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Subject: Consultation Paper 351

Dear Ms Chew,

Thank you for the opportunity to respond to Consultation Paper 351 that will amend the legislative instruments on superannuation calculators and retirement estimates.

Cumpston Sarjeant is an actuarial consulting firm. In partnership with Gallagher (AHC) we have developed a range of superannuation calculators for industry funds, retail funds and Government funds. We also prepare retirement estimates.

Summary

1. In the draft Instrument, online interactive tools that are pre-populated with member data are categorised as “retirement estimates”, and the requirements of retirement estimates apply to such interactive tools.
   We believe such tools would be better categorised as a form of calculator (one which uses member data available to a fund).
   Some of the requirements of retirement estimates do not appear as relevant for an interactive tool. For example, under the draft Instrument it appears a fund would not be able to provide a member with an interactive online tool pre-populated with member data if they are still working and over age 67.
2. Two changes to the concept of a retirement estimate which would be useful are:
   i. Allow funds to provide alternative estimates (for example the impact of additional contributions) in static projections on member statements.
   ii. Remove the restriction that static retirement estimates can only be provided with annual statements. Allow funds to provide retirement estimates in other written communication throughout the year.
3. The draft Instrument sets a default drawdown period of 25 years and permits an alternative drawdown period inputted by the user.
   It would be useful if default projections could be based on a given income level (for example

a percentage of pre-retirement income). The run-out age/drawdown period would then be the output.
Alternatively, even if the default approach is based on a drawdown period, it would be useful if the user could input an income level they desire (which would then show the run-out age/drawdown period as output). It is not clear to us whether this would be permitted under the draft Instrument.

4. It would be useful to have further clarity around restrictions on advertising or promoting a specific financial product.
   Specifically, tools are most useful to members if a fund is able to refer to the name of, for example, an annuity product or investment option.
   We note that funds are currently not permitted to refer to investment options by name. It is not clear whether this prohibition on using actual names would also apply to income products under the advertising or promotion clauses.
5. It would be useful if the Instrument addressed defined benefit funds.
   For example, if defined benefit fund rules could be included in the list of assumptions that do not need to be editable by the user (ie in addition to statutory and drawdown assumptions) that may be all that would be required for tools intended for defined benefit funds to be covered by the Instrument.
6. The Instrument indicates funds should allow for SG increases. There are three practical issues in allowing for SG increases:
   i. Only if a fund knows that a member is receiving employer-funded contributions at the current SG rate of 10% can they apply future SG increases
   ii. For high income earners a fund may not know whether the SG rate is relevant.
   iii. Only if a fund can separately identify employer-funded concessional contributions from member salary-sacrifice contributions can future SG increases be applied to the employer-funded contributions.
7. Minimum drawdown rules, and mandating that minimum drawdown rules be enforced, are not in our view straightforward.

Interactive retirement estimates

The consultation paper introduces the concept of an “interactive” retirement estimate. We understand that this is intended to be similar to a retirement estimate in the existing Class Order, to the extent that it uses member data which is available to the fund. But, unlike the existing concept of retirement estimate, an “interactive retirement estimate” will sit in an online portal and provide the member with an opportunity to edit the data and assumptions.

We note the description of the differences between an interactive retirement estimate and a calculator in Paragraph 54 of the Consultation Paper. Nonetheless it appears to us that interactive tools are conceptually much closer to calculators than the existing retirement estimates and may in our view be better categorised as a calculator pre-filled with member data available to the fund. The conditions in paragraph 55 of the Consultation Paper appear to be those which relate to a calculator. In the draft Instrument Part 2 Section 7 Paragraph 2(d) brings together calculators and interactive retirement estimates.

Further, we believe that categorising an interactive tool pre-populated with member data as a "retirement estimate" places unnecessary restrictions on interactive tools in an online portal. In the draft Instrument, Part 2 Section 6 Item 2 outlines the conditions which must be met in order for a retirement estimate to obtain relief. If an interactive tool in an online portal pre-populated with member data is categorised as an "interactive retirement estimate" (rather than a calculator) then these lists of requirements would presumably also apply. Though these restrictions make sense in the context of a static projection it is less clear that they are relevant for an interactive tool where the member is able to edit the assumptions.

For example, these restrictions appear to prevent a fund offering an online interactive tool, prepopulated with member data, to a member who is over 67, still working and thinking about their retirement. If a fund had available a number of income products the member may be seeking assistance in understanding each product. An online interactive tool would seem to be very useful in this context. But it appears that under the current draft Instrument, simply because such an individual is still working after age 67, they would not be able to access this tool.

Similarly, the current draft Instrument would appear to prohibit interactive tools pre-filled with data being made available for members: in the retirement phase; who have joined the fund recently; who haven't made a contribution in the past year; and those with a low balance. These restrictions were formulated in the context of the existing static retirement estimates and are sensible in that context. In each case however, we believe that the interactive nature of online tools, the capacity of the user to edit the assumptions, makes these restrictions less relevant for online tools.

We believe it would be clearer to categorise any interactive tool as a "calculator". If the use of member data available to a fund requires specific considerations, then in our view this would be better dealt with as a subset of "calculator" rather than a subset of "retirement estimate".

There are two changes which we believe would be useful to the restrictions around retirement estimates:

1. It would be useful to allow funds to provide alternative estimates. For example, it would be useful to be able to show to a member on an annual statement the impact of making additional contributions of say $20 per week, $50 per week etc.
   This would be a simple but effective way of communicating the impact of additional contributions.
   In the draft Instrument Part 2 Section 7 Item 1(j)(ii) appears to prohibit this.
2. It would be useful to allow funds to provide retirement estimates other than just in an annual statement.
   Although the consultation proposal mentions including retirement estimates in an online portal it would also be useful for funds to be able to provide estimates in written or email form outside of the annual statement cycle.
   In the draft Instrument Part 2 Section 7 Item 1(j)(i) appears to prohibit this.

Drawdown period

In the Consultation Paper, Section C8 proposes default assumptions for the retirement age (67) and drawdown period (25 years).

In the draft Instrument Part 2 Section 7 Item 1(a)(ii) proposes that the drawdown period is "25 years or a drawdown period inputted by the user".

The drawdown period in retirement and the income level available in retirement can be seen as two sides of a similar calculation: a user could either input a drawdown period, in which case the output is the level of income which could be generated; or the user could input a desired level of income, in which case the output of the projection will be a run-out age (effectively a drawdown period). An example of the latter approach is a calculator which is based on traditional rules-of-thumb that a user may need income of 65-70% of their pre-retirement income. Having set the income level in this way, the calculator shows when the user's funds will be exhausted.

The consultation document and draft instrument are based around the first approach (showing the income available over a given drawdown period) but make no mention of the second approach (showing the runout age/drawdown period for a given income level).

It would be useful to allow the second approach.

For example, default calculations could be performed on the basis of a specified percentage of pre-retirement income (rather than a specified drawdown period).

Alternatively, even if the drawdown approach is the default, in the draft Instrument Part 2 Section 7 Item (1)(a)(ii)) could be expanded to permit the alternative approach. As well as allowing a drawdown period inputted by the user, this paragraph could allow the user input to be defined in terms of desired income level (with the output then being the run-out page/drawdown period).

Promoting a product

As with the existing Instrument, the draft Instrument prohibits advertising or promoting a specific financial product in a superannuation calculator or retirement estimate. In the case of retirement estimates there is an additional clause "other than to the extent necessary to provide the retirement estimate". This clause is however not included in relation to superannuation calculators.

It would be very useful to have some guidance around what ASIC deem to be advertising or promoting a product.

For example, in order to offer a greater range of income products available to members, a fund may introduce an annuity product. The fund may then develop an online tool to show how such an income product would work. In order to be useful to members it does seem necessary to refer to the name of the product in this tool.

I note that currently funds are not permitted to use the names of actual investment options. Conceivably then, under the prohibition on advertising or promoting a product, a fund may conclude that they are not permitted to refer to the name of an income product.

To be most useful to members I believe it is necessary to refer to the names of products. It would be useful to gain clarity on whether or not ASIC regard using the name of a product in a tool to be a form of advertising or promotion.

It may be that the clause mentioned above which is included in relation to retirement estimates, but excluded in relation to calculators, is intended to allow reference to a product using its name. However this is not clear to us (and in any case is not included for calculators).

Defined benefit funds

It would be useful if defined benefit superannuation funds were explicitly covered in the Instrument.

The draft Instrument, in Part 2 Section 7 Item 1(d), mandates that for a calculator, assumptions other than statutory assumptions or drawdown assumptions must be editable. It may be that for the Instrument to cover defined benefit funds it would be enough to explicitly not require defined benefit fund rules to be editable.

Allow for SG increases

In the Consultation Paper Section C12 indicates that retirement estimates should allow for superannuation guarantee increases. There appear to be three practical problems in implementing this.

First, a fund must know that a member's current employer-funded contributions are made at the current SG rate of 10%. Only by knowing that can the fund then increase the contributions over time (eg by increasing contributions by a factor of 10.5/10 next year, and so on in later years). If there is a possibility a member is receiving a higher percentage, for example those public servants who receive 15.4%, it is not appropriate to increase the contributions in this way.

Second, for high income earners a fund may not know whether the SG rate is relevant.

Further, a fund must be able to separately identify employer-funded concessional contributions from member's voluntary salary-sacrifice concessional contributions. Most funds probably can do this, but if a fund cannot separate these, it would also be inappropriate to apply increases on current contributions based on the increasing rates of SG contribution.

Minimum drawdown rules

In the Consultation Paper Paragraph 94 notes that it is important for trustees to take into account the Government's minimum drawdown rules.

The minimum drawdown rules govern how much an individual must withdraw from the superannuation environment. They do not govern expenditure; funds which must be drawn from superannuation in excess of an individual's expenditure needs can simply be invested outside of superannuation.

I would like to highlight one issue here. If we abstract from the idea that these are superannuation calculators, they are retirement income models. And perhaps of more importance to a member is not withdrawal rules in place due to tax concessions in the superannuation environment, but simply how much the member has to live on in retirement.

In the event that the amount an individual needs or wants in retirement is less than the amount that must be withdrawn from superannuation, the difference can simply be invested outside of superannuation.

A superannuation model that does not account for minimum drawdown rules in effect retains the difference within superannuation. Potentially this in turn ignores differences in the tax treatment of investment income on assets in superannuation and investment income on assets outside of superannuation. This has a material impact on the modelling outcome however only when income outside of superannuation is sufficiently high to be subject to income tax (which may be around $30,000 per annum for a senior Australian). For a retired individual with no salary income, ignoring minimum drawing rules appears to have an impact on the modelling outcome only once assets outside of superannuation are sufficiently high to generate an income of approximately $30,000 per annum.

By contrast, a model that enforces minimum drawdown rules (and has no capacity to re-invest excess funds outside of superannuation) is problematic as a representation of income available to a retired person. The issue here is that in a year where drawdown requirements are high, the difference between the amount the individual needs or wants in retirement and the amount which needs to be withdrawn from superannuation is ignored completely (presumably assumed to be spent even if it is greater than the income level the user is attempting to model).

It may be that a model that enforces minimum drawdown rules results in a greater misrepresentation of possible retirement income than a model which does not enforce minimum drawdown rules.

Thank you again for the opportunity to respond to the consultation paper. Please contact me if you would like to discuss this further.

Kind regards,

Paul Thomson