

The Association of Superannuation Funds of Australia Limited
ABN 29 002 786 290
ASFA Secretariat
PO Box 1485, Sydney NSW 2001
p: 02 9264 9300 (1800 812 798 outside Sydney)
f: 02 9264 8824
w: www.superannuation.asn.au



23 December 2009

Chloe Youl
Lawyer
Strategic Policy
Australian Securities and Investments Commission
GOP Box 9827
Melbourne VIC 3001

E-mail: policy.submissions@asic.gov.au

Dear Ms Youl,

Re: ASIC Consultation Paper (CP) 122: Superannuation forecasts, ASIC relief and guidance for super funds

The Association of Superannuation Funds of Australia (ASFA) is a non-profit, non-political national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

ASFA welcomes the opportunity to provide further comments on ASIC's proposed relief and guidance for superannuation funds wanting to provide superannuation forecasts for their members. ASFA previously responded to ASIC Consultation Paper 101, titled Superannuation Forecasts, on 31 October 2008. Thank you also for granting ASFA an extension to submit our response.

A key policy platform for ASFA is member engagement. The provision of a benefit projection or retirement income estimate, ASFA believes will contribute greatly to superannuation fund members better engaging with their retirement savings. ASFA, in its Policy Visions, contends that annual statements should be able to be delivered electronically, and must include a "Retirement Income Estimate" of projected indicative annual income from super and from the Age Pension. This was also a consistent theme through ASFA's response to the Henry Review. ASFA supports a mandatory regime for projections with annual statements.

ASFA welcomes the general thrust of the consultation paper and notes that a number of ASFA's recommendations from its response in October have been taken up. However, ASFA also notes that the regime proposed in the consultation paper is a voluntary one. Given that this is the case, the requirement for quite restrictive standardised assumptions contained in the consultative paper appears to be more in keeping with a mandatory regime. As such ASFA believes that even though some degree of standardisation is necessary so as to adequately protect the consumer, if the regime is voluntary more flexibility is needed in regard to the assumptions to be used.

ASFA believes that if a voluntary regime is required to contain such a high degree of standardisation then few will use it. Trustees that are appropriately licensed may in fact prefer to issue projections under the intra fund advice regime. Since there are only a relatively small number of trustees with the relevant license, the voluntary regime proposed by CP 122 may have very little take up.

The attached contains ASFA's comments that refer to the specific issues raised in the consultation paper and also to a number of general issues that ASFA believes to be important.

Should you have any questions please contact Tony Keir Senior Policy Adviser on 02 8079 0815.

Yours sincerely

A handwritten signature in black ink that reads "Melinda Howes". The signature is written in a cursive, flowing style.

Melinda Howes
Director of Policy & Industry Practice

General Issues

1. The Age Pension

In ASFA's previous submission we raised the need for any forecast to also include a projected eligibility to the Age Pension. This is because currently 75% of retirees are in receipt of at least a partial Age Pension. Whilst ASIC has expressed concerns that providing for an estimate of the Age Pension may be misleading, especially where an individual has more than one superannuation account, ASFA nevertheless sees value in the Age Pension being included or at the very least a statement being included with any estimate that clearly articulates the need for members to factor in the possibility of social security as indications are that the Age Pension going forward will continue to be relied upon to some extent by a significant proportion of retirees. As such we believe that it is more misleading to exclude the Age Pension.

For many superannuation fund members the Age Pension will be an important part of their post retirement income and to ignore the role of the Age Pension in these circumstances risks rendering the estimate as meaningless. As mentioned earlier, the regime being put forward by ASIC is a voluntary one. Therefore providers where they can should be allowed to include the Age Pension if they believe it to be appropriate.

The problem associated with multiple member accounts where each account receives a projection with an estimated Age Pension entitlement, needs to be managed through clear warnings as to the fact that the member is entitled to only one Age Pension.

2. Voluntary or mandatory

ASFA believes that paper-based superannuation estimates should ultimately be made mandatory. However we recognise the significant hurdles that industry will face in order to implement such a requirement. To this end ASFA recommends a 2 year implementation period before possibly moving to a mandatory regime. Without preempting the outcomes of various reviews ASFA recognises that any future move to a mandatory standard will be enhanced by a well tested voluntary system. As stated in the opening comments of this submission, ASFA supports a mandatory regime for projections.

3. People approaching retirement

ASFA believes that there is a further category of individual for which forecasts are inappropriate or at the very least need to have special warnings attached to their forecast. Notwithstanding the proposal for a voluntary regime, special treatment should be considered for consumers who are within a few years of retirement as it is likely that the retirement income estimated on their forecasts will not be the actual retirement income achieved. The superannuation forecasts initiative is essentially a member engagement activity that focuses on the long term. Those individuals who are only a few years away from retirement need to have it made clear that in their case the forecasts may not be appropriate. Keeping in mind that retirement ages can vary, ASFA recommends that appropriate warnings need to apply for projections provided for those aged 60 and above.

4. Insurance

In ASFA's previous submission we asked that the cost of insurance be excluded from the superannuation forecast. This was based on the thrust of that submission calling for a mandatory system. The current consultation paper calls for a voluntary system and includes insurance.

If the voluntary system is introduced ASFA suggests that the trustees be allowed to take into account their actual premium scale. ASFA sees no benefit in standardising insurance assumptions

in a voluntary system.

Determining a standard cost of premiums is difficult but there also exists a real chance of misleading members where they have no insurance. Not all superannuation fund members have insurance through their fund therefore a standardised insurance premium cost is inappropriate. Once again ASFA recommends the need for clear warnings to this effect.

5. Statutory exclusion of provider liability

ASFA would also like to raise as an issue a concern expressed by trustees as to their liability in the event that a member seeks to take action against the trustee based on a forecast that is relied upon in some material way by the member. ASFA acknowledges that there is a statement in the standard warnings and disclosures that points out that the forecast is not a promise. However ASFA would like to see a clear statement as part of the standard warnings and disclosures that reinforces this comment and reflects the thinking that the standard duty of care would be met where the guidelines set out in the (draft) regulatory guide has been followed.

6. Prominent warnings

ASFA acknowledges that the draft regulatory guide attached to CP 122 provides a set of standard warnings and disclosures that must be included in a retirement projection.

However, feedback from ASFA members is that for maximum effect some of these warnings need to be placed immediately under the projected benefit amount. In particular the following warnings need to be highlighted in such a manner:

- The projection is not a promise
- That the cost of insurance is included or excluded. Members cannot be given the impression that they have insurance when they do not
- That only one Age Pension amount is payable – this is intended for members who have multiple super accounts who may receive multiple projections each with an Age Pension estimate.

7. Need to allow changed contribution rates

ASFA recommends that any projection should have the capacity to display an end benefit where the standard contribution rate changes. Being able to compare an end benefit where a standard contribution rate stays constant with that where additional contributions are made will deliver a powerful message as to the impact of increasing ones superannuation contributions.

Specific issues raised in consultation paper 122

8. B1Q1: In the draft regulatory guide, we have set out certain types of funds and accounts for which we think projections will be less appropriate. Do you think that any particular types of funds should be excluded from relying on our relief?

The types of funds provided in the draft regulatory guide is in keeping with ASFA's thoughts as presented to you in its October submission. However a further enhancement to the list for which forecasts would not be appropriate are those individuals who are close to retirement. Please refer to point 3 above.

Further to this, ASFA believes that special treatment should be considered for defined benefit schemes. The use of standardised assumptions would be inappropriate for defined benefit schemes for the following reasons –

- A standard assumption of fees does not make sense when in many defined benefit arrangements these costs are funded by the employer;
- Many defined benefit schemes require the member to increase contributions over time so assuming a standard flat member contribution may go against the benefit design;
- Some defined benefit schemes for particular members are designed to produce maximum benefit at age 50 or 55 due to the difficult nature of the occupations of these members. A prescribed retirement rate of say 65 will result in over estimation for these members.

ASFA recommends that in the case of defined benefit schemes that were the standard assumptions provided in the relief are inappropriate, relief be nevertheless granted so long as the assumptions used by the fund are certified by an actuary as reasonable and are reviewed annually. To further the discussion on this issue ASFA has agreed to broker a meeting between ASIC and key members of ASFA's Defined Benefit Discussion Group.

9. B1Q2: Can you foresee any specific difficulties in including the content set out in Section B of the draft regulatory guide?

ASFA has concerns with the break up of the lump sum that is required under Section B of the draft regulatory guide. The guide requires the lump sum projection to be broken up as follows:

$Lump\ sum = Total\ contributions + Total\ earnings - Total\ fees$

The problem envisaged here is that an account balance might include amounts rolled in from one or more funds. When this is the case, the "total contributions", "total earnings" and "total fees" amounts would not be known in regards to any amounts rolled in. Contributions earnings and fees could only be identified insofar as the contributions to the current fund are concerned. These amounts are not tracked on rollover. As such the above break-up would not be able to be calculated by a fund.

ASFA understands what ASIC is trying to achieve here in that as part of the educative nature of projections, members would benefit from seeing the impact on their balance of the level of contributions they make, the value of the return on those contributions and the impact of any fees.

A version of the above break-up which will enable funds to calculate the figures is as follows:

$Lump\ sum = total\ amounts\ rolled\ in\ to\ a\ fund + total\ contributions + total\ earnings - total\ fees$

However when the rollover is separated out in this way much of the meaning for which the break-up was intended is lost. We also note that some of the components of this break-up are not held by

superannuation funds and will have to be calculated, which will be an additional cost.

As such on balance our recommendation is that this break-up of the lump sum not be done. WE believe the emphasis should be on the “income in retirement” figure in any case.

ASFA is also concerned about the \$10,000 rounding figure. It’s presumed that this is rounding of the today’s dollar figure. This level of rounding can be significant, especially for shorter durations. A rule based on 3 or 4 significant figures is more workable.

To this end the retirement age to be used in the projections is also important. We once again come back to the point that the regime proposed by CP 122 is a voluntary one, albeit with restrictive standardised assumptions that are more in keeping with a mandatory regime. Because the regime is voluntary and because the retirement age issue varies dramatically across funds and indeed society, ASFA recommends that trustees should have the flexibility to provide projections at the retirement age that is appropriate for their fund as well as the mandated date.

10. B1Q3: Can you foresee any specific difficulties in calculating projections in the manner specified in Section C of the draft regulatory guide?

Please see earlier comments regarding the Age Pension and insurance located at point 1 & 4 above. Also please refer to points 13 & 14 below regarding investment earnings and fees & costs.

11. B1Q4: Can you foresee any specific difficulties in giving projections at the same time as periodic statements?

ASFA supports the giving of projections at the same time as periodic statements. The two pieces of information compliment each other as they provide the member with both a current and future perspective to their superannuation savings. However, since the regime being promoted is a voluntary one there should also be flexibility to provide a projection at other times so long as the “rules” are followed.

12. B1Q5: For super fund trustees, how long a lead-in time will you require in order to provide projections to your members at the end of the 2010 reporting period?

The issue of a lead time only becomes an issue where projections are mandatory. Since the regime envisaged here is a voluntary one a lead time is not an issue. However, as a guide, superannuation funds would need more than 12 months from the date the final requirements are known to be able to issue projections.

13. B2 Q1: Do you think investment earnings should be calculated using:

- a) A single assumed rate;
- b) Multiple assumed rates; or
- c) Some other methodology?

Under a voluntary regime, it would be ideal for projections to be based on multiple assumed rates dependent on the member’s investment choice as this would add more significance to the projection. But there are currently a number of impediments to this, not the least of which is a lack of consistency across the industry in the definition of investment options.

With this in mind and without detracting from ASFA’s overall position of preferring a mandatory regime for projections, of the options available, ASFA is recommending a single standard assumed rate. ASFA also recommends that the rate be net of tax, fees and costs.

14. B2Q2: Do you think fees and costs should be calculated using:

- a) A single assumed rate;
- b) Multiple assumed rates; or
- c) Some other methodology?

Under a voluntary regime, it would be ideal for projections to be based on multiple assumed rates dependent on the member's investment choice that may have differing fee structures as this would add more significance to the projection. But there are currently a number of impediments to this, not the least of which is a lack of consistency across the industry in the definition of investment options and therefore of the associated fees.

With this in mind and without detracting from ASFA's overall position of preferring a mandatory regime for projections, of the options available, ASFA is recommending a single standard assumed rate. Where a standard rate is used it should also include taxes.

However, ASFA does hold some reservations as to the worth of a single standard assumed rate for fees and costs. Using a standardised single rate runs the risk of misrepresenting the true impact of the fees and costs. To some funds this might work out to be an overstatement of the cost whereas for others it might be an under-statement. Where the fees and costs appear to be higher than those actually charged ASFA is concerned that the trustees of those funds will not want to provide projections under the CP 122 regime.

An alternative method in a voluntary system would be to use the actual fees and costs applicable to the member in the previous fund year that is then projected forward at the rate which salaries are assumed to increase.

15. C1Q1: Can you foresee any specific difficulties in applying the assumptions we have set for projections as the default assumptions for superannuation calculators?

As mentioned throughout the submission above, ASFA would like to see greater flexibility in what is a voluntary regime. Calculators should be able to be tailored to more closely resemble the individual's own situation. To this end, there should be no difficulties in applying the assumptions for projections as defaults for calculators, so long as innovative calculators, that allow pre-population of data by the end user is permitted. In other words, calculators must be able to be tailored to reflect the hopes and aspirations of the individual's own superannuation outcomes.

16. C1Q2: What other guidance on the provision of superannuation calculators would assist you?

The value of any assumption lies in the assumptions being reasonable. Whilst the assumptions for the purposes of Class Order 05/1122 should be reasonable, so should the fund's own default fees, insurance premiums, investment return assumptions etc.

More guidance is always welcome insofar as what is reasonable. For calculators to be truly effective, the end user needs to have some freedom to manipulate the data that is being input.