ASIC CP 351 Superannuation forecasts

FSC Submission

January 2022

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1. About the Financial Services Council

The FSC is a peak body which sets mandatory Standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services.

Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advice licensees and licensed trustee companies. Our Supporting Members represent the professional services firms such as ICT, consulting, accounting, legal, recruitment, actuarial and research houses.

The financial services industry is responsible for investing $3 trillion on behalf of more than 15.6 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 fourth largest pool of managed funds in the world.

2. Introduction

The FSC welcomes the opportunity to provide comment on the Consultation Paper (**CP**) 351 Superannuation forecasts: Update to relief and guidance released by ASIC on 18 November 2021.

The FSC welcomes the proposal in CP 351 to continue to provide relief permitting funds, trustees and others to provide superannuation forecasts (for the remainder of this submission, the providers of calculators and forecasts are called 'trustees' but this should be taken to include any providers).

Superannuation forecasts, whether they be from a superannuation calculator or a retirement estimate, represent a critical component of the bigger picture which help members and households understand their financial position approaching and during retirement. That is, the forecasts do not operate in isolation. Rather, they form part of the broader context which also includes general information from superannuation funds and the provision of financial advice. Hence, it is important there is consistency and integration between these various forms of assistance. They all form part of retirement planning. Superannuation forecasts should complement these other forms of communication and advice.

The FSC supports the following proposals in CP 351:

- Permitting interactive calculators to be available through member portals.
- Bringing legislative relief and guidance for retirement estimates and super calculators together
- Standard deflators in guidance
- Principles-based assumptions and disclosure setting

Overall, the FSC supports the broad intent of the measures in CP351, and welcomes the recognition of a greater role to be played by interactive online tools and delivery of meaningful retirement information at more regular touchpoints and through a broader variety of media than has previously been possible. However, we do submit that there are some significant shortcomings in the proposed measures that should be addressed prior to implementation.

At a broader level, FSC is also conscious that ASIC's guidance and relief framework on this matter are constrained by the inherent limitations and boundaries of Australia's current advice regulatory framework. While the measures in CP351 (with appropriate adjustments as foreshadowed in our recommendations) will go some way towards delivering better outcomes to super fund members, more fundamental reform of the advice framework remains an ongoing imperative, including in the area of improved self-help and data-analytic driven tools. FSC and its members are looking to the forthcoming Treasury Quality of Advice Review as a key opportunity to progress these matters, and we envisage the prospect of more consumer-friendly and low-cost advice and decision-support mechanisms arising out of that Review.

The FSC's more detailed comments in response CP 351 are in the remainder of this submission.

3. General comments

The FSC submits that ASIC's final guidance should:

- State that trustees can name the investment option the member is in without this being considered as being promotion of a specific product. Having visibility of the product(s) used to calculate an outcome is crucial for consumers. Knowing the name of the product allows a consumer to find out more information about it, and to compare it with other products in the market. Hiding the name of a product will likely hinder many superannuation members from taking further action. This inertia will inhibit superannuation retirement phase product uptake and innovation, and lead to sub-optimal consumption of superannuation and lower than necessary living standards for retirees – outcomes inconsistent with the policy goals of the Retirement Income Covenant.
    - The RG should clarify more precisely what would be considered to be 'promoting a financial product' in giving an interactive retirement estimate. A member should be able to use an interactive retirement estimate to assess the effect of increased or reduced contributions, increased or reduced drawdowns and a change in investment option. Where a member has observed this effect through the estimate and wishes to proceed with this action, the interactive retirement estimate tool should be able to provide a simple pathway for the member to take action without it being considered promoting a financial product (subject to appropriate dislaimers).
- Permit static retirement estimates to include the Age Pension. The FSC recommends that trustees be permitted to make and disclose reasonable assumptions about Age Pension benefits in this category of retirement estimates.
    - The means-tested Age Pension is an important source of income for most Australian retirees, so without its inclusion, the estimates are not realistic for many individuals. If other FSC recommendations about providing multiple

estimates are adopted (see below), one option is for trustees to be able to provide one option excluding the Age Pension and another including the Age Pension.
    - Note there is potentially still a gap between a paper based retirement income estimates and the interactive ones if the interactive estimates can include the Age Pension but the paper based ones cannot. The default assumptions could be used for a paper based retirement income estimate.
- Clarify (if this is the intention) that a retirement estimate should show both lump sum and pension amounts. The drafting of the definition of retirement estimate should more clearly reflect this (the RG is better worded at point 000.76 than the class order).
- Any ASIC advice should be neutral between different forms of engagement; and ideally, the paper experience (if any) would mirror digital if possible.
    - This is particularly needed because there are increasingly blurred lines between calculators, forecasts and projections, next best action insights, likelihood of hitting a goal and so on, particularly as trustees and others potentially have significant customer data.
    - This issue relates to many points in this submission, including pre-population of data.

We also note in the draft instrument, the reference in 6(2) to "ss (5)" appears to be a typo (there is no ss (5)).

4. Exclusions

The FSC submits the following changes to exclusions:

- There should not be restrictions on providing interactive forecasts to members who have not received contributions or have a balance of less than $6,000 where the member has confirmed their details and provided that information.
    - A member who has a substantial balance in a Fund but happens not to have contributed during the current year (for example, due to a career break, taking on caring responsibilities, redundancy etc), should not be disadvantaged in being able to access such tools. The CP does not appear to have any rationale for this restriction, other than it being carried over from previous regulatory requirements. If ASIC retains this restriction, we submit it should provide any rationale there is for this restriction, other than continuity with existing regulations.
- There should be a provision to allow some pre-population of data in superannuation calculators.
    - It appears that the distinction between a superannuation calculator and an interactive forecast creates some issues. It will not be a positive experience to force members to re-enter data that the trustee already holds simply because they can be provided with a calculator but not an interactive forecast. We recognise the issues of uncertainty of projections for those members but believe that will be addressed where the members confirm their situation.

- Defined Benefit (**DB**) members should be allowed to receive retirement forecasts if the calculations can be done properly, say with the involvement of an actuary or a suitably qualified expert. There may be less uncertainty in a DB member's forecast than applies for other members.
    - At the very least, DB members who also hold an accumulation interest should be allowed to receive a retirement estimate in relation to the accumulation interest.
- Members in decumulation phase, and members aged 67 and over, should be allowed to be presented with retirement estimates. With some of the changes recommended below relating to drawdown (particularly relating to length of retirement), this will make it easier for calculators to work appropriately for retirees.
    - Calculators do not present any additional consumer risks for retirees compared to pre-retirees
    - Retirees still have an interest in estimating the sustainability of their future income stream drawdowns.
    - A retirement decision about structuring retirement income should not be 'set and forget'. Providing retirement estimates, albeit based on the characteristics of the product(s) invested in is prudent, particularly as a retiree's views will change over time. Retirees can alter their income needs over time (for example a greater desire for income earlier in retirement and less later on), have changing expectations for health costs or life expectancy. Given this, it makes sense to provide a 'financial health check' on how their current settings would play out while in decumulation.
    - We note the CP does not appear to have any rationale for this restriction, other than it being carried over from previous regulatory requirements. If ASIC retains this restriction, we submit it should what rationale there is for this restriction, other than continuity with existing regulations.

5. Covering risk/randomness

ASIC's consultation paper is based on deterministic parameters about outcomes rather than expressly permitting statistically robust random or stochastic parameters. FSC believes that this deterministic approach, without any representation of either upside and downside risks across a broad distribution of possible real-life outcomes, is likely to give a false sense of precision to members using calculators and retirement projections.

In a briefing in December, ASIC indicated that stochastic modelling would in fact be permitted to be displayed, however we recommend that ASIC's final guidance should confirm this.

We note it would be beneficial for members to have access to tools that showed a range of outcomes – not simply a straight line investment return. It is widely understood that constant returns are very unrealistic, and investment volatility is likely and can have significant impacts on retirement incomes depending on the timing. We believe that calculators should present a range of outcomes as a minimum position. Since trustees have obligations to assist members maximise their retirement incomes and to manage the sustainability and suitability of that income for example from investment or inflation risk, setting this minimum standard provides more realistic outcomes and reduces the risk that expectations are not met later in retirement.

We also note that:

- the provision of pension projections is now a requirement in Europe under IORP II (Institutions for Occupational Retirement Provisions II), published by the European Insurance and Occupational Pensions Authority. IORP II requires income to be shown for at least two scenarios to show the potential variance of pension income.
- permitting stochastic analysis is not consistent with para 000.80 which specifies one estimate can be provided. By its nature an estimate that allows for risk needs to show a range of possible outcomes.

5.1. Risk and randomness in other assumptions such as inflation

We would also query whether ASIC's intent is to accommodate the future distributions of investment returns only, or of other assumptions (such as inflation) as well.

A sophisticated economic scenario generator can produce forecasts of distributions of not just asset class returns, but also underlying economic factors such as inflation. This allows for a superannuation calculator to consider the possibility of periods of high and low inflation and therefore represent the potential spectrum of impacts to member retirement outcomes.

Best practice for modelling considers the interrelation between inflation, other economic variables and asset returns. Requiring wages and inflation to be a constant deterministic value alongside a stochastic representation of investment risk reduces internal consistency.

We note that RG 000.168 states that the default assumptions “does not prevent superannuation calculators from modelling a range of inflation scenarios” however more clarity would be appreciated given the strength of language in RG 000.163 regarding the need to use the default values.

We recognise the desire for consistency across industry, and that not all providers with have the capacity to offer sophisticated multivariate projections. Nevertheless, failure to provide for more dynamic simulation tools will necessarily limit their representation of potential real-life scenarios facing super fund members.

A potential solution in this area might be some form of “if not, why not” provision. For example, if a trustee deviates from the deterministic inflation assumptions in a stochastic calculator, it must explain why this is appropriate. In this way, more sophisticated (and helpful/realistic) tools could be deployed without needing to adopt a ‘lowest common denominator’ approach.

6. Focus on account based pensions

Paragraph 95 focusses on account based pensions, this appears to drive ASIC’s thinking in how the calculators need to evolve. Given the obligations on trustees under the Retirement

Income Covenant, this needs adjustment. The guidance does not seem to encourage trustees and other providers to develop tools that allow for comparisons between different retirement income products.

As drafted, it would appear that users can amend assumptions such as retirement age, investment returns, drawdown amount etc… to see what income this would produce and how long it would last. However, this approach does not adequately cater for comparison between product structures. For example, investing 100% in an account based pension (ABP), compared with investing 80% in an ABP and 20% in a deferred lifetime annuity.

The FSC submits that tools should be able, at a minimum, to show comparisons between different product constructions (without requiring comparisons), as these provide greater options to members to balance maximising retirement income, managing sustainability and stability and the degree of flexibility required. This approach should provide members with greater certainty. Members could be presented with a personalised menu of alternatives, or a simplistic range of options could be used by default depending on the retirement income solutions offered by the fund.

Any comparisons which name particular products may cause issues with both personal financial advice and anti-hawking rules. For example, there are circumstances (particularly with annuities) where a product may be unique to the market. This may lead to a menu of one single product being presented to a member, which we understand may result in the comparison being considered to be promoting a single product and hence may fall foul of the personal advice rules. Regardless of the final position reached by ASIC in respect of potential comparisons provided to members through a calculator, it will be important for the final RG to explicitly confirm such comparisons do not constitute personal advice or breach the anti-hawking rules.

7. Technical issues with assumptions

The FSC submits the following:

- The final guidance should not state that administration fees used in retirement estimates be fixed at what was paid in the previous 12 months, as this may not be representative of fees over future decades. At the least, we recommend that current fee structure can be used, and announced fee reductions can be included.
- In relation to table 3, the FSC notes it will be hard to assume that contributions change in line with the superannuation guarantee rate if SG cannot be separated from other contributions.
- The wording about how to allow for tax and insurance should be made less prescriptive. It is appropriate to say that tax and insurance must be allowed for, however it may not be appropriate to increase the assumed insurance premiums in line with SG increases. It may be more appropriate to start with a gross contribution amount when adjusting for changes in the SG rate rather than a net amount and to apply tax and insurance to the new net amount. We recommend setting out the principles that ASIC are seeking here rather than being specific on how to make those allowances.

- We have concerns about the conversion of future dollars to today's dollars using wages growth. This approach would lead to unduly conservative forecasts and consumers may not understand this concept.
- The economic assumptions used by a calculator should be reasonable assumptions rather than deliberately conservative assumptions. In response to C2Q1, the FSC supports trustees and other providers having flexibility to set their own reasonable assumptions for investment earnings, fees and costs, including on the basis of the product a member is invested in.
- Question C6Q4 of CP 351 (p27) requests feedback on whether it would be appropriate for trustees to set assumptions on the basis of existing investment return objectives. We do not consider investment objective data is necessarily appropriate for informing retirement estimates. We would prefer to see the use of past data or a standardised model such as is employed for the APRA heatmaps to avoid any 'gaming' through the investment objective.

8. Drawdown assumptions

The FSC submits that the drawdown assumptions proposed in CP 351 are too prescriptive and not realistic for many members, and could lead to detrimental retirement outcomes. The requirement for trustees to present an income stream as constant after inflation and fully exhausted after 25 years oversimplifies retirement risks.

For example, members with a family history of higher longevity might wish to see drawdown projections spanning a longer time horizon, and conversely for those with shorter longevity. In addition, members in accumulation phase approaching retirement might like to run simple 'what if' scenarios around bringing forward or deferring their planned retirement age many years either side of age 67, including through an interactive retirement estimate.

Moreover, even within the 'standard' 25-year projection spanning ages 67 to 92, the representation of funding only needing to last until age 92 (with a constant median annual income throughout) leads to a misleading outcome for a large proportion of prospective members. To illustrate this with probabilities, using improvement rates with the Australian Government Actuary Life Tables 2015–17, there is a 39% chance that a female retiree will live past this point of exhausting her portfolio, and a 50% chance that the market will have underperformed and exhausted her savings earlier than age 92 (ignoring sequence of return risks which may magnify this risk even further).

In addition, life expectancy is strongly related to socio-economic groups so that the average figure is not appropriate for those who will be relying on their superannuation benefits to a greater extent.

This issue occurs in all three dimensions that are central to the risk management balancing objectives of the Retirement Income Covenant – investment, longevity and inflation risks. This could lead to an odd outcome where trustees form a retirement strategy that includes multiple products and adaptive spending recommendations, but cannot actually show how this would work to the member base. Further, even if market returns were able to be known for exactly 25 years, the guidance would leave retirees in a position where 1 in 3 female retirees would still be alive when they have exhausted their super balance.

A more reasonable assumption for duration of retirement could be individual or couple life expectancy, plus a suitable margin (such as 5 years or 20%).

We understand global and Australian projection tools include a preference to demonstrate the uncertainty of what can happen in markets by presenting a range of possible outcomes. By contrast, CP 351 is unclear on the possibility of presenting a range of outcomes to members and this raises risks to development of super calculators (see point above about risk/randomness).

9. Customisation by users

The FSC recommends a narrowing down of the requirement to allow members to change assumptions to those assumptions that are material. The assumptions that are set out in the tables in the draft RG would be an appropriate starting point for defining material assumptions. There are a range of other implicit assumptions inherent in projections, for example that contributions are received on average in the middle of the year, and it is not practical to allow members to change.

The FSC understands that all the assumptions listed in the tables in the draft RG are default assumptions and it is a requirement that the member be able to change those assumptions. However, the wording used in the tables is stronger than this. For example, under Age Pension the draft RG states that the “trustee must assume” certain things, which implies that this assumption cannot be amended. It would be clearer to say that the “trustee’s default assumptions must be”.

Similarly, in Table 3 the draft RG states “The trustee must not consider” other superannuation accounts. While that is appropriate for default assumptions, it seems inappropriate not to allow members to enter that information and given this is described as a default assumption we assume that is not the intention. Again, we recommend using words like “the trustee’s default must be”. We also recommend that paragraph 000.161 be amended to confirm that trustees may allow members to enter the details of their other superannuation funds in an interactive retirement estimate or if the fund has access to SuperMatch search results, the fund should be able to offer to include those details in the illustration, and include this in the SuperMatch terms of use.[1]

Table 2 in the draft RG specifies a default draw down period of 25 years. Noting the comments below on this assumption, there is a separate issue raised by this assumption – where the member changes one parameter (such as retirement age) but doesn’t change

[1] The SuperMatch terms of use state that SuperMatch may (*inter alia*) be used for “assisting in a choice to maintain or create a superannuation interest” – it could be argued that this includes using SuperMatch to provide a forecast, but this is unclear.

another related parameter (such as the period they will spend in retirement). If they choose to change the retirement age to 60 say rather than 67 and the retirement estimate continues to be based on 25 years, the result will be misleading. The default should be the age that the income will be paid to of 92 years (67 + 25) with the option for members to change that along with other assumptions. That would automatically extend the period in retirement for a member that selects an earlier retirement age and produce a better illustration.

10. Interaction with personal advice

The FSC considers it would be beneficial for final ASIC guidance to:

- Provide further clarity confirming that forecasts that do not contain a recommendation or a statement of opinion do not constitute personal advice. An assumption can be made that every forecast or estimate that includes personal information must necessarily be personal advice, but many such forecasts do not meet the legislative definition for personal advice.
- Indicate how calculators can point towards personal advice (i.e. having a call to action which directs the consumer to a financial adviser). This would reduce barriers in the way of consumers making informed financial decisions.
- Indicate how trustees can provide assistance with using a calculator for those who require it, noting that calculators require some reasonable level of financial literacy. It would be beneficial to allow consumers to call a fund and have a consultant work through the calculator with them over the phone or via an interactive live chatbot, with the regulatory guidance indicating how this can be done while avoiding this being classified as personal advice. This would increase capacity to offer these tools to a wider audience.

See also the points raised in section 6 about presentation of options and personal advice.

In addition, RG 000.86(f) states that disclosure is required to include a statement to the effect that:

> 'the superannuation calculator or retirement estimate is not intended to be relied on for the purpose of making a decision about a financial product and that users should consider obtaining advice from an AFS licensee before making any financial decisions'

While we agree that a calculator/estimate cannot be a substitute for personal finance advice, and that a calculator/estimate (on its own) should not be used to determine whether a particular retirement product is appropriate for a member, many Australians are currently unable to obtain personal financial advice due to cost and other barriers (which the Government is addressing through the Quality of Advice review). As personal financial advice is currently not accessible for everyone, a retirement calculator (in addition to other sources of information) may provide those not able to obtain personal financial advice with valuable assistance in determining how to manage their retirement savings.

We therefore recommend ASIC revisit the recommended disclosure in RG 000.86(f).

11. Adjustment of assumptions by trustees and personal advice

The FSC recommends that trustees should be able to set different assumptions for different superannuation calculators and retirement estimates where this is appropriate – for example, certain forecasts may be able to be customised based on members' investment selection or where a lifecycle investment strategy applies.

In addition, the FSC requests specific confirmation that default assumptions provided by a trustee can be customised for different cohorts of members, for example age, gender and occupation. Under the Retirement Income Covenant, trustees will develop strategies for different cohorts, potentially involving different ages and periods in retirement, so including these in calculators would be beneficial.

Age and gender are currently common variables in super calculators, but it would be beneficial if trustees could use more targeted assumptions without this being classified as personal advice. Some other assumptions that could be amended by trustees based on member information include Government Age Pension eligibility (see recommendation above), desired retirement age, assets, income, home ownership and marital status, which are all key influences on retirement estimates. A small number of trustees may have some of this type of information currently, but more may collect this over time to aid in compliance with the Retirement Income Covenant.

Therefore, FSC recommends that ASIC's regulatory guidance should state that this information can be collected from members and included in calculator outcomes, and this action is not classified as being personal advice with the requisite obligations (this issue was raised at the December ASIC briefing).

12. Transition period

The FSC requests a 12 month transition period for the new rules rather than a 6 month period. ASIC's suggestion for a six month transition (CP351, p21, B9) would in our view be insufficient to make the necessary changes to comply with ASIC's proposed new requirements.

We note that some existing calculators may fall under the new interactive retirement forecast and hence changes will be required to comply with the new rules. Those changes may require significant system changes that need to be planned and will incur additional costs if they cannot be aligned with existing change cycles. A 12-month transition period would also allow for changes to periodic statements to be made under existing schedules for annual updates resulting in reduced risk and cost.

The development of some existing retirement calculators has been informed by significant external engagement with both specialist consultants and legal advisers, and this advice will need to be revisited before a system build can occur.