retirees. As such we believe that is more misleading to exclude the Age Pension than to include it.

ASFA has received a number of comments from its membership regarding the standard assumptions contained in the CP that need to be used in formulating an Age Pension estimate. The gist of the comments was that the assumptions were considered to be too arbitrary. For example, the proposals at Part B states -

> **B2** *We propose to require that, if the super fund includes an estimate of the age pension, the pension estimate must use the following assumptions:*
>
> *(a) the member qualifies for an age pension under s43 of the Social Security Act 1991;*
>
> *(b) the member owns their own home and has no other assets or income affecting the amount of the age pension payable to the member other than a single superannuation fund retirement benefit equal to the lump sum, which is applied on the date of the estimate to purchase an account-based pension that provides the member with income in that year equal to the annual income stream amount; and*
>
> *(c) the member has a partner and the partner has the same income and assets as the member.*

Feedback provided to ASFA by its members questioned the value of such broad assumptions. The general view was that the assumption at point (c) was improbable, especially in regards to income. Nevertheless it was accepted that any alternative sliding scale of value for income and assets would lead to greater complexity and may be equally as arbitrary.

ASFA therefore accepts the arbitrary nature of the assumption so long as the accompanying notes clearly indicate the broad nature of the assumption.

Further feedback from the ASFA membership noted a potential problem associated with multiple member accounts where each account receives a projection with an estimated Age Pension entitlement. ASFA believes that, while this risk is reduced by the separate disclosure of the age pension amount, this risk needs to be managed through clear warnings as to the fact that the member is entitled to only one Age Pension amount.

Subsequently ASFA believes that the consumer warning prescribed at B3 needs to be enhanced. The warning at present reads –

> *You may not be eligible for some or all of this age pension amount if you (or your partner) have income or assets in addition to this super fund.*
>
> *Pension rates and eligibility rules may change between now and when you retire.*

ASFA recommends that the warning be changed as follows –

> *The assumption made in determining your estimated age pension amount is that you own your home and that your partner has the same income and assets as you. The age pension*

estimate amount may vary either up or down if you (or your partner) have income or assets that fall outside this assumption.

Also it needs to be noted that each fund you are a member of may have an estimate of your amount of age pension on your statement from that fund, however, if you do qualify for the age pension, you are entitled to only one amount of age pension.

Pension rates and eligibility rules may change between now and when you retire.

2. Is a projection or forecast personal advice?

ASFA believes that there is some merit in exploring whether projections or forecasts that are provided using government sanctioned standard assumptions are in fact personal advice.

ASFA notes that in Regulatory Guide (RG) 175: *Licensing: Financial product advisers—Conduct and disclosure* it is stated at paragraph 175.36 -

> *RG 175.36 Personal advice is financial product advice given or directed to a person (including by electronic means) in circumstances where:*
>
> > *(a) the person giving or directing the advice has considered one or more of the client's objectives, financial situation and needs (other than for complying with the Anti-Money Laundering and Counter-Terrorism Financing Act 2006, or regulations or rules under that Act); or*
> >
> > *(b) a reasonable person might expect the person giving or directing the advice to have considered one or more of these matters (s766B(3)).*
> >
> > *All other financial product advice is general advice: s766B(4).*

ASFA understands ASIC's view that the provision of a retirement forecast is personal advice as it takes into account the personal circumstances of the member. However, we query whether the provision of a forecast using government sanctioned standard assumptions is something that is intended to influence a person in making a decision in relation to a particular financial product. Instead, we would suggest that it is something designed simply to help a member to visualise the retirement income that their superannuation account is likely to produce.

The projection is merely a tool for those who are not financially literate to understand the implications of their balance. Put another way, if the member were financially literate, they should get the same message just by seeing the amount of their account balance in their statement.

The use of government sanctioned assumptions makes the forecast more a form of personalised information than it is advice. ASFA appreciates that where the forecast shows a low level of retirement income, the member may draw a conclusion that they need to contribute more into that fund, however, the forecast could equally prompt them to take other actions such as increasing non-super savings, asking for a pay rise or look to reduce expenses.

A further complication with forecasts being included as personal advice is the impact of the best interest test. Although the current class order relief in CO 11/1227 outlines a no-action policy where ASIC will not take regulatory action if a super fund trustee follows the prescribed assumptions and methodology set out in RG 229, it does not preclude third parties from taking legal action on conduct covered by the no-action position.

ASIC has indicated that they consider the chances of third party action where RG 229 has been followed as being low. Nevertheless, trustees are loathe to take unnecessary risks. This may go some way to explain the lower than expected take up rate of the CO 11/1227.

ASFA will continue to work with ASIC and Treasury on an appropriate classification of superannuation forecasts when issued in line with a set of standard assumptions sanctioned by the Australian Government Actuary. By reclassifying the forecast as something other than personal advice ASFA believes this may encourage more trustees to issue forecasts.

* * * *

We thank you for providing us with the opportunity to make this submission and to participate in the consultation process.

If you have any queries or comments regarding the contents of our submission, please contact

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Yours sincerely

Fiona Galbraith

Director Policy