FSC FINANCIAL SERVICES COUNCIL

12 February 2016

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Dear Mr Christie

CONSULTATION PAPER 249: Remaking ASIC class order on generic financial calculators: [CO 05/1122] (CP 249)

The Financial Services Council (**FSC**) has over 115 members representing Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks, licensed trustee companies and public trustees. The industry is responsible for investing more than $2.6 trillion on behalf of 11.5 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is the third largest pool of managed funds in the world. The Financial Services Council promotes best practice for the financial services industry by setting mandatory Standards for its members and providing Guidance Notes to assist in operational efficiency.

We refer to CP249 and ASIC's invitation to make submissions on the same and the draft ASIC instrument released with CP 249, proposing to amend [CO 05/1122].

We welcome the opportunity to make this submission and to provide feedback to you in relation to [CO 05/1122]. We would ask however if at all possible that before release of the final report and class order given various and differing industry views on these issues and that we have not had the opportunity to consider other submissions.

SUMMARY

A non-exhaustive summary of the major points follows-

(a) there is broad support for the provision of generic financial calculators amongst our membership;
(b) there is majority support for a proposal under which common assumptions for use in new calculators and benefit projection tools be prescribed with some variance in views as to what matters might be prescribed as detailed below;

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(c) a member however has expressed a preference for there to be no prescription of assumptions and that if there is a departure from a stated reference set, then that departure to be reasonably justifiable;
(d) the area of assumptions is one where further dialogue with you would be useful and reference has been made to a possible approach being for any assumptions to be developed in conjunction with industry and for an independent industry expert to review these agreed assumptions;
(e) we seek guidance concerning references to specific products in calculators and compliance with the relevant rules, as well as welcoming comments on whether rules around product-specific calculators could be developed;
(f) we also have expressed a view that issuers who are unable to comply with the settled form of relief should be encouraged to approach you for specific and tailored relief (given that advances in digitisation and innovation may make some aspects of relief no longer relevant);
(g) issuers should have the option of using compliant, bespoke calculators or adopting ASIC's MoneySmart calculator. There may be merit in you considering the possibility of white-labelling your calculators and allowing the industry to provide the white-labelled calculators to consumers with the product provider's own branding, 'skin' and functionality.;
(h) the same principles adopted in relation to calculators and other benefit projection tools should apply to "super estimators";
(i) we have suggested certain changes to the existing regime on the basis that these changes should apply only to AFSL holders (given that non-AFSL holders currently can rely on the relief). This is because AFSL holders are able to structure landing pages and online distribution in a way which satisfies various consumer protections such as Financial Services Guide (**FSG**) and Consumer Advisory Warning (**CAW**) requirements;
(j) there is broad agreement concerning the proposed breach reporting for non-AFSL holders; however, further ASIC guidance in this area may be required;
(k) in our submission, the current existing framework for compliance, with respect to AFS licence holders, addresses your concerns relating to reporting of breaches;
(l) a member has expressed a general concern with the extension of reporting to "likely breaches";
(m) we have made comment on the use to which data already held can be utilised in this context and retention of data. Further guidance is sought in this area;
(n) similarly, we make some observations concerning consents already held enabling provision of other information to members who have made use of calculators, and
(o) our view is that standard fees and costs should not be prescribed by ASIC. They should be set by the provider having regard to the product provisions relevant to the likely user group. Further guidance and a prescribed consumer warning in this area may be required.

Our detailed comments are set out in the submission below.

Topic: FSC Submission: CONSULTATION PAPER 249: Remaking ASIC class order on generic financial calculators: [CO 05/1122]

DETAILED COMMENTS

General observations

1. The FSC supports the provision of generic financial calculators as useful educational tools for consumers, which have the ability to promote consumer engagement and allow consumers to better understand their financial circumstances and goals. However, in order to further facilitate this engagement and understanding, while also mitigating the risk of confusing or misleading consumers, we believe there is a need for a more consistent approach within the industry **for all retirement benefit calculators and other benefit projection tools**.

2. In the superannuation context, for example, ASIC makes available on the *MoneySmart* website its superannuation calculator. In addition, ASIC encourages the provision of superannuation forecasts by superannuation fund trustees to consumers through the relief it has granted for certain generic financial calculators ([CO 05/1122]) and retirement estimates with periodic statements ([CO 11/1227]). In addition, currently draft legislation has been released for consultation, which, if passed, would mandate the use of a 'super estimator' on Choice product dashboards. All these tools (which have been developed to provide essentially the same output, being superannuation balance forecasts for consumers) are currently able to use different assumptions.

3. Such differences in terminology and inputs are likely to lead to consumers (when inputting the same data about their personal circumstances) receiving very different superannuation balance forecasts.[1] Consequently, we believe that the current state carries high risk of confusing or misleading consumers and creating inconsistency amongst providers of these calculators and tools. It is fair to say that there is a range of different opinions as to how to best address these issues.

4. A majority of our members involved in this submission, (**majority**), support a proposal under which **all new** calculators and other projection tools should be required to use the same minimum assumptions. An example of such an assumption is one where all calculators and other projection tools should be required to use the same default inflation assumption for converting to today's dollars. For calculators and other projection tools that enable users to change inputs/assumptions, these calculators and tools should need to use the same default minimum assumptions (with the option to use additional assumptions within reasonable bounds). The prescription of minimum assumptions, with the

[1] See, for example, the following article: http://www.smh.com.au/money/retirement-calculators-mislead-super-fund-members-20151211-gllluk.html

option of using additional assumptions where users can change the inputs/assumptions, would provide for improved consistency (as a default), while also allow for future flexibility (as circumstances change) for providers and improved information quality for consumers. We do note that in some cases, it may not be appropriate for users to have the ability to alter non-prescribed assumptions. Examples might include instances where factual user data is prepopulated, or when the fees for a particular product are not within the user's control. Issuers will need to have the ability to impose limits on the extent to which assumptions may be altered. Issuers also would like to retain the ability to control defaults, with appropriate disclosure, for different customer and member groupings. There is a middle course which could be adopted. Thus, ASIC could have power to specify a suite of generic default assumptions that can be used without any requirement of justification. Certain of these assumptions, such as price and wage inflation assumptions, would not able to be varied. However, other assumptions such as fees and investment returns could be varied by the provider; however, this ability to vary assumptions would be conditional on the provider demonstrating that any non-standard default assumptions so adopted are reasonable.

In relation to investment returns, for example, ASIC could specify investment return assumptions for say 5 diversified portfolios with a suitable range of risk-return profiles. Providers could then restrict their calculators to using those specified default assumptions and portfolios or, if they wished, provide a calculator with their own set of investment portfolios and associated reasonable default investment return assumptions.

That said, any mandating of common assumptions should only apply to new calculators and tools developed after the date of the new Class Order. Significant costs would be involved if all existing calculators were required to amend their underlying assumptions.

5. **Suggestion**: In this context, we note in terms of these approaches that there are benefits in adopting a single set of assumptions. Nevertheless, some concern has been expressed on the use of the assumptions in the current Class Order regime. This is because use of these assumptions on a number of occasions can produce misleading outcomes and results. One approach here is for any assumptions to be developed in conjunction with industry and for an independent industry expert to review these agreed assumptions. We would be happy to discuss this further in detail with you.

6. **Alternative approaches:** Another view has been expressed to us however that there should be no prescription of a 'minimum' set of assumptions as outlined above, other than that for a default inflation level, (**alternative view**). On this view, issuers should be free to set defaults those issuers feel are best suited to the issuer's membership cohort. For calculators and other projection tools that enable users to **change** inputs/assumptions, these calculators and tools should use the same default inflation assumption, as noted above, while allowing the user to change the default within reasonable parameters.

7. In this context, and in disagreeing with an approach that a fixed set of assumptions be prescribed, a member has noted that calculators that help users understand their likely range of outcomes should not be excluded from relief provided by the Class Order. This is an evolving field and it is noted that your 'innovation hub' is committed to encourage innovation that has the potential to benefit consumers. In considering this approach, the member suggests that the most material drivers of a retiree's standard of living are:

    - their age pension eligibility;
    - their asset mix;
    - fund and investment charges;
    - cashflow shapes (before and after retirement)

    And the three main risks in retirement are

    - market;
    - inflation and
    - longevity.

    For these purposes, the common methods used by calculators to demonstrate variability in retirement outcomes are as follows:

    i. quoting the effect of an addition to, and a deduction from, the key assumption (for example investment return);
    ii. historical analysis (for example, a demonstration using a range of reasonably possible investment returns); and
    iii. stochastic analysis (for example, illustration of a 'funnel of doubt', based on a specified probability distribution for future investment returns). This type model can produce statements such as "There is an x% likelihood that you can sustain a lifestyle at the ASFA comfortable standard for life"

    The above issues also apply to assumptions around the **inflation rates** used. Rather than having mandated assumptions, one approach is to require that calculators containing 'best estimate' assumptions differing from a reference set (e.g. those used on ASIC's MoneySmart calculator) provide an explanation of why alternative assumptions were selected and by whom it was that chose those assumptions.

8. **Presentation of Fees and Outcomes:** In all of these approaches, we acknowledge that it is important that there be clarity around fee and cost presentation. For example, a fee item should disclose whether or not it is inclusive of the net effect of GST. Alternatively, a net return figure could be used in the calculation if the output required is only about amount available for retirement. However, it seems to us that at some stage a consumer may well wish to alter the key variables to work out impact of returns, fees and additional contributions on the final calculation as well as any additional risks to which they may be exposed. Again, these are matters we would be happy to discuss further with you.

9. In addition, to the extent possible, we believe a consistent regulatory approach should be taken with respect to all such calculators and tools. In particular, we

believe that it would be appropriate for ASIC to provide prescribed warning text (similarly to the prescribed warning text in paragraph 10 of [CO 11/1227]) for use by providers of all such retirement benefit calculators and benefit projection tools.

10. Further, calculators should be required to comment on the range of uncertainty in the outcomes they calculate. The guiding principle here should be however that calculators remain useable. In relation to the concept of "uncertainty", we draw your attention to paragraph 5.5 of the *Actuaries Institute Practice Guideline 499.02* regarding 'uncertainty'. We set out below our comments to the specific questions for feedback contained in CP 249. We would welcome the opportunity, with interested members of the FSC, to discuss these comments with representatives from ASIC prior to you finalising the draft Instrument.

B1Q1 Do you agree with these proposals? If not, why not?

11. The FSC supports continuing the relief given by [CO 05/1122] and ASIC's proposals in relation to the changes set out in CP 249. In particular, we believe the proposals in relation to layering resulting from behavioural economics research largely reflect current industry practice. However, we do make the following comments relating to certain of the proposals:

    a. (**assumptions**) (i) the majority view is that ASIC and the industry should use the same minimum assumptions for new retirement benefit calculators and new benefit projection tools (and where users are required to have the ability to change inputs/assumptions, the same minimum default assumptions, with the option of additional assumptions) in order to increase the reliability and comparability of the results. This also will mitigate the risk of confusing or misleading consumers. For example, in the superannuation calculator context, we suggest that the minimum assumptions for the purposes of [CO 05/1122] are those set out in paragraph 10(b) of [CO 11/1227] (or an updated version of those assumptions) in order to assist in achieving consistency throughout projection tools. This is particularly pertinent as paragraph 10(d) of class order [11/1227] requires that trustees, as prescribed text set out in statements, provide the name and web site address of their own calculators to "let [a user] explore [their] potential retirement income in more detail." There is potential for consumer confusion if there are inconsistent 'minimum' assumptions used for the purposes of [CO 11/1227] and [CO 05/1122] (where the same inputs are used), because this is highly likely to generate a different result .
    We believe that any minimum assumptions should either be prescribed and reviewed at least say annually by ASIC or by a third party provider (which itself is prescribed by ASIC) in order to achieve reliability and comparability. Prescribed minimum assumptions also would have the beneficial result of minimising the costs and time spent on providers ensuring these minimum assumptions are up to date and remain reasonable for the purposes of class

order relief. As we have said, one possible approach here is for any assumptions to be developed in conjunction with industry and for an independent industry expert to review these agreed assumptions. We would be happy to discuss this further in detail with you.

An intermediate or middle course here as we have said is that there be certain prescribed default assumptions which must be used (say inflation rates). A provider then would be free for other items, such as fees and returns, to adopt its own assumptions subject to satisfaction of a reasonableness test.

We should add here that some members have indicated that stochastic analysis and modelling is increasing in popularity and the use of issuer-selected default assumptions should not prevent such models being used in or through calculators.

(ii) another view is that ASIC and the industry should use the same **default inflation assumption** (and where appropriate allow users to change the default inflation assumption, in order to increase the reliability and comparability of the results). On this approach, the default inflation assumption should be prescribed and reviewed at least say annually by ASIC in order to achieve reliability and comparability.

b. (**breach reporting-self-reporting**) The FSC and its members support self-reporting. We agree with the proposed breach reporting requirements for providers of generic financial calculators that do not hold an AFS licence. However, we do not support the proposed breach reporting regime for providers of generic financial calculators that do hold an AFS licence. AFS licence holders already have an existing framework for compliance with regulations. This includes licence obligations, audit obligations and obligations under section 912D of the Corporations Act to report to ASIC significant breaches or likely breaches. We believe the current existing framework for compliance, with respect to AFS licence holders, adequately addresses ASIC's concerns relating to reporting of breaches and the valuable information this provides to the regulator.

We also note that a member has expressed a general concern with the extension of reporting to "likely breaches". The member has suggested that more appropriate quality control mechanism would be to require any such calculator to be "signed-off" by an actuary. In this regard, the member advises that the Actuaries Institute has issued *Practice Guideline 499.02*: *Projected Superannuation Benefit Illustrations*.

c. (**breach reporting-further guidance**) We suggest that further guidance is required for providers that do not hold an AFS licence with respect to the proposed breach reporting requirements. For example, further guidance in relation to the following:

   i. when ASIC would consider a failure to comply would be 'immaterial'. Is this a reference to 'loss' or the immateriality of the failure? We would ask that we be provided with examples of what ASIC would consider to be 'immaterial.'

ii. what ASIC would consider to be appropriate rectification steps for a failure. Would ASIC expect consumer notification? If so, this may be difficult as normally consumer contact data would not be stored.
iii. what would happen once the error is rectified? Would the provider require formal notification from ASIC that it may again rely on the class order instrument?
iv. whether, as a matter of good practice, a yearly review and audit should be conducted on the calculator.

d. (**record keeping**) With respect to proposed paragraph 6(1)(f) of the revised class order [CO 05/1122], and in particular the text *…must not prevent the user from readily printing or electronically storing the estimate,* we would appreciate further guidance as to whether it should only be the estimate that must be able to be stored or both the estimate and the information required to be displayed under paragraphs 6(1)(d) and (e).

e. (**use of data already held**) We seek further clarification and guidance from ASIC that the provider, if it so chooses, in using data it already holds about a consumer to pre-populate certain inputs in the calculator (for example, their name and age), would not cause a provider to fail to comply with a condition of [CO 05/1122]. We believe pre-population of data, as long as it is up-to-date and the user has an ability to review, verify or change that data, will contribute to a consumer's experience and engagement with the results of the calculator. This will be particularly important for existing members of a superannuation fund when, for example, they receive their welcome pack for employer-sponsored superannuation product or in situations where periodic statements may be delivered with a hyperlink to a superannuation calculator. In addition, our view is that an AFSL holder with consent of the user, should have the ability to retain inputted information for more general follow up. Similarly, if consent otherwise has been obtained an AFSL holder should be free to send links to consumers for review or education purposes.

f. **(reference to a financial product and product-specific relief and specific tools)** The FSC expresses concern that the current rules prevent references to any particular or specific product (although the underlying assumptions can be based on a particular product).
Members have said that this prohibition is potentially unworkable. Different assumptions will be necessary for different products. There is a logical difficulty and impasse in justifying the default assumptions without reference to the financial product. Our view is that a reference to a specific financial product is not the same as advertising or promoting it (which is the mischief presumably being addressed). Another product-related issue is the application of calculator relief to specific products. In this regard, it would be useful for consultation to be undertaken on relief for **product-specific calculators**. Calculators in this instance should be reflective of the product that the member is invested in to provide them with the assumptions based

on the fund records. We would be happy to discuss and progress this idea further with you.

As a separate but related issue, we ask for further clarity and guidance from ASIC on offering tools which give investors the option to compare different portfolios, and to even modify their asset allocations. Provided such tools work within the parameters of not providing personal financial advice (i.e. does not involve an opinion or recommendation based on a person's individual circumstances or objectives), the industry would benefit from more regulatory certainty on when and how such tools can be offered.

In this regard we note that Corporations Regulation 7.1.33A does permit personal advice but does not permit the advice to relate to a specific product. It would be useful if some clarity could be provided around the precise parameters of these permitted tools.

Such guidance and clarity would also be in line with ASIC's commitment to encouraging innovation, particularly where it could lead to better market and consumer outcomes particularly where there is an opportunity to assist consumers in making more informed decisions.

In this context, it would be useful if you could make a statement in the final material encouraging issuers to seek specific relief if a relevant calculator does not fall within the general class order relief. We say this given the potential for departure from general relief resulting from the increasing degree of digitisation and innovation in the industry.

g. **(reference to 'generic')** A number of concerns relating to the Class Order arise from the 'generic' label. It is impossible to set default fees, insurance premiums and investment returns and justify them as reasonable without reference to a product-context in which their users are located. A provider would not make a calculator available to members if there was no relevance to the product. These useful tools are only made available to members as end consumers because their assumptions are not generic.

We should add that to the extent to which we have suggested changes to the existing class order relief, these changes should apply only to AFSL holders (given that non-AFSL holders currently can rely on the relief). This is because AFSL holders are able to structure landing pages and online distribution in a way which satisfies various consumer protections such as FSG and CAW requirements.

B1Q2 Instead of remaking [CO 05/1122], should ASIC allow [CO 05/1122] to sunset on the basis that providers of generic financial calculators can refer users to the calculators provided on ASIC's consumer website, MoneySmart, for additional financial information and education?

12. No. We believe that providers should have the option to either create their own calculators (consistent with relief under [CO 05/1122]) or refer users to the calculators provided on ASIC's consumer website. This will facilitate innovation and closer monitoring of member trends and preferences by superannuation trustees, advisers and ASIC to further improve financial education and

engagement. ASIC and/or its service providers may also require the benefit of class order relief (given the calculators provided on ASIC's consumer website).

13. In addition, we believe it is appropriate for providers to create their own financial calculators as they may be able to better enhance the user experience and there is a risk, where a consumer is utilising a calculator in a secure environment (particularly when dealing with their finances), to direct them to a non-secure environment for additional financial information and education.

14. However, given the costs of producing and keeping a calculator up-to-date, we believe it is appropriate for providers to also have the option to refer users to the calculators provided on ASIC's consumer website.

15. We do note the MoneySmart calculator does present difficulties in a practical sense. First, it is somewhat inconsistent with an organisation's own brand image and identity. Second, it does not seem to work on many mobile devices. Third, the user interface is not effective and is unresponsive to window size. Accordingly, we suggest that ASIC may wish to consider the possibility of white-labelling its own calculators and allowing the industry to provide the white-labelled calculators to consumers with the product provider's own branding, 'skin' and functionality. This third option would reduce the risk (and cost) for providers of calculator 'maintenance'. It may be a particularly useful (and cost-effective) tool for advisers to use with their clients.

B1Q3 Do these proposals help achieve our objective of facilitating the provision of useful and accurate information about financial products and services through generic financial calculators?

16. These proposals help achieve the objective to a certain extent. For example, they assist users to understand how superannuation or insurance products and services may work in a very general manner.

17. However, we believe that constraining the output of the calculator to 'the numerical result of a calculation and a description of what the result is' is limiting the capacity of the calculator as an educational tool that promotes consumer engagement and allows consumers to better understand their financial circumstances and goals. ASIC must recognise that a consumer, once they obtain a numerical result, is likely to want to know what additional steps are available for them to take. AFSL holders, being subject to various consumer protection requirements and obligations such as CAWs and FSGs, are best-placed to provide consumers with these additional steps. As such, we believe it is appropriate for AFSL holders to make available, with the numerical result and description of it, for example:

    a. factual information services by:
        i. the provision of factual information with the numerical result or links to factual information contained in the education section of a web site;

ii. the provision of 'case study' examples with the numerical result; and
iii. the provision, along with the numerical result, of examples of how changes to certain factors could impact the numerical result);

b. advice services (by links to 'find adviser' type tools);
c. switching or consolidation services (by links to switching or consolidation services); and
d. products that may be available (by links to a suitable landing page about the provider's products). In particular, if the consumer is using a branded calculator, it would expect the brand to be able to assist in meeting the needs they discovered as a result of using the financial calculator (rather than just leaving the consumer at a 'dead end').

Accordingly, it would be useful for ASIC to provide guidance that the 'additional steps' listed above would not cause an AFSL holder to fail to comply with a condition of [CO 05/1122].

B1Q4 Do you think the current requirement that a generic financial calculator must display to the user in the ordinary course of its use clear and prominent statements and explanations is achieving its objective of promoting user engagement with this information?

18. Yes, we believe it does. For example, a large FSC member has provided data which indicates that one of its superannuation calculators was accessed the following amount of times:

Date	**No. of views**
July 2015	10,871
Aug 2015	16,411
Sep 2015	6,872
Oct 2015	8,138
Nov 2015	6,423
Dec 2015	3,443
Total	**52,158**

19. We assume that ASIC will conduct consumer testing and consult with consumer stakeholders and interest groups to confirm our view of the position and the utility of generic financial calculators from this perspective.

B1Q5 If we include a requirement that future projected amounts must be adjusted for inflation, should we prescribe an appropriate measure of inflation or should the provider be left to make assumptions about the rate of inflation? Would the Consumer Price Index averaged over a period of time, or the inflation assumptions

used by ASIC's MoneySmart calculators, be an appropriate measure of inflation? Please give reasons for your view.

20. Consistently with our general comments above concerning the majority view, we believe that minimum assumptions, including inflation assumptions, should be prescribed. Specifically, on this view, the inflation figure assumption should be derived from Australian Bureau of Statics rolling average data as this is the most realistic data to rely upon and is more likely to be readily understandable by consumers.
    This is in order to increase reliability and comparability, while also mitigating the risk of confusing and misleading consumers.
    The alternative view, as mentioned is that only a **default inflation assumption** should be prescribed for converting to today's dollars. On this alternative view, the inflation figure assumption should be based on wage growth for projecting to retirement, but the actual rate should not be based on past experience. For projecting after retirement, the provider should have the choice of using a price- or wage-based deflator, which could be altered by the user.

21. We also believe that it is worthwhile for ASIC to provide prescribed wording to explain the adjustment for inflation, which should include explanations relating to:
    a. any expression in today's dollars may not be worth as much in the future (for example, due to the cost of rising community living standards that do not move in line with inflation); and
    b. the reduction of the accuracy of the inflation assumption over longer periods of time. For example, an inflation assumption is likely to be more accurate when the projection relates to a time 5 years into the future as opposed to a time 30 years into the future.

B1Q6 Should we require that generic financial calculators include a field relating to fees and costs? Alternatively, should we allow the provider the flexibility to determine disclosure about fees and costs subject to the requirement that if the calculator does not include a provision for fees and costs this has to be clearly and prominently explained, including the impact of this limitation?

22. We agree with ASIC's approach in promoting simplicity and engagement.
    To better educate and inform members, calculators that purport to show a projected superannuation balance at retirement should be required to allow for fees and costs. Default values and assumptions should be clear as to how the cost parameters are applied. In this context, we do express some concern with the potential s29QC requirements as these may provide misleading estimates of superannuation balances.

23. In any event, we believe that ASIC should provide prescribed wording explaining that fees and costs can have a substantial impact on future projections.

24. In terms of the precise **content** of the fees and costs disclosure we refer you to our previous comments concerning default assumptions. However, we do note there is a view that it is impractical to prescribe the actual fee level itself given

the range of fees applicable to the various products available (from MySuper to Wrap products) and investment strategies.

B1Q7 If ASIC required generic financial calculators to include a field relating to fees and costs, should we prescribe standardised fees and costs? On what basis should the fees and costs be calculated and what requirements should ASIC set?

25. Standard fees and costs should not be prescribed by ASIC. They should be set by the provider having regard to the product provisions relevant to the likely user group.

B1Q8 How has the requirement in [CO 05/1122] that the provider of a generic financial calculator must take reasonable steps to ensure that the calculator does not advertise or promote a specific financial product worked in practice?

26. Please see our response above to B1Q3 relating to the limitations resulting from constraining the output of the calculator to 'the numerical result of a calculation and a description of what the result is'.

27. In addition, we believe leaving it to the provider to determine certain assumptions (or where relevant, default assumptions), e.g. rates of return, makes it difficult to comply with this requirement. This is because most providers will use either third party data (based on a specific financial product) or one of their own specific financial products to support the reasonableness of the assumptions they make, and these providers generally believe it is appropriate to display the source of the relevant assumption (i.e., the name of the specific financial product). In addition, not naming specific financial products (even in associated disclosures) appears incongruent with the 'super estimator' for Choice product dashboards approach.

28. Thus, we would appreciate further guidance from ASIC whether the 'naming' of a specific financial product as outlined above, would fail to meet the requirement to ensure that the calculator does not advertise or promote a specific financial product. This is very relevant when the user is an existing member of a superannuation fund and wants to know when they use the calculator where they are currently invested. With technology interfaces improving rapidly, pre-populated data to aid user functionality will become even more important over time. That is precisely what the older-style defined benefit funds provide to their membership base.

29. If your guidance is that such a 'naming' of a specific financial product constitutes a failure to comply with the Class Order, then, on the majority view we have mentioned above, this makes the argument that minimum assumptions to be used by calculators (and other projection tools) should be prescribed, even stronger.

30. We also seek guidance on whether ancillary marketing material that is elsewhere on a fund website (eg a panel highlighting the benefits of rolling your

superannuation into the fund), can be included on the same screen as a calculator even though it is not part of the calculator.

31. Finally, we note the CO is unclear as to whether 'specific financial product' means a class of financial product (eg account based pensions) or a particular instance of a financial product (eg the ABC Personal Super Division Account Based Pension).

B1Q9 Do you think that we should introduce a new express requirement that statutory assumptions, such as the taxation rates or the rates of compulsory superannuation contributions, must remain up to date?

32. Our view is that the current conditions in [CO 05/1122] already require statutory assumptions to be up to date.

33. In any event, we agree that it is important for calculators to remain up to date, it is unclear what is meant by "up to date" in this context when many legislative changes may not have immediate impact but rather are either phased in over time or apply from a future date.

34. Any calculators should show the date(s) at which assumptions and existing parameters (eg taper rates and thresholds) were last updated or reviewed. We do not believe lists of legislative provisions would assist in consumer engagement or advance simplicity.

B1Q10 If the proposals about the 'super estimator' referred to in paragraph 9(d) are implemented, should ASIC make any changes to the relief in relation to superannuation funds retirement benefit projections where the super estimator applies?

35. Yes-the broad view of members is that, consistent with the above, we believe that to the extent possible, the minimum assumptions and calculations used to produce a forecast should be the same for the "super estimator" as for the relief granted in relation to calculators and superannuation forecasts. This is in order to increase the reliability and comparability of the results, while also mitigate the risk of confusing or misleading consumers. In this regard, a member has noted that it is important in any disclosure, explanatory or other material that the difference between a calculator and an estimator needs to be clearly expressed. A calculator ***generally*** is intended to provide a whole of super benefit result. An estimator ***generally*** is based on a single investment option which may or may not represent a member's total 'interest' in a Fund. Where this is the case, such a distinction needs to be made clear in order to reduce the risk of confusing or misleading members.[2]

    For completeness, we do note that a member has expressed the view that it does not support the concept of the super estimator and this is seen as unnecessary and has the potential to mislead consumers.

[2] Noting that some calculators may have a very limited scope and operation and otherwise might be thought to fall within the concept of an estimator.

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B1Q11 Please give details of any additional costs associated with the implementation of our proposals. If possible, please quantify these costs.

36. There would be no additional costs of implementation where the above changes are made only to new retirement benefit calculators and benefit projection tools. Costs would be incurred if they were to be applied to existing calculators and tools.

37. At a minimum, all providers will need to implement a review process by relevant stakeholders to ensure that their calculators comply. The approximate cost of this review for each provider is likely to be in the order of approximately $10,000.

38. If a calculator needs to be amended as a result of the review, the approximate cost is likely to range between $10,000 and $50,000 (depending on the number of changes required) plus approximately $10,000 for compliance and testing purposes. There may also be additional costs which are difficult to estimate with certainty, for example, legal, actuarial and further systems review.

39. If the proposals are implemented, ASIC will need to specify a timeframe for the implementation to occur (for example, 1 March 2017), and, in the meantime, continue the relief under the current class order. Most large organisations within our membership have IT freezes in the period December to January in each calendar year.

B1Q12 What benefits do you consider will result from these proposals? If possible, please quantify these benefits.

40. We believe that the proposals and our suggestions relating to consistency between the various calculators and other tools available, as well as the prescription of minimum assumptions, according to the majority view, or under the alternative approach, a default inflation assumption; present an opportunity for consistency across the industry and mitigating the risk of confusing or misleading consumers. There is however another suggested approach under which minimum assumptions are not prescribed but departure from a reference point must be justifiable. On this approach there also is robustness in requiring a justifiable position to be taken.

41. Alternatively, as we have said any prescribed standards, both generally and product specific, could be developed in conjunction with industry and subject to independent verification.

42. If our suggestion of prescribing minimum assumptions is adopted, this would also minimise the costs and time spent on providers ensuring the minimum assumptions they use are up to date and remain reasonable for the purposes of class order relief.

43. We believe that our suggestions relating to “additional steps” once the consumer obtains a numerical result will promote better consumer engagement

and understanding. We believe that the proposals and our suggestions relating to consistency between the various calculators and other tools available, as well as the prescription of a default inflation assumption, present an opportunity for consistency across the industry and mitigating the risk of confusing or misleading consumers.

The FSC thanks ASIC for the opportunity to make this submission. We confirm our comments that we would be happy to meet with you prior to finalisation of the relevant material to discuss any of the point we have raised.

Yours sincerely

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