REPORT 731

Response to submissions on CP 351 Superannuation forecasts: Update to relief and guidance

July 2022

About this report

This report highlights the key issues that arose out of the submissions received on Consultation Paper 351 *Superannuation forecasts: Update to relief and guidance* (CP 351) and details our responses to those issues.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

This report does not contain ASIC policy. Please see Regulatory Guide 276 *Superannuation forecasts: Calculators and retirement estimates* (RG 276).

Contents

A Overview and consultation process

ASIC relief and guidance on superannuation forecasts

1 Some superannuation trustees (trustees) provide superannuation calculators and/or retirement estimates (collectively, superannuation forecasts) to their members. Other entities also provide superannuation calculators.

2 Superannuation forecasts are tools that can be used to help some members think about how superannuation can be part of their retirement income (e.g. by prompting them to review their situation and seek further information).

3 Superannuation forecasts, whether delivered through a superannuation calculator or retirement estimate, may contain personal advice within the meaning of s766B(3) of the *Corporations Act 2001* (Corporations Act). To provide a forecast to a member, the tools must take into account one or more of a member's objectives, financial situation or needs (e.g. by using information about the member's initial investment, salary, age or attitude towards risk).

4 ASIC has provided legislative relief from the requirements relating to financial product advice for providers of these forecasts—since 2005 for superannuation calculators and since 2011 for retirement estimates.

5 Before ASIC made a new legislative instrument and updated our guidance in July 2022, this relief was provided through two instruments:

(a) *ASIC Corporations (Generic Calculators) Instrument 2016/207* gave relief for certain financial calculators that do not advertise or promote one or more specific financial products, including calculators relating to superannuation products.

(b) *ASIC Corporations (Repeal and Transitional—Relief for Providers of Retirement Estimates) Instrument 2022/204* extended the relief originally provided in ASIC Class Order [CO 11/1227] *Relief for providers of retirement estimates* for trustees to provide retirement estimates to superannuation fund members with their periodic statements.

Note: Providers of superannuation forecasts can continue to rely on the relief in ASIC Instrument 2016/207 and ASIC Instrument 2022/204 until 1 January 2023.

6 We also provided guidance on the application of this relief in:

(a) Regulatory Guide 167 *Licensing: Discretionary powers*; and

Note: In July 2022 the guide was updated and reissued as Regulatory Guide 167 *AFS licensing: Discretionary powers* (RG 167).

(b) Regulatory Guide 229 *Superannuation forecasts* (RG 229).

Note: RG 229 will be withdrawn on 1 January 2023.

Updating our relief and guidance

7 On 18 November 2021, we released Consultation Paper 351 *Superannuation forecasts: Update to relief and guidance* (CP 351) together with:

(a) *Draft ASIC Corporations (Superannuation Calculators and Retirement Estimates) Instrument 2022/XXX* (draft ASIC Instrument 2022/XXX); and

(b) Draft Regulatory Guide 000 *Superannuation forecasts: Calculators and retirement estimates* (draft RG 000).

8 In CP 351, we consulted on proposals to amend our legislative instruments on superannuation calculators and retirement estimates. These proposals included:

(a) making a single relief instrument for superannuation calculators and retirement estimates; and

(b) adopting a single framework for setting economic and financial assumptions.

9 The consultation was open for 10 weeks, between 18 November 2021 and 28 January 2022.

10 This report highlights the key issues that arose out of the submissions received on CP 351, and our responses to those issues. This report is not meant to be a comprehensive summary of all feedback received. It is also not meant to be a detailed report on every question from CP 351. We have limited this report to the key issues raised and a summary of significant changes made to our relief and guidance.

11 In formulating the final instrument and guidance, we have had to balance two elements: the feedback from some respondents that the relief should encompass a wide variety of situations and superannuation products, and the need to keep the instrument simple and relevant for most cases.

12 We think the new relief strikes an appropriate balance which is consistent with forecasts being tools that can help some members to think about how superannuation can be part of their retirement income without advertising or promoting specific financial products.

13 Trustees and other providers may apply to ASIC for individual relief if a situation arises where it is not possible to rely upon the general relief instrument or to provide a forecast as personal advice and by complying with the personal advice requirements in the Corporations Act.

Responses to consultation

14 We received three confidential and 26 non-confidential submissions to CP 351 from trustees, industry associations, actuaries and other interested parties.

15 As well as receiving written submissions, we met informally with a number of stakeholders to give them the opportunity to raise questions and share their feedback before making a written submission. We also held a stakeholder briefing on 14 December 2021.

16 The submissions have informed *ASIC Corporations (Superannuation Calculators and Retirement Estimates) Instrument 2022/603* and our final guidance in Regulatory Guide 276 *Superannuation forecasts: Calculators and retirement estimates* (RG 276). We are grateful to respondents for taking the time to provide their feedback.

17 For a list of respondents who made a non-confidential submission to CP 351, see the appendix. Copies of their submissions are on the CP 351 page on the ASIC website.

18 The feedback on CP 351 generally supported our overall proposals to continue to give relief for trustees and other providers to provide superannuation calculators and retirement estimates, and to combine this relief into a single legislative instrument.

19 Most of the feedback focused on aspects of our proposals relating to:

(a) presenting and disclosing superannuation forecasts (see Section B of this report); and

(b) setting economic and financial assumptions underpinning these forecasts (see Section C).

20 Following the consultation process, we sought advice from the Australian Government Actuary given that many respondents raised issues of an actuarial nature and there were competing views. We have published this advice on the CP 351 page on the ASIC website. Following receipt of this advice, we asked the Australian Government Actuary to review our proposed changes to the instrument and guidance.

B Relief for superannuation forecasts

Key points

This section outlines the feedback we received, and our responses, on the following aspects of our proposed relief and guidance:

- continued relief for superannuation forecasts;
- presentation and disclosure of superannuation forecasts;
- timing and delivery of retirement estimates;
- new relief to last for a set period of time;
- six-month transition period; and
- removal of the no-action position.

Continued relief for superannuation forecasts

21 In CP 351, we proposed to continue to provide relief from the licensing, conduct and disclosure obligations relating to personal advice for providers of superannuation forecasts by making a new legislative instrument that would cover both superannuation calculators and retirement estimates: see proposal B1.

22 We sought feedback on:

(a) whether ASIC should continue to offer relief to trustees and other providers for superannuation calculators;

(b) whether ASIC should continue to offer relief to trustees to provide retirement estimates to their members;

(c) whether there were elements of the pre-existing relief for superannuation calculators or retirement estimates that discouraged or prevented the provision of these tools by trustees;

(d) how superannuation calculators and retirement estimates were being provided by industry under ASIC Instrument 2016/207 and [CO 11/1227] (ASIC's pre-existing relief);

(e) whether superannuation calculators or retirement estimates were being provided without relying on the pre-existing relief; and

(f) whether our proposed changes to our guidance were easy to understand, and whether the structure and format of draft RG 000 were helpful.

23 We also proposed to remove the relief for superannuation calculators in ASIC Instrument 2016/207 and include it in the new legislative instrument for superannuation forecasts: see proposal B2.

24 We sought feedback on:

(a) whether our relief for superannuation calculators and our relief for retirement estimates should be combined in a single legislative instrument; and

(b) whether ASIC should continue to provide relief for financial calculators relating to retirement savings account (RSA) products, in addition to superannuation calculators.

Stakeholder feedback

25 Respondents generally supported ASIC continuing to provide relief for superannuation calculators, and for trustees to provide retirement estimates to their members, because of the benefits they provide for members (e.g. helping members understand their retirement income or increasing member engagement). Several respondents noted that the relief makes forecasts accessible (through calculators) and that retirement estimates support decision making and provide a progress check for members.

26 Respondents generally agreed that the relief for superannuation calculators and retirement estimates should be combined into a single legislative instrument, as it would promote consistency across the types of forecasts. Two respondents noted that the pre-existing relief, which constrained trustees' ability to use the same assumptions for both superannuation calculators and retirement estimates, could mislead members and they therefore discouraged provision of these tools.

27 Only two respondents said that ASIC should continue to provide relief for financial calculators relating to RSA products. One noted that the calculations involved would be similar to those made by a superannuation calculator.

> *ASIC's response*
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> We will continue to provide relief for superannuation forecasts.
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> We have combined our relief for superannuation calculators and retirement estimates into a single legislative instrument: ASIC Instrument 2022/603.
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> We have removed the relief for financial calculators relating to RSA products in light of the limited support for its continuation.

Presentation and disclosure of superannuation forecasts

28 In CP 351, we proposed that, instead of mandating specific standardised text, as was required in [CO 11/1227] for retirement estimates, the disclosure requirements for both superannuation calculators and retirement estimates would be principles based and require providers to clearly and prominently state:

(a) the purpose and limitations of the calculator or estimate;

(b) the impact of any significant limitations of the calculator or estimate;

(c) the assumptions;

(d) for an amount payable or accruing at a future time of two or more years, the present value of the calculation or estimate;

(e) that the calculator or estimate is not intended to be relied on for the purposes of making a decision in the absence of advice; and

(f) why the provider considers the default assumptions to be reasonable for the purposes of working out the calculation or estimate: see proposal B3.

29 We sought feedback on:

(a) whether respondents agreed with our proposal for principles-based disclosure requirements, and whether there should be any conditions imposed or other steps taken to address particular risks arising from a principles-based approach;

(b) whether we should prescribe how specific assumptions should be disclosed (e.g. insurance premiums); and

(c) whether there were any specific changes we should make to our relief or guidance on presentation or disclosure that would encourage trustees to provide superannuation calculators or retirement estimates.

30 We also proposed to:

(a) in our relief, retain a requirement that superannuation calculators must not be used to advertise or promote a specific financial product, and introduce a requirement that retirement estimates must not advertise or promote a specific product; and

(b) provide guidance on how assumptions relating to a specific financial product could be used without breaching the requirement not to advertise or promote a specific financial product: see proposal B4.

31 We sought feedback on:

(a) whether our proposed changes to the relief and guidance gave sufficient clarity about how a superannuation calculator or retirement estimate may be given without advertising or promoting a specific financial product; and

(b) whether there were other ways to reduce the risk of a member assuming the forecast could be relied on to make a decision about a specific financial product.

Stakeholder feedback

32 Overall, respondents supported the proposal for principles-based disclosure requirements. Many respondents noted that, to give trustees and other providers flexibility, ASIC should not prescribe how specific assumptions should be disclosed. Some respondents said that it was sufficient to only require certain key assumptions to be disclosed, rather than all assumptions.

33 However, some respondents noted that providers might use different terms for the same factors and suggested that ASIC define key terms to prevent confusion.

34 Some respondents also disagreed with the requirement that providers state that the calculator or estimate is not intended to be relied on for the purpose of making a decision, and that members should consider seeking financial advice. They argued that such a statement undermines the usefulness of the tools, and that it is unrealistic to expect all users of a superannuation forecast to obtain personal advice from a licensed adviser.

35 Some respondents disagreed with the prohibition on presenting alternative scenarios or a range of outcomes, considering that these would be helpful to inform members about the impact of different decisions or outcomes. These respondents argued that:

(a) a deterministic approach would likely give a false sense of precision to members, and including nothing about risk or uncertainty in or alongside a forecast would be misleading;

(b) showing three estimates (based on low, medium and high values) could help members better understand the risks to their retirement income;

(c) regulations in other countries require a range of outcomes to be shown alongside a superannuation forecast; and/or

(d) members would benefit from being shown scenarios based on different retirement strategies (e.g. what retirement income would look like based on several different retirement ages).

36 Many respondents did not consider that our proposed guidance gave sufficient clarity about the condition that superannuation forecasts must not be used to advertise or promote a specific product.

37 Further, some respondents considered that this condition should be relaxed to enable the use of forecasts to demonstrate what a member’s retirement income would look like if they were to invest in a specific retirement product, or to illustrate the features of a specific retirement income product (e.g. an annuity or innovative retirement income stream product).

ASIC's response

We do not consider that material changes are needed to our guidance about principles-based disclosure.

In response to feedback, we have included provisions in ASIC Instrument 2022/603 to permit risk measures (i.e. confidence levels and ranges) for interactive retirement estimates. We have also provided guidance in RG 276 on how providers can reduce the risk of misleading members when presenting risk measures alongside a superannuation calculator or interactive retirement estimate.

Given the limitations of forecasts, we think it is important that forecasts are not used as a substitute for personal advice from a licensed financial adviser, or to encourage members to take up specific financial products. We have clarified in RG 276 how providers can avoid breaching the prohibition on advertising or promoting a specific product when giving a forecast.

We do not consider it is appropriate for ASIC to provide relief that permits superannuation forecasts to advertise or promote a specific product, including a retirement income product, for the reasons listed in RG 276. Providers wishing to illustrate outcomes for a specific product who are unable to rely on the relief in ASIC Instrument 2022/603 may consider applying to ASIC for individual relief.

Timing and delivery of retirement estimates

38 In CP 351, we proposed to retain the requirement that retirement estimates may only be given under our relief to members aged under 67 who have been a member of the fund for the year ending on the date of the estimate. We also proposed to exclude from our relief retirement estimates given to members who:

(a) are in the retirement phase at the date of the estimate;

(b) have not made or received a contribution to their account during the year ending on the date of the estimate;

(c) have an account balance of less than $6,000 at the date of the estimate; or

(d) have a defined benefit interest in the fund: see proposal B5.

39 We sought feedback on:

(a) whether respondents agreed with the proposed restrictions on who may be provided with a retirement estimate;

(b) how trustees decided which members to give retirement estimates to under the pre-existing relief; and

(c) whether there were other types of members that should be included or excluded from the scope of our relief for retirement estimates.

40 We also proposed to allow trustees to deliver retirement estimates through member online portals, as well as through periodic statements. We stated that we would amend our guidance to clarify that retirement estimates could be:

(a) provided to members more frequently than through periodic statements; and

(b) given in video or audio format, provided the requirements of our relief were met (e.g. in relation to disclosure): see proposal B6.

41 We sought feedback on:

(a) whether there are practical limitations to trustees providing retirement estimates more frequently than in periodic statements;

(b) whether draft ASIC Instrument 2022/XXX would appropriately facilitate the provision of retirement estimates to members through an online portal, and whether further ASIC relief or guidance would help trustees deliver estimates in this way;

(c) what the risks would be in allowing trustees to deliver retirement estimates to members through an online portal; and

(d) what the risks would be in allowing trustees to deliver retirement estimates to members in video or audio format.

42 Additionally, we proposed to explicitly allow for interactive retirement estimates in our relief and guidance: see proposal B7.

Note: We defined an 'interactive retirement estimate' as a retirement estimate delivered through an electronic facility or device that is worked out using data a trustee holds on a member, but where the member can also interact with the estimate by changing the assumptions.

43 We sought feedback on:

(a) whether trustees already provided interactive forms of retirement estimates, and if so, how; and

(b) whether these interactive estimates were provided by relying on ASIC's pre-existing relief, and how the default assumptions were set.

Stakeholder feedback

44 Almost all respondents commented on our proposed limitations on the types of members who may be given retirement estimates under our relief.

45 Many disagreed with the proposed restrictions on members over 67 years of age and members who are in the retirement phase. Some respondents argued that members in these groups would benefit from being given a retirement estimate, and that the proposed restrictions would hinder the use of

retirement estimates by trustees to help their members in retirement as part of meeting their obligations under the retirement income covenant.

46 Some stakeholders argued that all members should get the benefit of a retirement estimate, even if they had low balances or were not currently contributing (e.g. because they were on parental leave). Some stakeholders also suggested 16 months of inactivity was a better threshold than 12 months and would align with the Protecting Your Super reforms.

47 Several stakeholders also considered that the relief should extend to providing retirement estimates for defined benefits interests, noting that members with this type of interest would benefit from a retirement estimate and that fewer assumptions would need to be made to work out an estimate for a defined benefit interest.

48 Some stakeholders argued that even if the relief did not extend to retirement estimates for defined benefit interests, members who hold both a defined benefit and defined contribution interest could benefit from receiving a retirement estimate for their defined contribution interest.

49 Respondents generally supported the proposal to permit interactive retirement estimates and to deliver retirement estimates through an online portal and through video or audio format.

50 Some stakeholders requested the ability for trustees to use other data they hold about members in setting default assumptions for individual members under our relief (in addition to the required member data needed to calculate a retirement estimate). Several also sought clarity on whether trustees and other providers could re-use data entered by a member into a calculator or interactive retirement estimate when providing a subsequent forecast, including a static retirement estimate.

ASIC's response

In response to feedback, we have made provisions in ASIC Instrument 2022/603 to:

- permit retirement estimates to be given to members in the accumulation phase who are aged over 67;
- allow interactive retirement estimates to be given to members in the retirement phase (in addition to superannuation calculators, which can already be given to these members under the pre-existing relief); and
- change the inactivity threshold to 16 months.

We consider it is more appropriate that trustees apply for individual relief if they wish to give retirement estimates to members with defined benefit interests. This is due to the complexity of providing general relief and guidance that accommodate various types of defined benefit schemes in addition to defined contribution schemes.

We still consider it would be misleading to provide a retirement estimate to a member in the accumulation phase who has been inactive for 16 months, or who has an account balance less than $6,000, as they are unlikely to have a predictable pattern or level of future contributions.

We have clarified in RG 276 how providers can set default assumptions using:

- data previously entered by a member into a superannuation calculator or interactive retirement estimate; and
- other data held by a trustee (e.g. in setting assumptions about investment earnings, fees and costs).

New relief to last for a set period of time

51 In CP 351, we proposed that the single legislative instrument would expire after a set period of time: see proposal B8.

52 We sought feedback on:

(a) what the appropriate period of time for the relief should be, given the need for trustees and other providers to have certainty about the regulatory settings to make use of the relief;

(b) how superannuation calculators and retirement estimates influence member behaviour, and what data and evidence trustees and other providers collect on how these forecasts influence member behaviour and outcomes; and

(c) what reliable and robust data and evidence trustees and other providers could collect on how their superannuation calculators or retirement estimates influence their members' behaviour or outcomes.

Stakeholder feedback

53 Only eight respondents provided feedback on how long the new relief should last: four considered the relief should last for at least five years, two preferred that the relief should not expire but instead be subject to a review period, one thought three years was appropriate, and one supported the proposal of a set period of time but made no specific comment.

54 Some respondents provided data for the impact that superannuation calculators and retirement estimates have on member behaviour, but most did not.

> *ASIC's response*
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> ASIC Instrument 2022/603 will expire on 1 July 2027, which is five years after registration on the Federal Register of Legislation. Before the expiry date, ASIC will review whether it remains appropriate to continue to provide relief for superannuation forecasts.

Six-month transition period

55 In CP 351, we proposed a six-month transition period for the new requirements: see proposal B9.

56 We sought feedback on whether:

(a) a transition period of six months was appropriate for providers to comply with the proposed relief;

(b) there were any unintended consequences of the proposed relief that would affect implementation by industry; and

(c) it would be practical for trustees to provide retirement estimates under the proposed relief as part of, or alongside, periodic statements for 2021–22.

57 We also stated our plan to update ASIC's Moneysmart superannuation and retirement calculators during the transition period to align with the framework under the single legislative instrument: see proposal B10.

58 We sought feedback on any impact our plans to update the default assumptions in our calculators would have on trustees or other providers who choose to use the same assumptions.

Stakeholder feedback

59 Of the 12 respondents who gave feedback on the transition period, only three supported the transition period being six months. The others considered that six months was too short a timeframe to implement the changes, and that 12 months would be more appropriate.

60 Most of the respondents who gave feedback on the practicality of providing retirement estimates considered that it would not be practical to give these estimates under the proposed relief with periodic statements for 2021–22. Some respondents asked for an option to provide retirement estimates in 2021–22 statements using the pre-existing relief.

61 Respondents agreed that ASIC's Moneysmart calculators should be updated, and that the assumptions used for these calculators should be set in the same way as the assumptions used for calculators provided by industry under ASIC's relief.

ASIC's response

In response to feedback, we have:

- extended the relief in [CO 11/1227] for retirement estimates to 31 December 2022 (see ASIC Instrument 2022/204); and
- allowed a transition period of approximately six months (until 1 January 2023) under ASIC Instrument 2022/603 during which either the pre-existing relief or the new relief can be relied upon. We note that the periodic statements are usually provided later in the calendar year, which means that trustees wishing to provide retirement estimates under ASIC Instrument 2022/603 will have a long lead time to adopt the new requirements.

We have updated the assumptions in ASIC's Moneysmart superannuation and retirement calculators to align with the framework under the new legislative instrument.

Removal of the no-action position

62 In CP 351, we proposed to remove the no-action position for retirement estimates outlined in RG 229: see proposal B11.

63 We sought feedback on:

(a) whether the no-action position was necessary for trustees to feel comfortable providing retirement estimates; and

(b) any concerns a no-action position would seek to address under our proposed relief.

Stakeholder feedback

64 This question only received four responses. Two respondents considered that the no-action position was necessary because the requirements of the proposed relief could result in trustees misleading members. One respondent thought that the removal of the no-action position could create uncertainty about whether trustees who have met the conditions of the instrument in good faith should not be subject to regulatory action on other grounds.

65 Another respondent broadly agreed that the no-action position may no longer be necessary, since the proposed relief provides trustees with greater flexibility in setting assumptions and meeting the disclosure requirements, but considered that trustees may need to apply to ASIC for individual relief on a case-by-case basis when they do not feel comfortable meeting the requirements.

ASIC's response

In response to the limited feedback, we have removed the no-action position from our guidance but retained the commentary stating that ASIC is likely to take into account whether a provider of a superannuation forecast is complying with the requirements of the relief in ASIC Instrument 2022/603 when considering action for misleading or deceptive conduct.

C Economic and financial assumptions

Key points

This section outlines the feedback we received, and our responses, on the following aspects of our proposed relief and guidance:

- our approach to economic and financial assumptions;
- investment earnings, fees and costs;
- administration fees;
- retirement age and drawdown period;
- annual income stream and age pension benefits;
- factors personal to the member in retirement estimates; and
- inflation.

Our approach to economic and financial assumptions

66 In CP 351, we proposed to adopt a single framework for how economic and financial assumptions should be made for superannuation calculators and retirement estimates when relying on our relief, and to apply this framework through the new relief instrument: see proposal C1.

67 We proposed to give trustees and other providers flexibility to set their own reasonable assumptions relating to investment earnings, fees and costs for superannuation calculators and retirement estimates: see proposal C2.

68 We also proposed to prescribe some default assumptions relating to the retirement age, drawdown period and inflation rates to foster consistency and comparability across providers. Some additional requirements would also apply to retirement estimates in working out the annual income stream and the use of member data: see proposal C3.

69 We proposed to update our guidance to explain how trustees and other providers can set reasonable assumptions. We considered assumptions were likely to be reasonable if they were:

(a) backed by evidence or expert opinion;

(b) not intentionally biased towards encouraging members to make a specific financial decision;

(c) kept up to date with government policy settings and expected changes to future economic and financial conditions; and

(d) internally consistent—that is, each assumption should be reasonable in the context of all the others: see proposal C4.

70 We expected that providers would revise their assumptions at least every three years, or more frequently if there were material changes to a relevant input or statutory assumption, and to take steps to limit the risk of providing a misleading forecast because assumptions are out of date.

71 In particular, we sought feedback on:

(a) whether respondents agreed with our explanation of when default assumptions were likely to be reasonable; and

(b) how frequently providers should be expected to revise the economic and financial assumptions they apply.

72 We proposed to update our guidance to state that we expected trustees who provide both superannuation calculators and retirement estimates to set assumptions consistently across these forecasts, and that they would need to have reasonable grounds for using different assumptions: see proposal C5.

73 We sought feedback on:

(a) whether trustees should be expected to set the same assumptions across all superannuation calculators and retirement estimates they provide and when assumptions should be able to differ; and

(b) whether there was evidence of how members understand or interpret differences in forecasts, either across types of forecasts (superannuation calculators and retirement estimates) or across different trustees (or other providers of superannuation calculators).

Stakeholder feedback

74 Overall, respondents supported our proposals to adopt a single framework for economic and financial assumptions in the relief and to give trustees and other providers flexibility to set their own reasonable assumptions for some factors.

75 Some respondents commented on how members understand or interpret differences in forecasts, although few respondents gave robust evidence to support their views. One respondent thought that most members understand that retirement estimates may not reflect actual outcomes. Another suggested that members best understand forecasts when the outcome is compared to something familiar (e.g. today’s dollars). One respondent asserted that how a person interprets a forecast will depend on its format, as well as on the person’s literacy and numeracy and their personal characteristics.

76 Most respondents agreed with our proposed guidance on when default assumptions were likely to be reasonable. One respondent noted that because future economic variables were inherently unknown, they could be modelled with probability distributions. Another argued that each assumption should be able to be justified on its own, in addition to internal consistency across assumptions, as some assumptions are not very relevant for some members (e.g. future salary increases for a 60 year old).

77 Respondents' views varied on how frequently providers should be expected to revise their assumptions. The most common view was that providers should be expected to do so at least annually. Two respondents proposed ASIC should expect providers to review their assumptions whenever a Product Disclosure Statement (PDS) is updated, and that if assumptions were set independently of the market cycle, they should be reviewed at least every three years.

78 Most respondents supported the proposal that providers be required to set assumptions consistently across both superannuation calculators and retirement estimates. Some respondents highlighted situations where differences may be justifiable, such as in transition-to-retirement calculators which have a short-term focus, prepopulating superannuation calculators to make them easier to use, and using different salary and insurance premium assumptions for different cohorts.

> *ASIC's response*
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> We have responded to the feedback by clarifying in RG 276 how providers can set reasonable assumptions.
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> We expect providers will review, at least annually, whether their assumptions remain up to date. We also expect providers will revise their assumptions if there are material changes to a relevant input or statutory assumption (which may be more frequent than annually).

Investment earnings, fees and costs

79 In CP 351, we proposed to:

(a) give trustees (and other providers of superannuation calculators) the flexibility to set their own reasonable assumptions for investment earnings, fees and costs under our relief; and

(b) require that these assumptions be reasonable and that certain disclosure requirements be met: see proposal C6.

80 Under our proposal, trustees could set investment assumptions based on the product(s) an individual member is currently invested in (for retirement estimates) or the types of products that the trustee offers (for superannuation calculators). Our guidance would explain how providers could set reasonable assumptions.

81 We sought feedback on:

(a) the advantages and disadvantages of giving providers flexibility to set their own reasonable default assumptions for investment earnings, fees and costs;

(b) whether there was evidence that members may misunderstand forecasts that are based on specific superannuation products and if so, whether there were ways to reduce this risk, and in what circumstances differences across forecasts would be misleading;

(c) in working out a retirement estimate, whether it would be practical for a trustee to set assumptions about investment earnings, fees and costs that may differ based on the products members were invested in, including reasons and alternative approaches; and

(d) what guidance ASIC should provide on how assumptions about investment earnings, fees and costs should be set, including whether it would be appropriate for trustees to set assumptions on the basis of existing investment return objectives for superannuation products they offered (e.g. the return objective disclosed in the PDS or set by the trustee board).

Stakeholder feedback

82 Respondents generally supported the proposal to give providers of forecasts flexibility to set reasonable assumptions for investment earnings, fees and costs under our relief. Many respondents agreed that flexibility to set assumptions would result in forecasts that are more relevant to a member's actual investments, and that it would be practical for a trustee to set assumptions based on the product(s) a member is invested in.

83 Some respondents did not fully support this proposal, arguing that:

(a) member outcomes could differ even if members were all invested in the same product;

(b) trustees might take advantage of the flexibility to set unreasonably optimistic assumptions; and

(c) standardised investment assumptions would make projections more consistent across providers.

84 Three respondents argued that members would likely understand retirement estimates that are based on a specific product, with one suggesting clear disclosures could reduce the risk of these estimates being misunderstood. However, another respondent was concerned that members may not understand how the forecast was calculated and what data was used.

85 One respondent suggested that setting investment earnings assumptions on the basis of CPI + X% return objectives could ensure internal consistency when combined with our proposal to prescribe default inflation rates: see paragraphs 122–134. However, other respondents argued that setting assumptions about investment returns based on the investment objective disclosed in a PDS would not be appropriate because the disclosed objectives are generally set on the basis that there is more than a 50% probability of achieving the objective, which would be inconsistent with other assumptions used in a forecast that are based on midpoint values.

ASIC's response

ASIC Instrument 2022/603 permits providers to set their own reasonable assumptions for investment earnings, fees and costs. Our actuarial advice is that this approach is reasonable.

We have responded to the feedback by clarifying our guidance in RG 276 on how trustees can set reasonable assumptions about investment earnings, fees and costs.

Administration fees

86 In CP 351, we proposed to require trustees to set default assumptions about administration fees based on the administration fees paid by the member over the previous year when relying on our relief. Trustees could make reasonable assumptions about how administration fees would change in future (e.g. due to inflation or any scheduled fee changes): see proposal C7.

87 We sought feedback on:

(a) whether requiring trustees to make reasonable assumptions about administration fees based on the administration fees paid by the member over the previous year was workable in practice;

(b) whether members could be misled if trustees used member-specific assumptions for administration fees in working out a retirement estimate alongside generic assumptions for investment earnings and investment fees and costs, and if so, how the risk of misleading forecasts could be minimised; and

(c) whether we should allow or require trustees to set different default assumptions for administration fees in the accumulation and retirement phases when working out a retirement estimate.

Stakeholder feedback

88 Many respondents argued that currently disclosed, announced or forecast administration fees would be a better basis on which to make reasonable assumptions about future administration fees for retirement estimates than fees paid in the previous year. Some respondents identified scenarios where administration fees charged in the past year could be distorted (e.g. by contribution fees in a year with unusual contribution patterns, or by large amounts of money being rolled in or out of the account when there are percentage-based administration fees).

89 Many respondents supported allowing trustees to make different administration fee assumptions for the accumulation and retirement phases, reflecting that a member would be invested in different products in each phase.

90 Several respondents did not consider that using assumptions based on member-specific administration fees alongside other generic assumptions would be misleading.

> *ASIC's response*
>
> In response to feedback we have:
>
> - permitted trustees to make reasonable assumptions about administration fees payable by the member (based on the fees currently being charged) in a retirement estimate; and
> - provided guidance in RG 276 about how we expect reasonable assumptions about administration fees to be made.

Retirement age and drawdown period

91 In CP 351, we proposed to prescribe default assumptions for the retirement age (age 67) and drawdown period (25 years) that must be applied to superannuation calculators and retirement estimates when relying on our relief: see proposal C8.

92 We sought feedback on the advantages and disadvantages of prescribing a default retirement age and drawdown period for superannuation calculators and retirement estimates under our relief, including relevant evidence of:

(a) the extent to which prescribed assumptions would reduce the risk of members being confused or misled;

(b) the proportion of members that input their own retirement age or drawdown period assumptions into superannuation calculators; and

(c) any differences in likely future retirement ages or drawdown periods across different superannuation funds' memberships.

93 We also sought feedback on:

(a) whether there were some types of superannuation calculator for which these assumptions would be inappropriate or irrelevant;

(b) whether age 67 (the age pension eligibility age) was a reasonable assumption for the retirement age; and

(c) whether 25 years was a reasonable assumption for the duration of the drawdown period.

Stakeholder feedback

94 Some respondents supported a standardised default retirement age and drawdown period because these would mean members are provided with consistent forecasts. These respondents also argued that standardised values would provide an anchor point for members and that the main benefits of a

basic retirement estimate lay in how the forecast is presented and how members engage with it.

95 However, other respondents were concerned that:

(a) a standardised default would not cater for couples retiring at different times, members with uncertain health and workers in certain industries who tend to retire early;

(b) a standardised default could make it difficult for trustees to meet their obligations to consider the characteristics of different cohorts of their membership in implementing the retirement income covenant;

(c) trustees generally do not have robust data to support assuming a different retirement age for certain members; and

(d) many members retire before age 67.

96 Some respondents made suggestions to address the above concerns. These included:

(a) allowing trustees flexibility to set their own retirement age assumptions where appropriate (including retirement ages tailored to different cohorts of members);

(b) allowing providers to present multiple forecasts (using different retirement ages); and

(c) requiring members to input their own retirement age.

97 Many respondents did not support a standardised default 25-year drawdown period. Concerns included that:

(a) it would not be a realistic estimate of life expectancy for some cohorts of members (e.g. women, who have longer life expectancies than men on average) or individual members (e.g. members in poor health, who have shorter life expectancies);

(b) a standardised default could make it difficult for trustees to meet their obligations to consider the characteristics of different cohorts of their members in implementing the retirement income covenant;

(c) increasing average life expectancies mean there is a greater chance of members outliving the default drawdown period; and

(d) a fixed drawdown period is not suitable for illustrating annual income from an innovative retirement income stream product.

98 Some respondents also argued that setting the default drawdown period as a time period (rather than an age) could lead to unintended or misleading outcomes. For example, if a member changed the retirement age assumption but not the drawdown assumption, the end date of their forecast could be moved earlier or later in an unhelpful way.

99 Changes suggested to the drawdown period included:

(a) allowing providers to tailor the default drawdown period based on the characteristics of an individual member or cohort of members;

(b) lengthening the default drawdown period (e.g. to 30 years) to better reflect the joint life expectancy of couples or to help members think about longevity risk;

(c) allowing providers to use a very long default drawdown period to illustrate the benefits of annuities and innovative retirement income products; and

(d) basing the standardised default drawdown period on a certain age (e.g. age 92) instead of a period.

> *ASIC's response*
>
> We have set standardised defaults for the retirement age and drawdown period in superannuation calculators and retirement estimates given under our relief to support consistency across forecasts and make it easier for members to compare the effect of other factors across forecasts.
>
> In response to feedback, we have specified the standardised default for the drawdown period to be a specific age (age 92) rather than a time period. Age 92 takes into account several factors including life expectancy at retirement and future mortality improvements.
>
> We have also required providers to set different defaults for the retirement age where a member is already retired or aged 67 or older, and for the end of the drawdown period where it would otherwise be less than five years (e.g. where a member is older than age 87).
>
> Our actuarial advice supports this approach.

Annual income stream

100 In CP 351, for superannuation calculators, we did not propose setting prescriptive requirements for how providers should make assumptions about annual income streams or age pension benefits when relying on our relief. However, we proposed to require that these assumptions must be reasonable and that a superannuation calculator could not be used to advertise or promote a specific financial product: see proposal C9.

101 We sought feedback on how superannuation calculators showed forecasts representing different types of retirement income products (e.g. account-based pensions and annuities) under ASIC's pre-existing relief. We also asked how our proposed relief could facilitate calculators for different types of retirement income product in a way that did not advertise or promote specific financial products.

102 We also proposed that, for retirement estimates, trustees would be required to work out the annual income stream on the basis that the member would have a constant income from year to year, after inflation, for 25 years. This included drawing down their lump sum on retirement to zero and taking into account the minimum drawdown rules: see proposal C10.

103 We sought feedback on what additional assumptions would be needed to work out the annual income stream in the way that we proposed, and whether ASIC should prescribe a specific formula.

Stakeholder feedback

104 Feedback on the requirement that superannuation calculators and retirement estimates must not be used to advertise or promote a specific financial product was discussed at paragraphs 36–37 in Section B.

105 Few respondents commented on our proposals for working out annual income in a retirement estimate. Some disagreed with our proposal to prescribe how annual income must be worked out. Of these, two believed that additional assumptions would be required to apply this method, and one believed the prescribed methodology would constrain the ability of trustees to show the uncertainty around the estimated annual income stream. Another respondent supported trustees being allowed to make their own assumptions about the composition of retirement income (e.g. from different products) or the profile of retirement income over time (including indexation).

> *ASIC's response*
>
> In light of the limited feedback, we will adopt our consultation position of prescribing how annual income must be worked out for a retirement estimate.
>
> Our actuarial advice is that this approach is reasonable.

Age pension benefits

106 In CP 351, we proposed to give trustees the option to include age pension amounts in the annual income stream for a retirement estimate given under our relief only if it is an interactive retirement estimate: see proposal C11.

107 Trustees who do so would be required to:

(a) apply prescribed default assumptions (e.g. about homeownership and partner status); and

(b) work out annual income in a way which reflects how the member's age pension entitlement may change as their retirement balance is drawn down.

108 We sought feedback on the advantages and disadvantages of this proposal, including:

(a) what evidence there was for how numerical forecasts of age pension eligibility influence member behaviour, and if this varied depending on the magnitude or accuracy of the forecast;

(b) whether factual information alongside a static retirement estimate would be more or less effective in raising member awareness of their potential age pension eligibility compared to a numerical forecast;

(c) why trustees chose to include, or not to include, age pension amounts in retirement estimates, and whether trustees chose to include age pension amounts only for specific subsets of their members; and

(d) whether trustees would be less willing to provide retirement estimates to their members if they could not include age pension amounts in static estimates (and would seek to provide interactive retirement estimates instead).

109 We also sought feedback on whether age pension amounts should be required by default in interactive retirement estimates or in superannuation calculators.

Stakeholder feedback

110 Most respondents disagreed with the proposed restrictions on including the age pension in static retirement estimates. The issues raised were that:

(a) members would be given an inadequate picture of their retirement income if the age pension was not included, noting that most members are likely to be eligible to receive an age pension in retirement;

(b) members are already used to seeing the age pension in their retirement estimates (given under the pre-existing relief);

(c) for most members, the error from not including the age pension (in terms of a member's forecast retirement income) is larger than the error from including an estimate of age pension amounts based on incorrect assumptions; and

(d) trustees may hold information on some individual members that they could use to tailor age pension amounts in a retirement estimate.

111 By contrast, some respondents noted that excluding age pension amounts from a static retirement estimate would make the estimate simpler to work out and would require fewer assumptions—and noted that most trustees do not hold relevant information about individual members' household circumstances. Two respondents agreed with the proposed restriction. Another agreed that trustees should not include age pension amounts if they had limited data with which to work out the amounts, but did not want to see

inclusion of age pension amounts excluded completely from ASIC's relief. One respondent argued that if age pension amounts were to be shown in a static retirement estimate, the trustee should also include a link to an interactive retirement estimate or calculator.

112 Some respondents argued that trustees should be allowed to access government data from the Australian Taxation Office (ATO) or myGov to better understand a member's situation without requiring the member to manually input information, and be allowed to give members an estimate that includes age pension amounts alongside one that does not.

113 Some respondents also requested flexibility for trustees to set their own assumptions relating to the age pension, such as assumptions about a member's non-superannuation assets and the financial situation of a member's partner.

ASIC's response

In response to feedback, we have included provisions in ASIC Instrument 2022/603 to:

- permit (but not require) trustees to include age pension amounts in both static and interactive retirement estimates;
- set standardised default assumptions about the age pension for static retirement estimates; and
- allow trustees and other providers to set their own reasonable default age pension assumptions in a superannuation calculator or interactive retirement estimate.

Our actuarial advice is that this approach is reasonable.

Retirement estimates: Factors personal to the member

114 In CP 351, we proposed to make some changes to how trustees must make assumptions about a member's superannuation contributions and insurance premiums when giving a retirement estimate under our relief. Specifically, we proposed to:

(a) continue requiring that trustees use the member's contribution levels over the previous year (less insurance premiums, contribution taxes and any inward rollovers); and

(b) require that trustees assume this amount would change in line with legislated future changes in the rate of superannuation guarantee, as well as wage inflation: see proposal C12.

115 Trustees could exclude any non-compulsory contributions a member made in the previous year, where it was possible to do so and on the basis that the trustee disclosed that these contributions had been excluded in working out the estimate.

116 We sought feedback on whether there were other ways assumptions could be made about future superannuation contributions in working out retirement estimates (e.g. using a three-year rolling average). We also asked about the extent to which this would better reflect how contribution levels may change over the long term for most members.

117 We also proposed to continue requiring that insurance premiums paid by the member in the previous year be deducted from the amount of superannuation contributions, but that insurance premiums must not be deducted if the member does not have insurance at the time the retirement estimate is made: see proposal C13.

118 We sought feedback on whether there were other ways future insurance premiums could be taken into account in working out retirement estimates.

Stakeholder feedback

119 Three respondents supported our proposed approach to making assumptions about future superannuation contributions, while another explicitly disagreed. There was also some concern around how our proposal could be implemented, with some respondents noting that trustees may not always be able to distinguish compulsory from non-compulsory contributions in practice (e.g. if a member has employer-funded concessional contributions or is making salary sacrifice contributions).

120 Respondents also identified other ways that assumptions could be made about future superannuation contributions. These included:

(a) allowing trustees to access data on their members held by the ATO to see if members are contributing to more than one fund; and

(b) allowing trustees to use a three-year rolling average to smooth out an abnormal year for contributions, using member data applied to an age-based salary curve.

121 Three respondents said that the proposal for working out future insurance premiums was sufficient, while some others raised concerns that there was no provision made to reduce premiums if the level of insurance cover had recently been reduced. Some others argued that premiums should change with age (rather than contributions) and suggested working out future insurance premiums using aged-based premium tables.

> *ASIC's response*
>
> In response to feedback, we have made provisions in ASIC Instrument 2022/603 to allow trustees to set their own reasonable default assumptions for future superannuation contributions and insurance premiums in a retirement estimate, based on the

> member's current situation (rather than what was paid in the previous year).
>
> We have also provided guidance in RG 276 on how trustees can do this.

Inflation

122 In CP 351, we proposed setting standardised default inflation rates which must be used when showing a retirement estimate or the output of a superannuation calculator in today's dollars under our relief. These rates would reflect growth in wages (wage inflation) during the accumulation phase, and growth in consumer prices (consumer price inflation) during the retirement phase: see proposal C14.

123 We sought feedback on the advantages and disadvantages of ASIC setting standardised default inflation rates for both superannuation calculators and retirement estimates, including relevant evidence of:

(a) the extent to which common assumptions would increase or reduce the risk of members being confused or misled;

(b) the proportion of members that chose to input their own inflation rate assumption into superannuation calculators; and

(c) any differences in forecasts of long-term price or wage inflation across different superannuation funds' memberships.

124 We also sought feedback on the most appropriate types of inflation rate to apply to the accumulation and retirement phases.

125 We proposed prescribing the specific rates that providers must apply by default, using Treasury estimates of long-term nominal wage growth (4.0% p.a.) for the accumulation phase, as set out in the *2021 Intergenerational report*, and the midpoint of the Reserve Bank of Australia (RBA) inflation target (2.5% p.a.) as an estimate of long-term consumer price inflation for the retirement phase: see proposal C15.

126 We sought feedback on how ASIC should set values for the default inflation rates, and how frequently these rates should be reviewed.

Stakeholder feedback

127 Some respondents supported standardised default inflation rates and agreed that this would make forecasts more consistent across funds, with differences limited to indexation assumptions and methodology, and would allow future dollar values to be expressed in today's values.

128 However, other respondents did not support our proposal. Reasons given included that:

(a) standardised inflation rates would not be consistent with investment models used to forecast future investment earnings;

(b) requiring providers to adopt standardised inflation rates could be confusing for members who compare their forecast to one they previously received (i.e. given under the pre-existing relief); and

(c) changing the rates would be difficult if there was a large change in inflation.

129 Most of these respondents supported providers having flexibility to set their own reasonable default assumptions about inflation, including whether to use price or wage inflation in each of the accumulation and retirement phases.

130 Some respondents supported the use of wage inflation before retirement and consumer price inflation after retirement. Others disagreed with whether price or wage inflation would be more appropriate in either the accumulation or retirement phase. Some argued that converting future dollars to today's dollars using wage inflation would lead to a more conservative forecast (compared with using consumer price inflation). Others argued that wage inflation should be used across both the accumulation and retirement phases.

131 One respondent advocated use of a different price index more suitable for those in retirement, such as one of the various Living Cost Indexes related to retirees and pensioners. Another noted that using consumer price inflation during the retirement phase could be confusing for some members as it may lead to age pension amounts being shown to increase over time throughout retirement (due to the indexation of age pension payment rates to wage growth).

132 Several respondents also sought greater clarity on how standardised inflation rates would be applied in practice, questioning whether providers would have flexibility to apply their own inflation assumptions for the indexation of other factors (e.g. administration fees and superannuation contributions), as distinct from the conversion of a retirement balance or annual income from future dollars to today's dollars.

133 On how ASIC should set default inflation rates, suggestions included:

(a) reviewing the default rates every three years;

(b) consulting industry or the Australian Government Actuary;

(c) basing indexation of age pension on the higher of CPI and MTAWE;

(d) using 2.5% p.a. based on the RBA inflation target; and

(e) using 3.5% p.a. for wage inflation (instead of 4.0% p.a.) as this figure better reflects the past 10 years and is similar to what trustees already use.

Note: CPI is Consumer Price Inflation and MTAWE is Male Total Average Weekly Earnings.

134 One respondent argued that all forecasts should be required to be shown in today's dollars, not just those over a period of two or more years in the future.

ASIC's response

We have set standardised default inflation rates of 4.0% p.a. for the accumulation phase (wage inflation) and 2.5% p.a. for the retirement phase (consumer price inflation) that must be used to present a future retirement benefit in today's dollars in superannuation calculators and retirement estimates when relying on our relief.

We think that using standardised inflation rates can help achieve a degree of consistency across forecasts where providers are able to set their own nominal investment earnings assumptions.

Our actuarial advice supports this approach.

In response to feedback, we have clarified in RG 276 how providers should apply the default inflation rates in giving a forecast. This includes guidance on making assumptions about the indexation of other factors, and guidance on making reasonable assumptions about investment earnings.

We have specified in ASIC Instrument 2022/603 that all superannuation forecasts must be shown in today's dollars, regardless of the time period. This will reduce complexity in the requirements.

Appendix: List of non-confidential respondents

- Actuaries Institute
- AIA Australia
- AMP Wealth Management
- Association of Superannuation Funds of Australia
- AustralianSuper
- Australian Institute of Superannuation Trustees
- Aware Super
- Bastiaans, Mark
- Cbus
- CEPAR (ARC Centre of Excellence in Population Ageing Research)
- Challenger
- Conexus Institute
- CPA Australia and Chartered Accountants Australia and New Zealand
- Cumpston Sarjeant
- Deloitte Consulting
- Financial Services Council
- Industry Super Australia
- Law Council of Australia
- Mercer (Australia)
- mSmart
- O'Donnell, David (OD Financial)
- Shop, Distributive and Allied Employees' Association
- Super Consumers Australia
- SuperEd
- TAL
- UniSuper