Deloitte Consulting Pty Ltd
ACN 611 750 648
Grosvenor Place
225 George Street
Sydney, NSW, 2000
Australia

Tel: +61 2 9322 7000
www.deloitte.com.au

28 January 2022

Nicole Chew,
Senior Lawyer, Superannuation
Australian Securities and Investments Commission
GPO Box 9827
Brisbane QLD 4001

By email: SuperForecastsConsultation@asic.gov.au

Dear Nicole,

Response to ASIC on Consultation Paper CP 351

We refer to the Consultation Paper 351 *Superannuation forecasts: Update to relief and guidance* released on 18 November 2021 seeking responses from superannuation fund trustees, consumer groups, actuaries and other interested stakeholders to ASIC's proposals to amend and update its legislative relief for those who provide superannuation calculators and retirement estimates.

In providing this response, we note that Deloitte has experience in both providing superannuation calculators and retirement estimates to superannuation fund trustees.

Background

ASIC currently provides legislative relief from the licensing, conduct and disclosure obligations of the Corporations Act relating to personal advice for trustees who provide superannuation calculators or retirement estimates (and for other entities who provide superannuation calculators). This relief is via two legislative instruments:

- ASIC Corporations (Generic Calculators) Instrument 2016/207 (ASIC Instrument 2016/207) for the provision of certain financial calculators that do not advertise or promote one or more specific financial products, including calculators relating to superannuation products; and
- 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. This Class Order is set to expire on 1 April 2022.

ASIC is proposing to continue relief for the provision of retirement estimates beyond 1 April 2022 and to align the scope and conditions for the relief for both superannuation calculators and retirement estimates, including adopting a common framework for setting economic and financial assumptions. This common framework is to be principles based and will allow superannuation fund trustees and others more flexibility in the setting of assumptions relevant to their circumstances.

In doing this, ASIC has noted that the Government intends to amend the *Superannuation Industry Supervision Act 1993* (SIS Act) to introduce a retirement income covenant which will require superannuation fund trustees to prepare a retirement income strategy to assist members to achieve and balance three objectives:

- Maximising their expected retirement income;
- Managing expected risks to the sustainability and stability of their expected retirement income; and
- Having flexible access to expected funds during retirement.

Our response has been structured into three sections:

- Commentary on the principles and scope of the proposals in the context of the developing needs of the market, especially the anticipated demands of the Retirement Income Covenant.
- Detailed commentary on specific provisions.
- Answers to the formal questions posed in CP 351

Principles and market needs

We welcome the decision to combine the regulation of superannuation calculators and retirement estimates under a single, consistent set of regulations. This will greatly improve the consistency of information and estimates provided to members which will give them greater confidence in their retirement planning.

We also welcome the decision to implement a principles based regulatory approach because this will allow providers to provide outputs that are more relevant to their members and their products whilst still protecting consumers.

We further welcome the decision to allow estimates of potential Age Pension entitlements to be included in the retirement estimates.

These three initiatives, taken together, will provide a significantly enhanced member experience compared to the current regulations. The needs of superannuation funds and their members will, however, soon begin to change as superannuation funds begin implementing their Retirement Income Covenant strategies. To help members to plan better for retirement, they will need to know more and therefore superannuation funds will need to provide more. We believe that there are some modest adjustments that should be made to the proposed regulations to make them better suited to this emerging environment.

A simple overview of the potential experience of a superannuation fund member under the proposed regime will help explain the issue.

Step 1: The superannuation fund will provide the member with a static retirement estimate satisfying the proposed regulations. This could be distributed on paper or electronically or provided on a member portal. This will give the member a perspective on what they might receive at retirement and as an income thereafter. This estimate would provide a link to an online tool.

Step 2: The fund might avoid Step 1 and simply direct the member to an interactive retirement estimate. The member would be given instructions as to how he or she could adjust assumptions away from the defaults in order to explore other potential outcomes.

Step 3: The interactive retirement estimate could also provide an estimate of the member's Age Pension entitlement using the specified default assumptions. The member would be invited to improve this estimate by providing personal information that is currently not available to their superannuation fund. This would include information like their marital status, home ownership, the value of other superannuation balances they might hold, and what assets they might hold outside superannuation that are relevant for the means tests.

Deloitte.

The ability to provide this level of engagement, which is not possible under the current regulations, is welcomed.

The proposed regulations, however, prevent this being a seamless ongoing process for members. This can be seen if we consider the next time the member is provided with a retirement estimate. As the regulations are currently framed, the member is forced back to the beginning of the process. This would not be an issue for those who simply took the estimate and did not engage further, but it would be an issue for those who have engaged – the members to whom the interactive retirement estimates are aimed:

- These members could find the new estimate confusing and potentially misleading because it is not comparable to the previous estimate.
- They would need to once again provide all the information that they provided at Step 3 on the previous occasion.
- Their perceptions of customer service will be negatively impacted by them having provided information that has then been ignored.
- Continual repetition of this cycle of providing the same information in order to receive a more reliable retirement estimate will erode their faith in and engagement with the process.

Consequently, we recommend that where members provide the extra information needed in order to determine their Age Pension eligibility, that information be able to be recorded by the superannuation fund and used as the starting point for the next retirement estimate. The static retirement estimate, which deals only with the fund in question would remain unchanged, but:

- An estimate of Age Pension eligibility based on the recorded information could be provided alongside it. The member has, after all, indicated that this is something they want to know;
- The interactive retirement estimate could be pre-populated with the previously recorded values thereby saving time and effort and improving relevance – and engagement; and
- A statement should be included, indicating the source of the information and inviting the member to review and update if necessary.

The use of the recorded information should be subject to the data and privacy protection requirements imposed on superannuation funds including:

- The purposes for which the information is being collected must be explained.
- The member must actively consent to its collection, storage and use for the purposes explained -which would include the preparation of retirement estimates.
- The information should have an expiry date to ensure that clearly out of date information is not used. Keeping and using the information for 12 months or until the next scheduled benefit statement, if later, would be reasonable.
- The member must be informed when the information is out of date and that it cannot be used to prepare a retirement estimate until it is updated by the member. The last retirement estimate prior to the expiry date could, for instance, be used to warn the member and the first one after the expiry date could be used to notify them that the data has expired.

The ability to record the information provided would significantly enhance the usefulness of retirement estimates, but it would, importantly, also greatly improve the ability of superannuation funds to fulfil their Retirement Income Covenant obligations. These obligations will require funds to offer appropriate strategies and product bundles to members or cohorts of members. The information required to determine Age Pension eligibility is exactly the type of information that will be required to appropriately allocate members to cohorts and strategies. We believe that it will be extremely difficult for superannuation funds to fulfil their Retirement Income Covenant obligations without this information.

Deloitte.

While the full implementation of the Retirement Income Covenant strategies is still some time off, it would be a pity if this was compromised or limited in some way when, in fact, they could be enhanced by using relevant member information provided to the fund.

We therefore strongly recommend that the proposed regulations be amended to allow members to consent to the recording of the personal information necessary to determine Age Pension eligibility and for that information to be used for subsequent retirement estimates (static and interactive) subject to proper data protection and an expiry date.

This would not compromise the integrity of the relief provided under the proposed instruments because this is information provided by the member within the provisions of the proposed regulations.

We also believe that retirement estimates are only a starting point for consumers on their journey to engage with and understand their retirement options and plans. We have outlined three steps by which fund members will engage with and use the retirement estimates, but there are two further steps which many should be encouraged to take:

Step 4: Members will want to better understand their income options in retirement. They will want to understand their expected income, its potential variability and the risk of failure. They will want to understand their investment options. They will want to understand their insurance options and the impact they may have on their retirement outcomes. These topics are frequently seen as the province of financial advice, but there is evidence that shows that most consumers don’t access professional financial advice and the majority are not prepared to pay the fees required to deliver this financial advice. But superannuation funds do need to support their members in making sound decisions.

This is a role that more sophisticated superannuation calculators fulfill, especially if made interactive with modern web and mobile platform functionality. The calculators can, and many already do, demonstrate the potential outcomes for the member of selecting or adjusting the features available to them without making recommendations as to specific product selections.

Some of the potential functionality has been demonstrated in the following blog: https://www.ricewarner.com/the-future-is-now-dynamic-member-education/

In order to make this as convenient for members as possible, their personal information and assumptions from the interactive retirement estimator need to be transferred as seamlessly as possible to the calculator.

The transfer of the information at the member’s request from the interactive retirement estimator to a calculator would be member-supplied personal information and would, therefore, satisfy the regulatory relief provided for calculators. Stating this explicitly in the proposed instrument would assist in the implementation of a seamless experience for members who would wish to avoid the need to repeatedly provide the same information.

Step 5: Those who do wish to receive recommendations as to their product choices do, ultimately, require financial advice. This is specifically outside the scope of the legislative relief but is nonetheless the destination to which many using retirement estimates and superannuation calculators will progress and we mention it here for completeness. This advice could be provided in the traditional face-to-face method with a financial adviser, but it is increasingly being provided by software tools. These tools are essentially extensions of superannuation and other calculators that incorporate the Corporations Act requirements for the provision of Financial Product Advice.

We have outlined this five-step process to highlight the position of retirement estimates and superannuation calculators and the part they play in engaging, informing and educating superannuation fund members. They are not stand-alone tools in their own silo. They are part of the spectrum of services that superannuation fund members require and that superannuation funds will increasingly need to deliver. For members to be properly serviced, the tools need to be smoothly integrated with each other. The regulations should support this integration especially in anticipation of the implementation of the Retirement Income Covenant and the review of financial advice.

This review is the opportunity to support member needs in a more seamless manner and improve retirement outcomes for more members.

Detailed observations and recommendations

This section deals with the specific provisions of RG 000. These are dealt with in detail below, but we note an important matter that is a consequence of inconsistencies between the various provisions for investment returns. The proposed regulations permit trustees to make default assumptions for investment earnings, fees and costs that are reasonable, but also requires that these be internally consistent with assumptions about inflation and tax and then prescribes rigid assumptions for inflation prior to and after retirement. A requirement for internal consistency against rigid inflation assumptions leaves little, if any, room for discretion when determining reasonable investment earnings assumptions.

The removal of the “no-action” position could cause uncertainty and confusion. The removal is understandable to the extent that the proposed relief does allow trustees and other providers discretions that the current relief does not. Nonetheless, the exercise of these discretions is subject to the principles outlined. It would seem reasonable that trustees and others who have fulfilled these principles in good faith should be confident that they will still be free from further actions on other grounds. One possible outcome is that fewer trustees will take the risk and take advantage of this “relief”. We therefore suggest that ASIC reassess and re-evaluate this change.

We have the following comments on specific provisions in the draft Regulatory Guide 000:

- RG 000.114: The wording of this provision is confusing because of the use of nested exceptions. It would seem better to specify which assumptions the provider of a calculator will be permitted to fix if it desires – and consequently not allow the user to change.
- RG 000.118: Investment earning assumptions in conjunction with the assumptions for fees, costs, taxes and inflation must be internally consistent. These internally consistent assumptions may be based on specific products provided the product is not advertised or promoted (RG 000.120).

  The provisions in Table 1 must satisfy these requirements and therefore take into account the requirements specified in Table 4, namely that inflation prior to retirement must, by default, be assumed to be equal to wage inflation (currently specified as 4% pa) and after retirement must, by default, be assumed to be equal to consumer price inflation (currently specified as 2.5% pa).

  As mentioned above, a requirement for internal consistency against rigid wage and consumer price inflation assumptions leaves little, if any, room for discretion when determining reasonable investment earnings assumptions.
- RG 000.127: The future product choices and actions of the member are not relevant to the decision about current assumptions. A number will in fact die prior to age 67, but there is no suggestion that that should be considered. It is unclear as to the purpose of this provision except possibly as a defence following the removal of the “no action” provisions. In our view, this provision is not required.
- RG 000.129: This specifies that the default retirement age must be 67 and the default draw down period in retirement must be 25 years. This is not an unreasonable set of assumptions for most members and funds, but there are funds that service members employed in primarily manual occupations (for instance building, construction and transport) for whom age 67 is well beyond the age at which they currently can be reasonably expected to retire. There should be a discretion to allow some funds, that can demonstrate a consistently lower retirement age, to be able to use that age in combination with a consistent draw down period in retirement.

  There is also the issue of where members have used the flexibility of a retirement estimator or calculator to select an age other than 67 in order to understand their retirement outcome. The development of personalised or cohort retirement strategies under the Retirement Income Covenant will undoubtedly also see many members select a retirement age other than 67. Providing subsequent retirement illustrations or estimates using an age other than the one they have selected would be confusing and potentially misleading.

The provisions should require funds to use the retirement age selected by the member, where there is one, as the default.

- RG 000.135: This applies specifically to retirement estimates. RG 000.136 would also appear to apply to retirement estimates (as opposed to estimates and calculators) but does not specifically say so. It is unclear whether RG 000.137 and RG 000.138 were intended to only be for retirement estimates. The application of these provisions needs to be clarified.
- RG 000.145: We agree with the statement and refer to our introductory discussion. These estimates would have their usefulness enhanced if information provided by a member were used to set the opening default positions for later estimates.
- RG 000.146: We agree that most funds do not have consistent access to sufficient data across their whole membership to enable them to provide estimates of Age Pension entitlements but that does not mean that they do not have this information for a meaningful group (cohort) of their members. They will also increasingly be capturing and holding this information as they implement their retirement strategies under the Retirement Income Covenant and will be gathering this information via interactive retirement estimates. The provision of Age Pension estimates should be permitted where funds hold the necessary information subject to reasonable explanations to the recipient.
- RG 000.156: This provision is welcomed. It will allow for the development of more meaningful engagement with members.
- RG 000.159: Again, this provision appears to be intended to apply only to retirement estimates, but this is not explicitly stated. It provides that insurance premiums **must** (not just by default) be assumed to increase at the rate of wage inflation. We recommend that this be reconsidered, as members with unitised life insurance cover can expect their premiums to remain unaltered, or, in some cases, to see them move in defined steps. Those with rate-for-age type cover can expect their premiums to increase at a rate much higher than wage inflation at later ages.

  The provision as specified would essentially result in an incorrect result and potentially misleading information being provided that is inconsistent with the fund's own insurance arrangements.
- RG 000.161, RG 000.162 and Table 3: We agree that superannuation funds may not hold information about other superannuation holdings and that it would be unreasonable for them to assume anything about these holdings. However, they will increasingly be provided with this information in relation to retirement strategies. Members using interactive retirement estimators, and who want to obtain a reasonably accurate estimate of their Age Pension entitlement, will also want to consider the impact of other superannuation assets and will be in a position to provide information on them. Where the member provides information on other superannuation holdings, these holdings should be able to be taken into account. If this cannot be done, the estimates will be of limited value to many members.
- RG 000.163 – 183: We again refer to the inconsistencies between these provisions in the context of rigid inflation assumptions.
- RG 000.199: We agree with the statement but emphasise that, should a member wish to move from an interactive retirement estimate to a more sophisticated calculator, they should be able to do this and to transfer their information and assumptions to the calculator without having to input them again by hand.
- RG 000.202: See earlier commentary that Age Pension estimates should be allowed provided the member has provided the information that would allow an estimate to be made.

Response to formal questions

Our responses to the formal questions posed in CP 351 are provided in Appendix A – CP 351 proposals (B1-B11) and Appendix B – CP 351 proposals (C1-C15).

Deloitte.

Thank you for the opportunity to provide input on this important matter.

Yours sincerely

[redacted]

Andrew Boal
Partner

[redacted]

Steve Freeborn
Partner

Deloitte.

Appendix A – CP 351 proposals (B1-B11)

Proposal		Questions		Deloitte Feedback
B1	We propose 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 single legislative instrument that covers both superannuation calculators and retirement estimates. As is currently the case, our relief for superannuation calculators will remain available to all providers, and the relief for retirement estimates will be available only to trustees.	Q1	Should ASIC continue to offer relief to trustees and other providers for superannuation calculators? Why or why not?	Yes, relief should continue to be offered to trustees and other providers. Calculators are simply tools that provide numerical illustrations of potential future outcomes for financial products. These illustrations in themselves do not constitute advice. This relief clarifies that position and allows trustees and others to provide meaningful, useful and necessary information to members without the complexity and expense of compliance with the regulations for financial product advice.
		Q2	Should ASIC continue to offer relief for trustees to provide retirement estimates to their members? Why or why not?	Yes, relief should continue to be offered to trustees. The estimate provides a valuable illustration of potential value to members. The focus on the future value is significantly better than the current balance at illustrating the value of the member's current product holding. The existing relief for estimates has greatly assisted funds in demonstrating this value.
		Q3	Are there elements of the current relief for superannuation calculators or retirement estimates that discourage or prevent the provision of these tools by trustees?	The current relief for estimates requires the use of assumptions that are generally at significant variance from the circumstances of individual products and expectations for them. They can therefore be potentially misleading. There are inconsistencies between the current relief for calculators and for estimates. This means that when members seek to engage following receipt of an estimate, they are presented with an illustration of what is supposedly the same retirement outcome but are shown a value that can be wildly different. This does not instil confidence or encourage engagement.
		Q4	How are superannuation calculators and retirement estimates currently being provided by industry under ASIC's current relief?	No comment.

Deloitte.

Proposal		Questions		Deloitte Feedback
		Q5	Are superannuation calculators or retirement estimates being provided without relying upon the current relief? If so, why are providers choosing not to rely on the relief?	We are aware of trustees who have chosen to provide retirement estimates using assumptions different from those specified in the ASIC relief and demonstrating values other than those permitted under this relief. These estimates have been provided as Financial Product Advice. The trustees in question chose to do this because they believed that the estimates permitted under the relief were inadequate for their members and potentially misleading. Some providers choose to deliver their calculators as self-directed advice tools because they wish to pre-populate the calculators with personal information they hold regarding the member – like account balance, investment selection, salary, contribution rate etc. These self-directed advice tools do no more than equivalent calculators that require the member to supply these inputs manually. This is a significant inefficiency in the current relief – refer to our earlier comments on the collection, retention, use and transfer of certain information. Note, these calculators do not generally provide product recommendations, although there are some self-directed advice tools that do.
		Q6	Are our proposed changes to RG 229 easy to understand? Is the structure and format of the regulatory guide helpful, or would a different approach be preferable? If so, why?	The proposed changes to RG 229 are well reasoned and structured, but there are points of detail that can be improved. These are covered in our "Detailed observations and recommendations."
B2	We propose to remove the relief for superannuation calculators in ASIC Instrument 2016/207 and include it in the new legislative instrument for superannuation forecasts. Note 1: For our proposed approach on a framework for setting default assumptions for superannuation	Q1	Do you agree that our relief for superannuation calculators and retirement estimates should be combined into a single legislative instrument? If not, why not?	The combination of the relief for retirement estimates and superannuation calculators into a single instrument will remove the inconsistencies that currently exist between them. To this end, it will greatly assist the provision of relevant and reliable information to superannuation fund members. The separation of the relief for superannuation calculators from the relief for other financial calculators, however, raises the risk of inconsistencies developing between superannuation calculators and other financial calculators.

Proposal		Questions		Deloitte Feedback
	calculators and retirement estimates, see Section C of this paper. Note 2: ASIC Instrument 2016/207 will continue to apply for other generic financial calculators, such as calculators relating to managed investments or insurance			The proposed relief introduces such an inconsistency in Table 4 (Inflation). The proposed RG 229 forces a rigid assumption of inflation on the superannuation calculator provider that is not required for other "Generic Calculators". It also requires retirement values to be deflated to current day dollars using this rigid inflation assumption. A set of rigid assumptions is reasonable for the retirement estimates as it promotes and consistency across the market, but this would seem overly restrictive for calculators.
		Q2	Should ASIC continue to provide relief for financial calculators relating to retirement savings account (RSA) products, in addition to superannuation calculators? Why or why not?	No comment.
B3	Instead of mandating specific standardised text, as is currently required in [CO 11/1227] for retirement estimates, we propose that the disclosure requirements for both superannuation calculators and retirement estimates 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	Q1	Do you agree with our proposal for principles-based disclosure requirements? Why or why not? Should there be any conditions or other steps taken to address particular risks arising from a principles-based approach?	We support a move to a Principles Based approach. It will allow more meaningful and consistent illustrations of value to be provided to superannuation fund members. The caveats/explanations (a), (b), (c), and (e) are reasonable and sensible. For (b), see answer to B2:Q1. (f) is potentially problematic in that it will undoubtedly lead to a significant volume of complex language and technical terms being included in the information being provided to members to ensure that trustees are able to demonstrate compliance with all the requirements. The setting of an internally consistent set of assumptions that would be regarded as reasonable by a court (the standard that will be applied) is a complex task requiring professional knowledge and judgement. The proposed relief requires that providers establish a set of reasonable assumptions that are internally consistent. This should be sufficient.
		Q2	Should we prescribe how specific assumptions should be disclosed (e.g. insurance premiums)?	We do not believe that it is necessary to prescribe how these disclosures are made. See comments regarding RG 000.159 regarding insurance premiums.
		Q3	Are there any specific changes we should make to our relief or guidance on presentation or	• None that we are aware of.

	Proposal		Questions	Deloitte Feedback
	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		disclosure that would encourage trustees to provide superannuation calculators or retirement estimates?	
B4	We propose 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 can be used without breaching the requirement not to advertise or promote a specific financial product: see draft RG 000.93–RG 000.96.	Q1	Do our proposed changes to the relief and guidance give sufficient clarity about how a superannuation calculator or retirement estimate may be given without advertising or promoting a specific financial product? If not, why not?	Yes, we are confident that the proposed changes fulfil this objective.
		Q2	Are there other ways to reduce the risk of a member assuming the forecast can be relied on to make a decision about a specific financial product?	We believe that the provisions as proposed should provide sufficient protection against the risk that members would, inappropriately, believe that the results can be relied upon to make a decision about a specific financial product.
B5	We propose to retain the requirement that retirement estimates may only be given to	Q1	Do you agree with the proposed restrictions on who may be provided with a retirement estimate? Why or why not?	The restriction on DB estimates should not prevent estimates being given for members who also have accumulation interests in the fund.

Deloitte.

Proposal		Questions		Deloitte Feedback
	members aged under 67 who have been a member of the fund for the year ending on the date of the estimate. We propose to additionally require in the relief instrument that a retirement estimate must not be given to a member who: (a) is in the retirement phase at the date of the estimate; (b) has not made or received a contribution to their account during the year ending on the date of the estimate; (c) has an account balance of less than $6,000 at the date of the estimate; or (d) has a defined benefit interest in the fund.			We also believe that there are circumstances where estimates should be allowed to be provided to retirement ages beyond 67.
		Q2	How do trustees currently decide which members to give retirement estimates to? For example, are members selected on the basis of age, current balance, contributions history or other factors?	No comment.
		Q3	Are there other types of members that should be included or excluded from the scope of our relief for retirement estimates? Why or why not?	See response to Q1.
B6	We propose to allow trustees to deliver retirement estimates through member online portals, as well as through periodic statements. We will amend our guidance to clarify that retirement estimates can be provided to members more frequently than through periodic statements. We will also clarify in our guidance that a retirement estimate may be given in video or audio format provided the requirements of our relief are met (e.g. in relation to disclosure)	Q1	Are there practical limitations to trustees providing retirement estimates more frequently than in periodic statements?	There are practical limitations to the provision of estimates more frequently than in periodic statements, but these are matters for individual trustees and their providers. Allowing them to provide the estimates does not force them to do so if it is too expensive or complicated.
		Q2	Does draft ASIC Instrument 2022/XXX appropriately facilitate the provision of retirement estimates to members through an online portal? Would further ASIC relief or guidance help trustees deliver estimates in this way?	The relief as provided would facilitate the provision of retirement estimates via an online portal.
		Q3	What are the risks in allowing trustees to deliver retirement estimates to members through an online portal?	We do not believe that there are specific or extra risks to providing retirement estimates via an online portal when compared to delivering them via electronic statements or an online calculator

Deloitte.

Proposal		Questions		Deloitte Feedback
				(provided that there are similar and adequate IT security procedures in place).
		Q4	What are the risks in allowing trustees to deliver retirement estimates to members in video or audio format?	It may be more difficult to explain caveats and limitations of the estimates.
B7	We propose to explicitly allow for interactive retirement estimates in our relief and guidance. An interactive retirement estimate is 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.	Q1	Do trustees already provide interactive forms of retirement estimates? If so, how are these provided to members?	Trustees do not currently provide interactive retirement estimates as contemplated by the proposals as the conditions are too prescriptive. Some trustees do promote the use of superannuation calculators to allow members to derive estimates for themselves.
		Q2	Are these interactive estimates provided by relying on ASIC's current relief? How are the default assumptions set?	As above.
B8	We propose that the single legislative instrument would expire after a set period of time.	Q1	What is the appropriate period of time for the relief, given the need for trustees and other providers to have certainty about the regulatory settings to make use of the relief?	Trustees need reasonable certainty in order to invest in system and other infrastructure development without the expectation of frequent changes. A minimum period of 5 years would seem to be necessary.
		Q2	How do superannuation calculators and retirement estimates currently influence member behaviour? What data and evidence do trustees and other providers currently collect on how these forecasts, including their assumptions and presentation, influence member behaviour and outcomes?	Superannuation calculators and retirement estimates allow members to see their expected balance at and income in retirement. This could cause them to change contribution patterns, engage in more appropriate product selection and/or be the catalyst for further, more personalised financial advice.
		Q3	What reliable and robust data and evidence can trustees and other providers collect on how their superannuation calculators or retirement estimates influence their members' behaviour or outcomes?	If not used yet, the data fields listed in B8Q2.

Deloitte.

Proposal		Questions		Deloitte Feedback
B9	We propose a six-month transition period for the new requirements.	Q1	Do you agree that a transition period of six months is appropriate for providers to comply with the proposed relief (i.e. by 1 October 2022, assuming the new instrument is made on 1 April 2022)? If not, do you consider a longer or shorter period is required?	Six months may not give trustees sufficient time to implement the proposed relief with sufficient accuracy, policies, documentation, and control in place, particularly given the current regulatory load on funds. 9-12 months may be a more appropriate transition period, but if trustees can comply earlier (e.g. as per APRA Superannuation data transformation requirements), they are free to do so.
		Q2	Are there any unintended consequences of the proposed relief that would affect implementation by industry?	The separation of the relief for superannuation calculators from that for other Generic Calculators could produce inconsistencies which could complicate the design and construction of delivery platforms. This, in turn, would undermine the confidence and trust of members. Consistency allows for efficiency. Inconsistency causes complexity which costs money and raises risks.
		Q3	Will it be practical for trustees to provide retirement estimates under the proposed relief as part of, or alongside, periodic statements for 2021–22?	Some may find this achievable, but we suspect that the majority won't.
B10	We also plan to update ASIC's Moneysmart superannuation and retirement calculators during the transition period to align with the framework under the single legislative instrument.	Q1	What impact (if any) will our plans to update the default assumptions in our calculators have on trustees or other providers who choose to use the same assumptions?	They would need to ensure that their calculators stay aligned, but, given that they have adopted ASIC's assumptions, it would be reasonable to assume that they have processes in place to track those changes and do what is needed to give effect to them. They will incur some additional expenses to update their systems.
B11	We propose to remove the no-action position for retirement estimates outlined in RG 229.	Q1	Is the no-action position necessary for trustees to feel comfortable providing retirement estimates? If so, why?	See earlier comment from "Detailed observations and recommendations" in covering letter: The removal of the "no-action" position could cause uncertainty and confusion. The removal is understandable to the extent that the proposed relief does allow trustees and other providers discretions that the current relief does not. Nonetheless, the exercise of these discretions is subject to the principles outlined. It would seem reasonable that trustees and others who have fulfilled

Proposal		Questions		Deloitte Feedback
				these principles in good faith should be free from further actions on other grounds.
		Q2	Is the no-action position necessary for trustees to feel comfortable providing retirement estimates? If so, why?	Trustees need the certainty that if they have acted in good faith in implementing the provisions of the relief that there will be no causes for actions for other reasons.

Deloitte.

Appendix B – CP 351 proposals (C1-C15)

	Proposal		Questions	Deloitte Feedback
C1	We propose to adopt a single framework for how economic and financial assumptions should be made for superannuation calculators and retirement estimates when relying on our proposed relief. We will apply this framework through the new relief instrument. We will update our guidance on how ASIC intends our relief to apply.	Q1	Do you support 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? Why or why not?	We support the use of a single framework, provided it does not compromise the ability to provide superannuation calculators. We believe that our issues/questions in relation to being able to do this are covered by our answers to these questions and our covering letter.
		Q2	What are the risks to members and to industry of trustees setting their own reasonable assumptions for investment earnings, fees and costs relating to the product in which a member is invested in, or a product which the trustee offers? How can these risks be mitigated?	A number of trustees and providers of superannuation calculators currently set their own reasonable, internally consistent default assumptions. There is therefore no extra risk compared to those calculators. It should be made clear that the purpose is to inform members about their expected balance at and income in retirement and not used to promote a specific fund or product, for example.
C2	Under this framework, we propose to give trustees and other providers flexibility to set their own reasonable assumptions relating to investment earnings, fees and costs for superannuation products. These assumptions must be reasonable and certain disclosure requirements must be met: see draft RG 000.116–RG 000.128.	Q3	Should trustees have greater flexibility to set other types of assumptions, either for a retirement estimate or superannuation calculator? Why or why not?	For superannuation calculators they should be because they are currently permitted to do so. There is no reason that the inclusion of retirement estimates into the relief should lead to further constraints on what is currently permitted for calculators. For retirement estimates, we have commented elsewhere on the usefulness of allowing a different retirement age assumption in specific circumstances. So long as they are data driven and can be justified as being reasonable, other types of assumptions should be able to be made.
C3	We propose to prescribe some default assumptions relating to the retirement age, drawdown period and inflation rates to foster consistency and comparability across providers. These requirements would apply to both superannuation calculators and retirement estimates. Some	Q1	Is there evidence for how members understand or interpret differences in forecasts, either across types of forecast (superannuation calculators and retirement estimates) or across different trustees (or other providers of superannuation calculators)?	We do not have access to any evidence about members understanding or interpretation of different forecasts. We understand and accept the prescription of the retirement age, drawdown period and inflation rates when applied to retirement estimates. This will provide consistency and comparability across the industry. However, we believe that the prescription of these default assumptions for superannuation calculators is inappropriate and

Proposal		Questions		Deloitte Feedback
	additional requirements would also apply to retirement estimates in working out the annual income stream and the use of member data: see draft RG 000.129– RG 000.168.			would significantly constrain and reduce the flexibility of calculators that are currently in use. Trustees and providers may well choose to use the same default assumptions for their calculators and retirement estimates in order to provide consistency when users move from one to the other, but this should not be a requirement.
C4	We propose to update our guidance to explain how trustees and other providers can set reasonable assumptions. We consider assumptions are likely to be reasonable if they are: (a) backed by evidence or expert opinion; (b) not intentionally biased towards encouraging members to make a specific financial decision (e.g. by leading to a higher or lower forecast); (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 draft RG 000.172–RG 000.185. We also expect that providers will revise their assumptions at least every three years, or more frequently if there are material	Q1	Do you agree with our explanation of when default assumptions are likely to be reasonable? Why or why not?	Yes, these are good principles however, as stated earlier, we have concerns in relation to the requirements for the inflation assumptions.
		Q2	How frequently should providers be expected to revise the economic and financial assumptions they apply?	A formal annual confirmation that the assumptions are still appropriate would seem appropriate, unless there has been a significant event that would warrant a formal review of the assumptions earlier.

Deloitte.

	Proposal		Questions	Deloitte Feedback
	changes to a relevant input or statutory assumption, and take steps to limit the risk of providing a misleading forecast because assumptions are out of date: see draft RG 000.186–RG 000.190.			
C5	We propose to update our guidance to state that we expect trustees who provide both superannuation calculators and retirement estimates will set assumptions consistently across these forecasts. There should be reasonable grounds for using different assumptions (e.g. tailoring assumptions for a retirement estimate based on an individual member's investment strategy): see draft RG 000.182–RG 000.183.	Q1	Should trustees be expected to set the same assumptions across all superannuation calculators and retirement estimates they provide? In what circumstances should assumptions be able to differ?	Superannuation calculators and retirement estimates can be expected to diverge, in some circumstances, because of the rigid requirements for retirement estimates and the need for significantly more sophistication in superannuation calculators. An example would be drawdown periods. Superannuation calculators would need to do much more than simply draw down over 25 years if they are to be useful. The use of life expectancy or 75% life expectancy are common choices for drawdown period. The requirement for reasonableness and internal consistency, however, will result in assumptions for investment earnings, costs etc being closely aligned.
C6	For superannuation calculators and retirement estimates, we propose to: (a) give trustees (and other providers of superannuation calculators) the flexibility to set their own reasonable assumptions for investment earnings, fees and costs; and (b) require that these assumptions be reasonable and that certain disclosure requirements are met. This would allow trustees to set assumptions based on the	Q1	What are the advantages and disadvantages of giving trustees and other providers flexibility to set their own reasonable default assumptions for investment earnings, fees and costs?	There will be some loss of consistency across providers, but this would be more than compensated for by the greater relevance of the outputs. Of course, there should be adequate disclosure and transparency regarding the default assumptions used.
		Q2	Is there evidence that members may misunderstand forecasts that are based on specific superannuation products? If so, are there ways to reduce this risk? In what circumstances would differences across forecasts be misleading (e.g. by creating a sense of false precision)?	Members using calculators usually want the assumptions to at least broadly reflect the parameters of the product in which they are invested and therefore be more relevant to them. Some members can be expected to adjust the default assumptions to that end should they not align.
		Q3	In working out a retirement estimate, would it be practical for trustee to set assumptions about investment earnings, fees and costs that may differ based on the products members are	Yes. See answer to Q2.

	Proposal		Questions	Deloitte Feedback
	product(s) an individual member is currently invested in (for retirement estimates) or on the types of product that the trustee offers (for superannuation calculators). We would update our guidance to explain how providers can set reasonable assumptions: see draft RG 000.116–RG 000.128.		invested in? Why or why not? Are there alternative approaches?	
		Q4	What guidance should ASIC provide on how assumptions about investment earnings, fees and costs should be set? Would it be appropriate for trustees to set assumptions on the basis of existing investment return objectives for superannuation products they offer (e.g. the return objective disclosed in the Product Disclosure Statement (PDS) or set by the trustee board?)	The Principles Based guidance you have provided is sufficient. The return objective of products is, however, highly relevant given the rigid requirements for inflation assumptions. It would be very difficult for a trustee to justify anything other than the CPI + X% return objective if they are to argue internal consistency of their assumptions. This would then be adjusted for expenses and tax as appropriate.
C7	For retirement estimates, we propose to require that trustees must set default assumptions about administration fees based on the administration fees paid by the member over the previous year. Trustees could make reasonable assumptions about how administration fees would change in future (e.g. due to inflation or any scheduled fee changes): see draft RG 000.124.	Q1	Would requiring trustees to make reasonable assumptions about administration fees based on the administration fees paid by the member over the previous year be workable in practice?	This could cause issues where, for instance, the member has processed roll ins or rollouts that attract transaction specific fees. The fee scale would seem to be a more appropriate benchmark.
		Q2	Could members be misled if trustees use member specific assumptions for administration fees in working out a retirement estimate alongside generic assumptions for investment earnings and investment fees and costs? If so, how could the risk of misleading forecasts be minimised?	Administration fees and costs will also be generic to all members invested in the particular product and will produce a result that is more relevant to their own circumstances. Of course, there should be adequate disclosure and transparency regarding the default assumptions used.
		Q3	Should we allow or require trustees to set different default assumptions for administration fees in the accumulation and retirement phases when working out a retirement estimate? Why or why not?	The fees for each phase should be appropriate to that phase because they are generally quite different.
C8	We propose 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: see draft RG 000.129–RG 000.132.	Q1	What are the advantages and disadvantages of prescribing a default retirement age and drawdown period for superannuation calculators and retirement estimates under our relief? Please include relevant evidence, where available, of: (a) the extent to which prescribed assumptions would reduce the risk of members being confused	The advantages are simplicity and consistency across the market. The disadvantages are discussed elsewhere in more detail, but in summary: • Where members have indicated (by adjusting an interactive retirement estimate) that they are interested in seeing values at a different retirement age, that age should be used.

Proposal		Questions		Deloitte Feedback
			or misled if they use one or more superannuation calculator or retirement estimate; (b) the proportion of members that currently choose to 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.	• There are increasing numbers of members in accumulation phase beyond age 67. There should be a way in which to provide them with a retirement estimate too.
		Q2	Are there some types of superannuation calculator for which these assumptions would be inappropriate or irrelevant?	See the answer to C5:Q1.
		Q3	Is age 67 (the age pension eligibility age) a reasonable assumption for the retirement age? Why or why not?	It is a reasonable default assumption for the retirement age for the majority of the population. It may not be appropriate for members employed in heavy manual occupations and for members who have indicated a preference for a different age.
		Q4	Is 25 years a reasonable assumption for the duration of the retirement period? Why or why not?	It is reasonable as a default assumption for retirement estimates. Other periods would be more appropriate for superannuation calculators depending on their functionality.
C9	For superannuation calculators, we do not propose setting prescriptive requirements about how providers should make assumptions about annual income streams or age pension benefits. However, these assumptions must be reasonable and a superannuation calculator must not be used to advertise or promote a specific financial product.	Q1	How do superannuation calculators show forecasts representing different types of retirement income products (such as account based pensions and annuities) under ASIC's current relief? How could ASIC's proposed relief facilitate calculators for different types of retirement income product in a way that does not advertise or promote specific financial products?	This is a complex area and we would welcome the opportunity to discuss the issues and potential resolutions with you.
C10	For retirement estimates, we propose requiring trustees to work out the annual income stream on the basis that the member would	Q1	For retirement estimates, what additional assumptions would need to be made to work out the annual income stream in the way that we	Sufficient information and assumptions have been provided to allow the retirement estimates and income calculations to be made.

Proposal		Questions		Deloitte Feedback
	have a constant income from year to year, after inflation, for 25 years. This includes drawing down their lump sum on retirement to zero and taking into account the minimum drawdown rules: see draft RG 000.133–RG 000.140.		propose? Should ASIC prescribe a specific formula? Why or why not?	
C11	For retirement estimates, we propose giving trustees the option to include age pension amounts in the annual income stream for a retirement estimate only if it is an interactive retirement estimate (i.e. delivered through an electronic facility or device that allows the member to make changes to the assumptions used to work out the retirement estimate). Trustees that do so would be required to apply prescribed default assumptions (e.g. about homeownership and partner status). Trustees would also need to work out annual income in a way that reflects how the member's age pension entitlement may change as their retirement balance is drawn down: see draft RG 000.141– RG 000.149	Q1	What are the advantages and disadvantages of allowing trustees to include age pension amounts in a retirement estimate only if it is an interactive retirement estimate that allow the member to make changes to the assumptions? (a) What evidence is there for how numerical forecasts of age pension eligibility influence member behaviour? Does this vary depending on the magnitude or accuracy of the forecast? (b) Would factual information alongside a static retirement estimate be more or less effective in raising member awareness of their potential age pension eligibility compared to a numerical forecast? Why or why not? (c) Why do trustees currently choose to include, or not to include, age pension amounts in retirement estimates? Do trustees choose to include age pension amounts only for specific subsets of their members? (d) Would trustees be less willing to provide retirement estimates to their members if they could not include age pension amounts in static estimates? If so, would trustees seek to provide interactive retirement estimates instead?	See detailed commentary in introductory letter. It is reasonable that trustees do not include an estimate of the Age Pension where they have insufficient information to do so. However, after a member has made use of an interactive retirement estimator and has provided the information necessary to provide a non-default Age Pension estimate, then the information provided should be able to be used to provide an Age Pension estimate alongside a static retirement estimate and to provide a more appropriate default Age Pension estimate via the interactive retirement estimate. Allowing trustees to provide an Age Pension estimate alongside a static retirement estimate would encourage trustees to do so.
		Q2	Should age pension amounts be required by default in interactive retirement estimates or in superannuation calculators? Why or why not?	There is no need to require them by default provided they are not prohibited.

	Proposal		Questions	Deloitte Feedback
C12	For retirement estimates, we propose to make some changes to how trustees must make assumptions about a member's superannuation contributions and insurance premiums. Specifically, we propose to: (a) continue to require 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 will change in line with legislated future changes in the rate of Superannuation Guarantee, as well as wage inflation. Trustees could exclude any non-compulsory contributions a member has made in the previous year, where it is possible to do so and on the basis that the trustee discloses that these contributions have been excluded in working out the estimate: see draft RG 000.152–RG 000.156.	Q1	Are there other ways in which assumptions could be made about future superannuation contributions in working out retirement estimates (e.g. using a three-year rolling average)? To what extent would this better reflect how contribution levels may change over the long term for most members?	These provisions are reasonable, but it would seem better to use a three-year average if it is available. This would prevent extreme results being produced where there has been an unusual contribution. The ability to exclude non-compulsory contributions in the previous year from future contribution estimates will prevent the majority of extreme/unreasonable results.
C13	For retirement estimates, we propose to continue to require that insurance premiums paid by the member in the previous year be deducted from the amount of superannuation contributions. However, insurance premiums must not be deducted if the member	Q1	Are there other ways in which future insurance premiums could be taken into account in working out retirement estimates?	See our earlier response to RG 000.159.

	Proposal		Questions	Deloitte Feedback
	does not have insurance at the time the retirement estimate is made: see draft RG 000.157–RG 000.160.			
C14	We propose to set standardised default inflation rates that must be used when showing the present value of a retirement estimate or the output of a superannuation calculator. These rates would reflect growth in wages (wage inflation) during the accumulation phase and growth in consumer prices (price inflation) during the retirement phase: see draft RG 000.163– RG 000.168.	Q1	What are the advantages and disadvantages of ASIC setting standardised default inflation rates for both superannuation calculators and retirement estimates? Please include relevant evidence, where available, 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 currently choose 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.	The rate described here is the deflator for future values rather than the inflation rate that might be appropriate to items like wages, contributions and expenses. Standardised default inflation rates will ensure consistency across the market. Their rigid specification and the need to set internally consistent assumptions limits the flexibility of the changes. a) common assumptions reduce the risk of members being confused/ misled when comparing results from different providers, but could increase the risk of being confused when considering a specific product or contribution strategy. b) nil comment, don't have any data to my knowledge on this point. c) nil comment
		Q2	What are the most appropriate types of inflation rate to apply to the accumulation and retirement phases?	The most important assumptions are the differential between price inflation and wages inflation and the differential between these and the rate of investment return after tax and fees. Wages and consumer price inflation rates are the appropriate rates to use for defaults
C15	In prescribing the specific rates that providers must apply, we propose to use Treasury estimates of long-term nominal wage growth (4.0% p.a.) for the accumulation phase as set out in the 2021 Intergenerational report. We propose to use the mid-point of the Reserve Bank of Australia's inflation target (2.5% p.a.) as an estimate of	Q1	How should ASIC set values for the default inflation rates, and how frequently should these rates be reviewed?	These rates have the benefit of being set independently of the market and ASIC. Unfortunately, these rates may not always be considered appropriate by many professional investment managers and economists. Given the need to provide present values for future benefits, it is the differentials that are the most important assumptions.

	Proposal		Questions	Deloitte Feedback
	long-term price inflation for the retirement phase.			