asfa
the voice of super

SUBMISSION

Submission to Treasury — Superannuation Performance Test Regulations 2023

2 May 2023

The Association of Superannuation Funds of Australia Limited
Level 11, 77 Castlereagh Street
Sydney NSW 2000

PO Box 1485
Sydney NSW 2001

T +61 2 9264 9300
1800 812 798 (outside Sydney)
F 1300 926 484
W www.superannuation.asn.au

ABN 29 002 786 290 CAN 002 786 290

File: 2023/14

Director

Members Outcomes and Governance Branch

Retirement Advice and Investment Division

Treasury

Langton Cres

Parkes ACT 2600

Via email: yfys@treasury.gov.au

2 May 2023

Dear Sir/Madam

Superannuation Performance Test Regulations 2023

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the exposure draft of the *Superannuation Industry (Supervision) Amendment (Your Future, Your Super – Addressing Underperformance in Superannuation) Regulations 2023*.

About ASFA

ASFA is a non-profit, non-partisan national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its $3.3 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing almost 90 per cent of the 17 million Australians with superannuation.

*****

If you have any queries or comments in relation to the content of our submission, please contact Andrew Craston on 0401 016 587 or by email acraston@superannuation.asn.au.

Yours sincerely

Glen McCrea

Deputy CEO and Chief Policy Officer

Executive Summary

ASFA supports the objective of ensuring the good governance of superannuation funds and addressing product underperformance. ASFA supports the need for an objective test that assesses and benchmarks the performance of superannuation products. In this regard, ASFA considers it important that assessment, and the consequences of underperformance, are appropriate and in the best financial interests of fund members.

In this regard, while ASFA welcomes a number of the proposed changes contained in the Draft Regulations, ASFA has concerns with some aspects. Further, as the Draft Regulations propose only minor changes to the Your Future, Your Super (YFYS) regime, ASFA's broader concerns with the regime remain.

In principle, ASFA supports refinements to benchmark indices, where this would be expected to improve the integrity of the performance test. This includes additional/greater disaggregation of certain asset classes and changes to specific benchmarks. While ASFA considers that some of the proposed changes are appropriate, others should be revised – ASFA has provided some specific recommendations in this regard.

ASFA supports the proposed extension of the 'lookback' period for the performance test from eight to ten years, such that product performance will be assessed over a longer period than previously was the case (where data is available). This change would, all else being equal, be expected to reduce the distortionary effects of the performance test in shortening investment horizons.

As a general principle, ASFA considers that assessment under the performance test should reflect the member experience. The incorporation of trustee-directed products (TDPs) into the performance test regime raises some challenges in this regard – including the assessment of investment options with multiple investment pathways, and where separate investment options constitute a member's product. In this regard, and among other recommendations, ASFA considers that different investment pathways should be assessed separately with consequences limited to the specific pathway.

ASFA has concerns that the draft 'pro-forma' notification letter to members – where a product(s) has failed the performance test – is potentially confusing/misleading to members and could see members take actions that would affect their retirement savings. While the proposed changes go some way to address concerns that ASFA has raised in previous submissions, wording that relates to the extension of the regime to TDPs raises some additional issues. The draft letter should be revised to allow trustees greater flexibility to account for the increased complexity of products within the extended performance test.

As noted in previous ASFA submissions, to achieve the policy intent of removing underperforming products, there is a need to address existing barriers to consolidation and mergers of products. While CGT rollover relief currently exists where an entire super fund is transferred to a successor fund, there is no equivalent relief with respect to a partial transfer of a sub-set of member benefits to a successor fund, or for the transfer of assets of a particular product/option within the same fund. The member tax consequences can be significant, which can make it difficult for a trustee to determine if it is in members best financial interests to transfer assets to another suitable product/option in the fund. ASFA recommends extending CGT relief to apply to the transfer of assets of a product/option within a fund.

General comments

The exposure draft of the *Superannuation Industry (Supervision) Amendment (Your Future, Your Super – Addressing Underperformance in Superannuation) Regulations 2023* (the Draft Regulations) propose only minor changes to the YFYS regime and the performance test. While ASFA welcomes a number of the proposed changes, ASFA has concerns with some aspects of the Draft Regulations.

Beyond the proposed changes set out in the Draft Regulations, ASFA's broader concerns with the YFYS regime remain. ASFA has detailed its concerns with the YFYS regime in previous submissions, including in ASFA's submission to Treasury's 2022 *Review of Your Future, Your Super Measures* consultation (the 2022 Treasury Review). In this regard, ASFA considers that the Review and, by extension, the proposed regulations are a missed opportunity for reform of the YFYS regime and the performance test in particular.

In essence, ASFA's core concerns are that the key metric used to benchmark the investment performance of superannuation products is a relatively narrow measure of investment performance, coupled with that performance outcomes are subject to a strict pass/fail test. Broadly speaking, the test's limitations become more pronounced as assessed products deviate from the typical single-stage MySuper product and become more complex, including lifecycle products (MySuper or otherwise), investment options that have multiple investment pathways, multi-option platform products, and products/options that include asset classes that cannot be easily represented by a benchmark.

As recommended in previous ASFA submissions, ASFA considers that the performance test methodology should be reformed.

In its current form, the performance test simply reflects the extent to which the trustee's investment in/divestment of specific assets has contributed to the product's investment performance, relative to the investment performance of the index for that asset class (that forms the benchmark). Generally, it is considered that it is the trustee's investment strategy with respect to strategic and tactical asset allocation – the exposure to the different asset classes and the relative movement of different markets, more so than the selection of specific assets – that is the most significant determinant of investment performance. This suggests that additional metrics such as those that reflect investment objectives are required (for details, see ASFA's previous submissions).[1]

Given the imprecise nature of any assessment methodology, and significant consequences of failing the performance test, the trustee of a product that fails the test (by a specified margin) should be able to 'show cause' to APRA as to why the product should continue to be considered to be performing. Under this arrangement, APRA would evaluate if the product has, or is likely to, deliver appropriate member outcomes in the medium term. If so, the product would be permitted to continue to accept new members (although it would be subject to more intense scrutiny from APRA).

---

[1] See the following:
Submission to Treasury – Review of Your Future, Your Super Measures: consultation paper
https://www.superannuation.asn.au/ArticleDocuments/1877/202217_Treasury_Review%20of%20Your%20Future%20Your%20Super_final_sans_signature.pdf.aspx?Embed=Y
Submission to Treasury – Your Future, Your Super Regulations and associated measures
https://www.superannuation.asn.au/ArticleDocuments/402/202114_Treasury_Your_Future_Your_Super_Exposure_Draft_regulations_final_sans_signature.pdf.aspx?Embed=Y

Specific comments

1. Benchmark indices

In considering the current performance test in isolation, and notwithstanding our broader recommendations for reform (as outlined above), ASFA supports refinements to the set of benchmark indices where changes would be expected to improve the integrity of the performance test. This includes additional/greater disaggregation of certain covered asset classes and changes to specific benchmarks.

One of ASFA's long-standing concerns with the YFYS regime is the degree to which it would affect investment decisions around asset allocation, and so alter future investment outcomes. Specifically, whether products/options would be over/under-weight with respect to asset-class allocations compared with the counter-factual (of no performance test), and the degree to which this would lead to lower long-run investment returns than otherwise would be the case.

With regard to the regulations currently in force, the treatment of international listed equities is illustrative. Within the benchmark index for international equities the aggregate allocations to developed and emerging markets have (at any time) a particular weighting, and historically investment returns for the two groups (in aggregate) have differed markedly. With respect to a product's potential allocation between developed and emerging markets, any deviation from the aggregate allocations in the benchmark index would be a source of tracking error (relative to the benchmark index), and thus would need to be factored into the risk budget for that product. Thus, it would be expected that actual aggregate allocations to developed and emerging markets would be affected by the performance test.

Theoretically, such distortions to future investment decisions should diminish as a broader range of benchmark indices (that is, greater asset-class disaggregation) are represented within a product's benchmark portfolio. This is provided that the benchmark indices comprise sets of relevant and investable assets, and that the indices are widely understood and used in the investment management industry.

The importance of prudent disaggregation and benchmark index selection also relates to investment decisions already made. The incorporation of new indices – either due to disaggregation or replacement of existing benchmarks – changes the benchmark for future *and* prior performance. Indeed, it is possible that incorporation of new indices (particularly if not properly considered) could result in products/options that had previously passed the test, now failing the test (and vice versa). The possibility of such outcomes gives weight to ASFA's long-standing position that the performance test regime requires broader reform through a 'show cause' mechanism.

It should be noted that the incorporation of additional benchmark indices increases the cost to funds (and ultimately fund members) of complying with the YFYS regime. Specifically, in order to assess product/option performance according to the performance test, funds need to construct the relevant benchmark portfolios. This requires funds to purchase the benchmark indexes as per the YFYS regulations. In this regard, ASFA supports greater disaggregation of asset classes within the performance test where a material benefit can be expected to the integrity of the performance test.

Listed equities

With respect to the Draft Regulations, ASFA supports the proposed disaggregation of the listed international equities asset class into developed and emerging markets, as well as the proposed disaggregation of both into hedged and unhedged exposures.

ASFA considers that both the domestic listed equities and the developed-international listed equities asset classes should be disaggregated into small-caps and (the remaining) larger companies. For the

international-developed listed equities benchmark, a further disaggregation would be required to account for hedged and unhedged exposures. The rationale for doing so is similar to that outlined in the previous section for the developed/emerging market disaggregation – that is, to reduce potential tracking error. Importantly, the corresponding benchmark indices comprise sets of relevant and investable assets, and are widely used in the investment management industry.

Key recommendation

- The asset classes for both domestic and international (developed) listed equities should be disaggregated into small-caps and larger companies.

Australian Fixed Income

ASFA has some concerns with the proposed domestic fixed income asset class.

Firstly, unlike the other asset classes in the performance test, fixed income is represented by a hierarchy that comprises an aggregate index (*Australian Fixed Income*), as well as two component indices (*Australian Fixed Income Excluding Credit* and *Australian Credit*).

However, this arrangement is a source of potential bias in the performance test. Trustees that report asset-class data in respect of the constituents would be assessed relative to the dual benchmark, while trustees that report in respect of the aggregate would be assessed relative to the aggregate benchmark (irrespective of their underlying allocation to non-credit and credit). For the latter, the extent to which a product's actual allocation differs from the benchmark allocation, means that the product's asset class would systemically over/under perform relative to the aggregate benchmark – which could influence investment decisions. Thus, it would preferable if domestic fixed income was represented either by an aggregate index or by the constituents (rather than both).

Secondly, the set of proposed benchmark indices is sub-optimal. In particular, the Draft Regulations change the benchmark index for *aggregate* fixed income presumably to accommodate the broadest set of domestic fixed-income assets (that includes credit), in turn to accommodate new proposed indices for credit and non-credit.

However, the proposed index for *aggregate* domestic fixed income (*Bloomberg Ausbond Master*) is not suitable for use as a benchmark index in the performance test. Some of the index constituents are not investable, and as such the index is not appropriate nor widely used as an investment benchmark. A more appropriate benchmark index for *aggregate* domestic fixed income is the current *Bloomberg Ausbond Composite*. For the two components of fixed income (non-credit and credit), the proposed indices (*Bloomberg Ausbond Government* and *Bloomberg AusBond Credit*) are broadly appropriate.

Key recommendation

- Domestic fixed income should be represented either by an aggregate index or by the constituents (rather than both).
- For aggregate domestic fixed income, retain the current benchmark index (*Bloomberg Ausbond Composite*).

International Fixed Income

ASFA has similar concerns with the proposed international fixed income asset class. As is the case for domestic fixed income, international fixed income is represented by an aggregate index as well as two component indices, which likewise is a potential source of bias. Similarly, it would preferable if international fixed income was represented either by an aggregate, or by constituents.

In respect of the proposed benchmark indices, the proposed index for international credit is the *Bloomberg Global High-Yield Index*. The index comprises only below investment-grade credit, and so is not appropriate for use as an investment benchmark in this case. A more appropriate benchmark index would be the *Bloomberg Aggregate Global Corporate Index*. The assumed fee for this index should be 0.30 per cent (note that if index remains as proposed in the Draft Regulations, the assumed fee should be 0.40 per cent rather than 0.10 per cent).

Key recommendation

- International fixed income should be represented either by an aggregate index or by the constituents (rather than both).
- For the credit component of international fixed income, change the proposed benchmark index to *Bloomberg Aggregate Global Corporate Index*.

Other asset classes

ASFA is broadly supportive of the proposed changes to the main unlisted benchmark indices (that is, domestic/international unlisted infrastructure and international unlisted property). However, it is worth noting that the proposed index for international unlisted property excludes Europe and Asia, which is sub-optimal and would be expected to skew future investments in international unlisted property. Similarly, the proposed index for international unlisted infrastructure has bias to Australian assets.

The proposed benchmarking of 'alternative' assets is, in effect, almost identical to the current approach and remains problematic. Under the Draft Regulations, alternative assets would still be benchmarked using a combination of benchmark indices for international equity and international fixed income. However, as part of portfolio construction, alternative assets are selected (in part) according to their low correlation with equity and fixed interest returns. A preferable benchmark would be one that reflects the (intended) contribution to product/option investment objectives (for example, CPI+). Resolving this would require broader reform of the YFYS regime to incorporate an additional performance metric(s) for investment objectives (as reflected in previous ASFA submissions).

Fees and taxes

In the Draft Regulations, the assumed fees for the listed indices do not account for 'frictional' transaction costs that are generated as funds rebalance exposures to match indices. These costs are material particularly in volatile markets (anecdotally, up to 5 times higher than the assumed fees). This implies that, net of fees, a competitively-priced index products/option can 'under-perform' relative to its benchmark as a consequence of market volatility – and thus 'under-perform' relative to its benchmark, on average, over long time periods (including over a 10-year look-back period as per the performance test).

As noted above, both the alternatives and private equity asset classes are benchmarked to listed indices. However, the assumed fees for listed indices are materially lower than the actual, typical cost/fees for investments in alternatives and private equity (by contrast, both the unlisted property and infrastructure

asset class benchmarks are *net* of investment fees). In the context of the performance test, all else being equal, this in effect would increase the required rate of return on investments (net of fees), and would be likely to lead to a lower level of investment in these asset classes than otherwise would be the case.

For both the above issues, absent specific allowances in the performance test, resolution would require broader reform of the YFYS regime to incorporate a 'show cause' mechanism.

For Australian listed equities, the assumed tax rate in the performance test remains at 0 per cent. The rationale for this appears to be that the tax expense will, over the long-term, equate to the value of franking credits. However, this will not be the case. Indeed, the differential could result in a material difference between the benchmark net return and the actual net return (including where generated from the implementation of an efficient passive investment strategy). This justifies the inclusion of a higher assumed tax rate for Australian listed equities (around 5 per cent).

ASFA acknowledges that the performance test allows for gross investment returns net of fees (as well as net investment returns), which has the potential to provide flexibility for funds where data for realised tax is incomplete.

2. Extended look-back period

ASFA supports the proposed extension of the 'lookback' period from eight to ten years, such that product performance would be assessed over a longer period than previously was the case (where data is available). This change would, all else being equal, be expected to reduce the distortionary effects of the performance test in shortening investment horizons.

ASFA acknowledges that the length of the lookback period is constrained by data availability and quality. In particular, given that the MySuper regime only began at the start of 2014, the lookback period has been only gradually extended since the inception of the YFYS regime (when the lookback period was set at seven years).

ASFA considers that there is also a case for extending the effective minimum period for a pass/fail assessment as per the performance test. When the YFYS regime was implemented, the (maximum) lookback period was seven years, and a pass/fail assessment was applied only to products with at least five years of return history. Given that the stated intention for extending the lookback period to ten years is to "sharpen the incentive of trustees to focus on long-term decision making", it seems appropriate to also extend the minimum threshold – that is, to apply a pass/fail assessment to those products/options with at least seven years of return history.

Key recommendation

- To complement the extension of the lookback period to 10 years, the (effective) minimum assessment period should be extended to those products/options with at least 7 years of return history.

3. Assessment of trustee-directed products

The draft regulations extend the performance test regime to trustee-directed products (TDPs) on and after 1 July 2023 (APRA is required to conduct the first annual performance test for TDPs by 31 August 2023).

As a result, the performance test will apply to a more complex set of superannuation products beyond the group of MySuper products – which itself ranges in complexity from single-stage products to lifecycle products with multiple stages. Given the legislated scope of the TDP definition, the expanded set of products ranges in complexity from multi-sector products that are MySuper-like (and may constitute a member's total

superannuation investment), to multi-sector options that may be used in combination with one another or with non-TDP investment options. Further, the superannuation product structure through which members hold TDPs can vary, including different styles of platforms (from master trust arrangements to wraps). This latter point is particularly relevant in terms of how fees and taxes are determined for, and levied on, member accounts – for example, whether fees and taxes are determined at the collective level, or determined and levied for each individual member. This greater complexity should be reflected in the performance test – where practicable – and in the letter members where a product has failed the test (Section 4).

Previous ASFA submissions have raised concerns with the scope of TDPs within the performance test regime. The definition of TDP includes where the trustee invests in a product offered by a 'connected entity'. This can include both 'arms' length' products, which are available for other trustees to offer on their platforms and may be available to non-superannuation investors, and 'non-arms' length' products where the trustee may maintain influence. With the former the trustee has no control or influence over the design and implementation of the investment strategy of the product. Given this, that makes an 'arms' length' product more akin to an externally directed product, which are not included in the Test.

Key recommendation

- The definition of TDP should not include 'arms' length' products where the trustee has no control or influence over the design and implementation of the investment strategy of the product.

Options that have multiple investment pathways

Investment pathways may enable a trustee to offer members a means to access the same investment option at different administration fees based mainly based on differentiated services/member needs.

The performance test, as it is applied to options with multiple investment pathways, does not reflect the member experience. Outcomes of the performance test would be potentially confusing for consumers.

For an option with multiple pathways, the option's performance metric is derived from an asset-weighted average of (highest) standard administration fee for each pathway, and an asset-weighted average of the lowest actual return for each pathway.

Under this approach, members in a pathway that would have passed the performance test if assessed separately would receive a 'fail' letter (recommending they consider a different product) if the weighted-average fails the test. Likewise, members in a pathway that would have failed the test if assessed separately would not receive a 'fail' letter (recommending they consider a different product) if the weighted-average passes the test.

To ensure the test reflects member experience, different investment pathways should be assessed separately with consequences limited to the specific pathway.

With regard to administration fees, the proposed approach of assessing the full dollar-based administration fee for each investment option does not reflect the actual platform member experience. Typically, a single administration fee is charged for a multi-option 'product', rather than for each investment option. Instead, a proportion of the dollar-based administration fee should be assessed based on the average number of options held.

Key recommendation

- Different investment pathways should be assessed separately with consequences limited to the specific pathway.

4. Notification letters to members

ASFA has concerns that the proposed 'pro-forma' notification letter to members is potentially confusing or misleading to members.

With respect to the corresponding wording in the letter currently in force, the proposed changes go some way to address concerns that ASFA has raised in previous submissions – including to the 2022 Treasury Review.[2] However, the proposed wording that relates to the extension of the regime to TDPs raises some additional concerns. Anecdotally, industry participants have noted that the letter would have benefited from greater consultation with industry.

Terminology

In the draft letter, the word 'product' is used in a generic sense. In cases where an investment option has failed the test, a member who holds that option will receive a letter stating that the member should think about/consider "moving to a different super product". However, that particular option may be one of multiple other options held by the person (which may have passed the test, or were not required to be tested) that together constitute the product.

From the point of view of an affected member, this is potentially confusing. As such, the draft letter should be revised to incorporate flexibility around the usage of product/option that is most applicable to the circumstances of affected members.

Consistency with the requirements on funds in their communications with members

The draft letter should be consistent with the current requirements on funds regarding their communications with members. Indeed, to the degree that the letter is inconsistent, it risks undermining the policy intent of the regulatory requirements.

ASIC guidance for promotions and advertising with respect to investment performance requires a statement to the effect that 'past performance is not a reliable indicator of future performance'. This concept should be incorporated explicitly and implicitly in the letter.

The ATO approved rollover/transfer request form contains warnings about the potential impact of a rollover/transfer on member benefits, and costs to members. With respect to the former, this is particularly relevant to insurance benefits. Costs to members can include tax payable from realised capital gains events and due to buy/sell spreads. The proposed letter contains the phase: "Switching super products is easy and there are no fees." This implies that switching is *costless*, which is not necessarily the case as per above.

The letter does not provide sufficient guidance regarding the factors that a member would need to consider when making a decision to switch. With respect to the decision to switch, the text of the letter states that the "letter does not take your personal situation into account. You should think about your investment plans and personal situation, including insurance, when switching." The letter should state that it may be appropriate for members to seek financial advice when considering whether an alternative product would

---

[2] See footnote 1.

better suit their retirement goals. This is particularly relevant for a member who might have other investment options with the fund.

Life-cycle products/options with multiple investment pathways

The proposed wording in the draft letter for a product/option that has failed the performance test is potentially confusing/misleading for members who hold options that have multiple investment pathways. The proposed form of the letter would mean that a member in a pathway that would have passed the performance test if assessed separately would receive a 'fail' letter (recommending they consider a different product) if the weighted-average fails the test. As noted in Section 3, this should be addressed by applying the performance test to investment pathways separately.

Members with multiple products/options

A particular issue relates to circumstances where a member has multiple products/options with a fund.

For a products/options that fail the test, if a member holds more than one product/option with that fund, then the fund must provide an aggregate balance figure for all the products/options held by that member, as well as an aggregate figure for all fees and costs in respect of those products/options. This is required irrespective of the performance of the other products/options.

This implies that all the products/options have under-performed, which may mislead members. For example, it could be the case that a member holds a MySuper product and a TDP but only one of those fails the test, or a member holds multiple investment options but only one of these fails the test.

A potential solution could involve differentiation between products/options that have passed/failed the test, and could involve specific titles of products/options as well as the relevant balances/fees (or alternatively aggregates of these). Given the varying complexity of products within the proposed scope of the regime, trustees should have some flexibility around the structure (of the information) that is most applicable to the circumstances of affected members.

Comparing performance with hypothetical products

The proposed wording in the letter around the performance of alternative products is potentially misleading.

In respect of the future performance of (hypothetical) alternative products, the proposed wording is that: "By earning 1% more each year for 30 years, you could retire with 20% more in savings." The text implies that a product that has recorded historical higher returns (than the specific product that has failed the test) will continue to record higher returns over the next 30 years.

The proposed text is inconsistent with the historical record for product performance, where investment returns for separate products tend to exhibit mean reversion over the long-term (rather than not). The proposed text is also inconsistent with ASIC guidance for funds for use in promotions and advertising, whereby guidance is for communications to include text to the effect that "past performance is not a reliable indicator of future performance".

Funds that are undergoing mergers

In APRA's application of the performance test in 2021 and 2022, there were instances where letters were sent to members just prior to a Significant Event Notice (SEN) regarding a Successor Fund Transfer (SFT). It is likely that this would have caused confusion for affected members about what action to take in their best financial interests. Given this, if the fund has a signed a MOU/heads of agreement document and the SEN is

going to be sent within a prescribed period, the trustee should be exempt from sending the letter; or (if the letter is to be sent) the trustee should be permitted to tailor it to refer to the pending SFT.

Key recommendation

- The draft letter should be revised to allow trustees greater flexibility to account for the increased complexity of products within the extended performance test regime.

5. Removing barriers to consolidation

As recommended in previous ASFA submissions, to achieve the policy intent of removing underperforming products, there is a need to address existing barriers to consolidation and mergers of products.

While CGT rollover relief currently exists where an entire super fund is transferred to a successor fund, there is no equivalent loss or asset rollover relief with respect to a partial transfer of a sub-set of member benefits to a successor fund, or for the transfer of assets of a particular product or investment option within the same fund.

The lack of CGT rollover relief at the investment option level is a significant barrier to trustees removing underperforming products, particularly wrap platform products. Without tax relief, members would incur tax on capital gains arising on the sale of assets of the underperforming product/option. The member tax consequences can be significant making it difficult for a trustee to determine that it is in members best financial interests to remove the option by transferring the assets to another suitable option in the fund.

Extending CGT rollover relief to apply for the transfer of assets of a product/option within the fund would not only address this barrier to removing underperforming products but would also be expected to increase efficiencies and reduce costs to members thereby improving member outcomes.

Key recommendation

- CGT rollover relief should be provided for rollovers and transfers of assets and capital, and revenue loss transfers, where the beneficial interest in income and capital from assets does not change.