

File Name: 2017/10

12 April 2017

Manager
Retirement Benefits Unit
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

via e-mail to: superannuation@treasury.gov.au

Dear Ms Sturgiss,

Re: Consultation on Exposure Draft *Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017 and Explanatory Statement*

The Association of Superannuation Funds of Australia (ASFA) would like to lodge this submission in response to the consultation on the exposure draft *Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017* (regulations) and *Explanatory Statement* (Explanatory Statement).

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system so people can live in retirement with increasing prosperity. We focus on the issues that affect the entire Australian superannuation system. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through our service provider membership, represents over 90 per cent of the 14.8 million Australians with superannuation.

General observation

ASFA welcomes the release for public consultation of the exposure draft superannuation income stream regulations and draft explanatory statement.

In particular the introduction of a new set of design rules for lifetime superannuation income stream products will enable a range of innovative income stream products to be introduced within superannuation, including deferred products, investment-linked pensions/annuities and group self-annuitised products.

Specific comments

1. Technical issues

ASFA member trustees have raised some issues with respect to the draft regulations as follows:

1.1. Third element - there must be 'no unreasonable deferral' of payments from the income stream

Trustees have indicated that, while extreme cases of 'unreasonable deferral' will be relatively easy to identify, the nature of the test is likely to result in other instances where the provider considers the amount/frequency to be reasonable but the ATO forms a differing view. As such, this may necessitate detailed guidance.

Trustees have expressed a view that they should be able to design an income level which matches the likely expenses/consumption of older Australians. They have indicated that their understanding of expenditure patterns of those aged over 70 is still evolving and is likely to change in the future. Accordingly they have expressed concern that this element may unduly restrict the trustee's ability to income match the expenditure needs of older Australians into the future. This may necessitate the development of actuarial standards with respect to the basis for any proposed schedule of payments.

1.2. Fourth element - restrictions on amounts that can be commuted for rollover purposes based on declining capital access schedule

The concern has also been raised that placing a restriction on commutations for the purposes of rolling over within the superannuation system to another product of a similar design would unduly curtail portability and competition.

Accordingly, consideration may need to be given to exempting roll-overs from this restriction. Instead the rolling-out fund could be required to report to the rolling-in fund details such as with respect to the original retirement income stream, such as the retirement phase start day; 'access amount'; life expectancy on the retirement phase start day; and any preciously commuted amounts, to enable the rolling-in fund to administer the capital access schedule appropriately.

1.3. Onerous reporting of value of deferred products to the ATO

Members have raised a concern over what appears to be an overly onerous obligation to report to the ATO annually, whilst in the accumulation/deferral phase, due to the 'accumulation phase value' counting towards the individual's Total Superannuation Balance (TSB). It appears as though the fund provider is required to compound the value by performing an interest accrual calculation to report the value of the deferred annuity to the ATO for the purposes of members' TSBs. Ideally this calculation could be administered by the ATO in the course of managing members' TSBs, as opposed to having to be performed by the funds.

1.4. Taxation treatment

Some trustees have expressed a desire for examples of the proposed tax treatment for different scenarios to be included in the Explanatory Statement. Example of the types of scenarios which could be covered include where:

1. an individual pays for a deferred income stream product through instalments to age 60 and retires at age 60 – the purpose of the example is to confirm that the investment earnings tax exemption applies from age 60
2. a variation on the example above, where the individual retires at age 58 (but continues to pay instalments until 60) – the purpose of the example is to confirm the investment earnings tax exemption would not apply until age 60
3. another variation on example 1 above, where the individual retires at age 67 – the purpose of the example is to confirm the investment earnings tax exemption would apply from age 65 (when a member is deemed to be retired, irrespective of their employment status)
4. an individual pays for a deferred (age 80) income stream product through instalments paid over 10 years after retiring at age 60 – the purpose of the example is to confirm the investment earnings tax exemption would apply from age 60, despite the fact that the instalments will be paid until age 70.

2. Policy issues

2.1. No income tax exemption on deferred products until after meeting a nil condition of release

As a matter of policy, members have observed that

- taxation during the pre-retirement deferral period will erode the potential additional income boost by reducing the effect of the long term compounding
- adversely affect member take up rates
- this will make building investment solutions more complex
- there will be a need to structure income products into pre and post-retirement to account for the taxation differential
- this will add to complexity on member communication and administration.

2.2. Social Security treatment

Members are of the firm belief that the social security treatment of these products will be a critical factor influencing consumer demand, and accordingly the take-up rate, of such products. As such, it is imperative that there be appropriate asset and/or income test treatment of deferred products during their deferral period. We appreciate that this is being considered separately as part of the Department of Social Services consultation, nevertheless it is important for Treasury to be aware of the significance of the potential effect that social security treatment has upon consumer demand.

2.3. Minimum payment rules and Deferred Lifetime Annuities (DLAs)

It appears that where a Deferred Lifetime Annuity (DLA) is an investment option within an account based pension the value of the DLA is counted when determining the value of the minimum payment that needs to be paid each year, whereas if an individual has a DLA as a separate investment this is not the case. Given that the DLA is not yet - and may never be - payable, it would not appear to be equitable to subject it to the minimum draw down rules applicable to account based income streams.

Conclusion

Given the interdependencies between the pension standards, social security treatment and taxation, it is difficult to determine the overall effect on the feasibility/viability of the proposed Comprehensive Retirement Income Product (CIPR) regime. Accordingly, we would welcome an opportunity to discuss the government's overall retirement income policy and framework, including the need to prioritise the consideration of the appropriate social security treatment, with Treasury and the Government.

We would like to thank you for the opportunity to provide comments on the exposure draft *Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017* (regulations) and *Explanatory Statement* (ES). We would welcome the opportunity to discuss with Treasury the matters raised in this submission.

Should you have any questions on any of the matters raised in this submission please do not hesitate to contact me on (03) 9225 4021 or 0431 490 240 or via fgalbraith@superannuation.asn.au.

Yours sincerely

Fiona Galbraith
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