

SUBMISSION

Submission to Treasury — Building a Stronger and Fairer Super System Act 2026 Draft Regulations

7 April 2026

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Dear Sir/Madam

Submission to Treasury — Building a Stronger and Fairer Super System Act 2026 Draft Regulations

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the consultation on the draft Regulations.

About ASFA

ASFA has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers.

We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians.

ASFA has a keen focus on matters that impact the outcomes achieved by individuals through the superannuation system, their experiences with the system, and issues relevant to the industry's operational effectiveness.

If you have any queries or comments in relation to our submission, please contact Ross Clare on (02) 8079 0809 or by email rclare@superannuation.asn.au.

Yours sincerely

James Koval

Chief Policy & Advocacy Officer

General comments

ASFA supports measures to improve the equity and long-term sustainability of the superannuation system.

ASFA supports the use of a “fair and reasonable” approach where appropriate in order to minimise the potential substantial compliance burden and cost that might be incurred – and passed through to individual members – if all funds are required to determine, attribute and report, at the individual level ‘earnings’ for Division 296 purposes. The cost effective and efficient administration of Division 296 tax across the industry to be of paramount importance.

We acknowledge that any model that prioritises simplicity and cost effectiveness involves some compromises. The “fair and reasonable” approach as described in the draft Regulations certainly involves some compromises. This submission makes a number of suggestions that would reduce or remove some of those compromises which would adversely affect the efficient administration of funds with more than 6 members and/or would not lead to equitable outcomes for members of those funds.

ASFA wishes to highlight a number of key matters in relation to the draft Regulations.

1. Efficient and cost-effective administration of the proposed tax is critical

It is important to ensure the proposed Division 296 tax can be administered as efficiently as possible, to avoid imposing a cost burden on superannuation funds that would indirectly be borne by fund members whose total superannuation balances (TSBs) mean that they are not affected by the proposed tax.

As outlined in ASFA’s previous submissions to Treasury on this measure, the most appropriate and cost-effective method for collecting the information required to assess an individual’s liability under Division 296 is for the ATO to make a preliminary assessment, on the basis of information it already holds, to identify whether an individual has a potential tax liability.

The form of this interim reporting should be settled using the existing ‘co-design’ process between the ATO and funds, in advance of the first determinations of liability being made. Given it is anticipated that some funds may have very few members who are subject to the tax, it is important that appropriate options are provided in relation to reporting channels. Even for large funds with several million members, there may be 1,500 or fewer members who have a balance in the fund that is more than \$3 million or which in conjunction with balances in other funds leads to the member having a Total Superannuation Balance in excess of \$3 million. Designing appropriate reporting channels should take such factors into account.

In order to minimise administration costs ASFA recommends that the ATO request data the minimum number of times that is possible. The first request should cover the great bulk of members within the scope of Division 296 with any further requests be limited to cases where there has been re-reporting of balances or the like.

It would also be appropriate for the ATO to build on the release mechanism for paying assessments that is used in regard to Division 293 tax assessments and liabilities. The ATO should use the existing Div 293 Release Authority channel and messaging in SuperStream with the messaging tagged as a Div 296 Release Authority.

2. The Draft Regulations relating to “fair and reasonable” calculations to be made by funds with more than six members

ASFA supports a principles-based specification of “fair and reasonable” estimation of applicable member investment earnings as the exact approach to be adopted by a specific fund will depend on the accounting

and reporting arrangements that are in place in the fund. The draft Regulations provide high level descriptions of the principles to be applied by funds. ASFA does not oppose the principles that have been set out.

However, the Regulations should provide much more guidance on how funds should apply the principles in developing their approach to “fair and reasonable”. The draft Regulations and the worked examples in the Explanatory Statement are more explicit in describing how realised taxable income is calculated by the fund. For example, example 6 in the Explanatory Statement states that an attribution of 1.01 per cent was determined by the fund however no further detail is provided on how this figure was calculated. Further detail is needed in each of the examples to explain how the fund applied and calculated the relevant principles to determine that the attribution of realised earnings was appropriate in each of the examples provided.

The principles and worked examples should endorse the use by funds of a variety of tools developed (or to be developed) by funds and by administrators to calculate and allocate notional investment earnings on a basis consistent with the “fair and reasonable” principles. Further guidance in regard to specific calculation methods could be provided as part of the ATO guidance to be developed. Where funds have complied with processes recommended by external advisers such as auditors or tax experts this should be taken into account by the ATO in determining compliance with “fair and reasonable”.

The original fact sheet published by Treasury in the announcement made on 13 October 2025 foreshadows that the attribution of realised earnings on a fair and reasonable basis would be supported by guidance from the ATO as future regulator of these measures. The preparation of such guidance should be undertaken as soon as possible. There also should be effective consultation on this guidance with interested parties with a co-design process undertaken wherever possible.

As well, the “fair and reasonable” approach should be tested and governed in a similar way to how the current tax provision is attributed at the option level by each fund in the context of unit pricing and crediting rates. ASIC’s Regulatory Guide 94 is relevant in this context. Use of existing mechanisms or adjustments to existing mechanisms would keep administration costs for the measure down.

As well the emphasis of the ATO should be on providing guidance to funds on reporting. The ATO’s compliance approach outlined in draft PSLA2026/D1 applies to event-based reporting (specifically MATS and MAAS) and should not apply to the administration and reporting obligation under Division 296.

Investment through platform or like arrangements

The primary legislation provides a Regulation making power to prescribe other types of superannuation interests which would be subject to the same attribution requirements as small superannuation funds, instead of the general “fair and reasonable” basis. This is necessary in the event that, for a particular type of superannuation interest, the general principles do not provide an appropriate outcome for attributing Division 296 fund earnings.

However, the draft Regulations in effect provide that platform and member directed investment options have a transitional arrangement for the valuation of realised capital gains for assets held before 1 July 2026 rather than the setting of a new cost base as allowed, on an opt-in basis, for SMSFs.

ASFA recommends regulations be made permitting funds with more than 6 members to make a bulk declaration to cover all members in its member directed investment options in regard to adopting 30 June 2026 cost base for the purpose of Division 296 tax.

Additionally, if these funds are required to determine net capital gains included in Division 296 fund earnings for members in platform or member directed investment options using the prescribed discount factors, it is not clear how any additional fund earnings / net capital gain resulting from this approach should be allocated to fund members. Individual members may have made capital gains solely referable to pre-Division 296 gains but may still have an element of their capital gain deemed to be taxable Division 296 earnings due to the prescribed factor.

As well, for those members in pension phase it is likely that if the transitional method for pooled investment options is also applied to platform and member directed investments then many such members may sell and buy managed investments just prior to the start of the Division 296 tax, thereby setting a new cost base for such members. Provision of further transitional relief on realised income would not be appropriate for such members.

Accordingly ASFA recommends regulations be made permitting funds with more than 6 members to make a bulk declaration to cover all members in its member directed investment options in regard to adopting 30 June 2026 cost base for the purpose of Division 296 tax.

Calculation of realised investment income received from Pooled Superannuation Trusts (PSTs)

The draft Regulations seem to assume that PSTs have only one investment option and/or only one unit holder. The Regulations should be amended to deal with the attribution of realised investment options when there are multiple investment options with varying unit prices and/or multiple unit holders.

3. Other issues relevant to funds with more than six members

Amended tax returns by funds with more than 6 members

It is relatively common for funds with more than 6 members to amend tax returns after they have been lodged. In many cases not all the amounts which would feed into “Fund earnings” (in particular, unlisted investment income) have been accurately confirmed by the lodgement due date for large super funds (which generally falls due 7 months following the end of the income year, i.e. 31 January). This delay in obtaining final investment income amounts is due to a variety of reasons, such as Australian unit trusts having income tax return lodgements dates falling due after the lodgement dates for super funds, which results in the taxable income distributions being calculated after super funds have lodged their tax returns. Another reason for the delay in final investment income amounts is due to, offshore investments having different reporting year-ends which delays the availability of realised taxable earnings data. Complex international tax compliance calculations which are required to feed into super funds tax returns also can extend beyond the initial super fund lodgement due date.

The practical consequence of these delays on confirming the final investment income results in superannuation funds needing to amend their income tax returns following the initial tax return lodgement. To reduce any potential risk of underpayment of tax and the incurrence of general interest charges – super funds typically conservatively estimate investment income until final information is available to amend. Typically the variations (which can be both up and down) are in the order of a few basis points of the original taxable income reported to the ATO.

Firstly, as a result of these delays impacting the calculation of Fund earnings, ASFA submits that the requirement to calculate the Fund’s adjusted realised earnings for the purposes of reporting under Division 296 does not occur any earlier than 12 months following year-end to ensure that there is sufficient time to adequately obtain and confirm as much information as reasonably possible. This would not involve any undue delay in reporting adjusted realised income given that the ATO would need to wait for SMSFs to

lodge their annual returns in order to determine which fund members are in scope of Division 296 tax liabilities.

Secondly, given that the “fair and reasonable” approach involves a variety of approximations, it would be unreasonable to require funds with more than 6 members to re-report Division 296 realised investment income for all their members within scope of the tax to the ATO. The initial report to the ATO should be the final report (subject to the correction of any mistake or misreporting at the time). At the very least a materiality threshold should apply, such as a variation in fund adjusted realised income for the purposes of Division 296 reporting of five per cent or more as the result of a revised tax return by the fund.

Processing very small changes in assessed Division 296 tax would not be cost effective from an administrative point of view for funds, the ATO or fund members.

A transition period for funds with more than 6 members in regard to adjustment of cost base for capital gains

ASFA supports the approach in the draft Regulations which provides for adjustment factors which are both pre-set and involve a stepped decreasing amount of adjustment. However, as indicated above this should only apply to members with interests in pooled investment options rather than member directed investments where a more precise adjustment should be used.

Jurisdiction of the Australian Financial Complaints Authority in regard to “fair and reasonable” reporting by funds

ASFA recommends that the Regulations make it clear that “fair and reasonable” estimates of realised investment income by funds of realised investment income are outside of the scope of matters subject to AFCA review.

It should be the responsibility of the ATO to determine whether reporting by specific funds is “fair and reasonable” and this should be made clear to enable contemporaneous compliance and certainty for both funds and the ATO.

Certainty also could be provided for funds by there being an approved mechanism for certifying that a “fair and reasonable” approach has been adopted, such as a certificate from an actuary or external auditor or other appropriate party.

Funds should not be subject to dealing with disputes directly with members on an allocation made on a “fair and reasonable” basis.

It will be open to individuals who receive a Division 296 assessment from the ATO to lodge an objection if they consider that the realised investment income reported by a fund is not correct.

4. Issues for defined benefit and deferred income stream interests in the draft Regulations

Impact on other measures using Total Superannuation Balance and the need for transition arrangements

The Total Superannuation Balance (TSB) is used for a number of other determinations including:

- Carry-forward of unused concessional contributions

- Non-concessional contributions eligibility and the bring-forward of non-concessional contributions cap
- Government co-contribution
- Spouse contribution tax offset.

There are no significant proposed changes to the TSB calculation reporting for accumulation fund members, that is, the proposed changes to calculating TSB will largely impact defined benefit members.

ASFA supports the proposed transitional arrangements for reporting the opening Total Superannuation Balance for 2026-27 for defined benefit members.

However, on an ongoing basis there still will be some timing issues for reporting TSBs as at 30 June of each year. While members in accumulation funds will have ready access to their account balance, for defined benefit members, operationalising Family Law valuations (or the equivalent) at a whole of fund level is a likely a new process (i.e. it is currently not done as a matter of course currently; calculations are largely manual and only done when there is a family law split request for information) that will take time to implement. For some funds, it may not be economically feasible to create an automated process (such as due to having a low number of members requiring family law valuations) and may complete via manual calculations with actuarial support. In this case, values may be delayed for a few months post financial year closure.

ASFA proposes that the TSB as published by the ATO on myGov should be the reliable and readily accessible for defined benefit members. In other words, they should be able to rely on that for making decisions about the eligibility and amount of various forms of contributions.

The ATO should include appropriate disclaimers on any communication of this value to make it clear it does not represent the member's Family Law Value for the purposes of a Family Law superannuation split. Funds also will need to make this clear when they communicate with their members.

Use of only male valuation factors

While we appreciate that previous feedback has been taken on board with the draft Regulations specifying that where a Female member's Total Superannuation benefit is being calculated the Male factor is to be used to prevent inequitable tax treatment, we consider that this could be amended to:

"Where a member's TSB is being calculated and the person's sex is not listed as Male, the Male factor is to be used for these purposes."

This would future proof the provision for any intersex or unidentified gender members.

The discount factor used to adjust estimated investment earnings for defined benefit members

ASFA accepts that the specification of the discount factor is something that can be done making use of the advice of the Australian Government Actuary (AGA). The appropriate factor may change over time. ASFA suggests that the AGA review that factor every, say, five years.

Removing reversionary factor from FLV calculations

While we understand that the reversionary factors included in a Family Law Value calculation will be ignored when calculating the FLV for the purposes of the TSB, this does not take into account that where a superannuation interest has scheme specific methods and factors, the formulas under the Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2025 do not always include a separate reversionary factor as part of the calculations. These factors may even have been considered by the relevant actuary when developing the particular methods.

We recommend that:

“Where a FLV calculation, either under the default FLV calculations or under a separate methods and factors determination, contains separate reversionary factors as part of the calculation, the reversionary component is not to be included in the calculations of the FLV for TSB purposes. This does not apply where the calculations do not have separate reversionary components capable of removal from the calculations such as where reversionary factors were incorporated into a more general or overall factors.”

Retrospective changes to Defined benefit interests

There are many situations where a Defined benefit scheme may have to make corrections to a member’s benefit for previous years as a result of updated information from the employer, for example a change in a previous salary. This could have a large flow on effect to the value of the benefit and represent an unintended increase in one year. We consider that funds should not have to re-report for previous financial years, or starting values, but instead any change as a result of this correction should count as a contribution.

Where a member’s valuation has already resulted in a Division 296 tax liability, and a retrospective correction later reduces the earnings (and therefore the Division 296 liability), treating the adjustment as a future contribution may not remedy the tax outcome. If the member has little or no future Division 296 tax liability, or if future liabilities are lower than the tax already paid, the member may be left having paid tax they should not have been liable for, with no way to offset it.

While re-reporting prior years for all members is not practical there is a possible need for an avenue for an adjustment to be made in situations like the above. Potentially there should be a clear pathway for members to apply for a tax refund, for example through an objection process with the ATO.

Use of alternative valuation methods

Defined Benefits – Growth Phase

We recommend that the value of the total superannuation balance (TSB) value of the defined benefit interest in growth phase be calculated as the vested benefit value for all lump sum only benefit or benefits that have the option to elect a proportion as either a lump sum or a defined benefit pension:

- Family law valuations assume benefit factors as at retirement age at a point in time. By contrast, Division 296 taxes realised earnings over a 12-month period. Year-on-year changes in family law

valuations for defined benefit (DB) interests reflect only changes in salary and service, ignoring changes in other benefit factors such as age based lump sum/pension factors.

- Vested benefits better capture actual year-on-year benefit growth and align with the earnings methodology applied to defined contribution (DC) members, ensuring equitable treatment across member types.

There also is an issue with 307-230A.08 (1):

This section applies in relation to a superannuation interest of an individual in a superannuation fund at a particular time (the application time) if:

(a) under the rules of the fund, the superannuation interest in the fund:

(i) can never support a superannuation income stream; and

(ii) cannot cease in order to commence another superannuation interest in the fund that supports a superannuation income stream;

We recommend that the bolded words be removed given that account based income streams generally are available and there should not requirement for a benefit to be rolled over to another fund to start such an income stream.

Communication of TSB to members is paramount and should consider understandability:

- Family Law values are inherently complex to calculate and are currently not disclosed on a routine basis to members. Even with disclosure, it is likely confusing for members to understand the difference and verify the calculation.
- Vested benefits are already known to members through regular communications from their superannuation fund (via benefit statements and online member portals).
- Members transitioning above the \$1.5 million threshold would see their TSB value change due to methodology shifts rather than actual earnings, which could mislead members and affect financial decision-making.
- A single, consistent valuation approach throughout the accumulation phase provides clarity and supports informed member decision-making

For members eligible to elect a combination of a lump sum and defined benefit (DB) pension:

- Family Law valuations assume that 75% of the benefit is taken as a pension and 25% as a lump sum. If a member elects a lower proportion (<75%) as a DB pension, they will have a higher TSB calculated in growth phase than pension phase. This is not commensurate lump sum only and DC counterparts.
- If vested benefits were used, consistent with the approach adopted for reversionary pensions in recent amendments, the member would have the higher valuation assigned at the point they commence the DB pension benefit. They would then be subject to Division 296 as applicable while in receipt of the benefit.
- There is existing precedent for revaluing TSB at retirement upon commencement of a lifetime pension/annuity — the current regulations apply a multiple of 16 times the annual pension to calculate TSB for lifetime pension products. This approach would align with the treatment of other longevity products whose TSB value is calculated at commencement (such as lifetime annuities).

- Additionally, members who exit a DB scheme during growth phase (including those who are lump sum only and those with a potential DB pension entitlement) receive their vested benefit paid into an accumulation account. This vested benefit is commensurate with DC member benefits, supporting consistency across member types.

The approach in the draft Regulations to have vested benefit apply for lump sum only members with balances under 50% of the large superannuation balance threshold (50% of \$3m, or \$1.5m) is not entirely helpful as:

- As above, a transition from vested benefit to family law valuation at the \$1.5 million threshold will result in a change in reported TSB values that does not reflect actual earnings. This creates risks of member misunderstanding regarding their superannuation position.
- For superannuation funds, the proposed threshold approach does not reduce administrative burden, as funds must maintain systems to calculate both vested and family law valuations for all defined benefit members who may exceed \$1.5 million. Funds require appropriate business processes to manage any member who may cross this threshold.
- TSB is compared against various caps and thresholds, including the general transfer balance cap. A consistent valuation methodology is important for members to understand their position (for example, whether they remain eligible to make non-concessional contributions) and enables long-term financial planning without needing to account for future methodology changes.

Defined benefits – Growth phase to be drawn later only as a pension

Where a scheme has only a defined benefit pension eligible at retirement and a vested benefit is not available, generally it is reasonable to value it using Family law values as an approximation for the total value of a defined benefit pension.

However, outside the Government sector, there are a number of small corporate defined benefit plans with few members in each. For these plans, the relative per member cost of obtaining annual Family Law values would be particularly burdensome. There is still in effect a known vested benefit value (already reported annually to APRA) which would be payable to the member were the plan to close – as opposed to being a lump sum the member can voluntarily choose to take. It is suggested that for cost effectiveness, this value be allowed to be used for those plans rather than needing to specially go to the expense of calculating Family Law values every year.

Defined Benefits – Pension Phase

The existing approach of multiplying the initial annualised pension amount by 16 to determine the transfer balance value is readily understandable, simple, gender neutral and unimpacted by reversionary entitlements. One ASFA member has suggested that, outside the Government sector, funds be permitted to use that value and an amortisation schedule rather than mandating annually recalculated declining Family Law valuations for the duration of the pension. This schedular method would provide certainty with the value able to be easily known in advance without waiting for complex actuarial valuations. If a more exact method is needed for Division 296 tax assessments, this valuation method could be used to screen out members who are clearly out of scope of the Division 296 tax. Only a small proportion of defined benefit members in the pension phase will be subject to the tax.

Defined Benefits – Pension Phase guarantee periods

We recommend that guarantee periods for life pensions in payment phase be treated as nil for the purposes of calculating TSB.

Consistent with the assumption of no current or potential spouse in TSB calculations, guarantee period benefits for life pensions provide value only to beneficiaries, not to the member subject to Division 296. On the member's death within the guarantee period, the benefits payable for the remaining period would either:

- Transfer to a reversionary beneficiary and be captured in their TSB as a fixed term annuity, or
- Exit the superannuation system entirely

Therefore, guarantee periods for life pensions in pensions phase should be valued at nil for TSB purposes as they represent no value to the member for Division 296 purposes.

The inclusion or exclusion of guarantee periods is unlikely to affect the overall year-on-year movement of the life pensions benefit value if priced on the same actuarial basis, ensuring consistent earnings calculations over time. Valuing guarantee periods at nil streamlines administration and calculation of life pensions in payment phase family law valuations, removing the need to separately identify and value life pension benefits with guarantee periods versus those without.

Deferred income streams

The calculation for the Total Superannuation Balance (TSB) of a deferred superannuation income stream is defined in Reg 307.205.02C as the sum of each amount of consideration paid for the interest for the income stream, and that amount's associated notional earnings.

With the prior context that the TSB in the retirement phase was set as the value on the retirement phase start day, this was appropriate. However, in the context of the TSB for the calculation of Division 296 taxation liability, this compounding is no longer appropriate. As defined in Reg 1.03 of the Superannuation Industry (Supervision) Regulations 1994, a deferred superannuation income stream maintains the classification even after payments have commenced. Under the draft regulations, the TSB for any deferred superannuation income stream, as determined in Reg 307.205.02C continue to be compounded through the payment phase. Over time this will lead to an increasing divergence from the capital available from a deferred superannuation income stream resulting in an overstatement of the TSB.

A simple way to resolve this issue would be to enable deferred superannuation income streams to use the maximum commutation amount as the TSB once they are in the retirement phase. The retirement phase start day is the appropriate switch point as the access amount used to determine the maximum commutation amount is aligned to the TSB at that time under 307.205.02C.

This could be effected by amending 307-205A.09(b) and adding (c) as:

(b) sections 307.205.02D and 307.205.02E of this instrument do not apply to the interest; and

(c) if section 307.205.02C of this instrument applies, then the interest is in the retirement phase under s307.80 of the Income Tax Assessment Act 1997.

Alternatively the requirement to be in the retirement phase could be added as all currently payable income streams under 1.06A(2) will be in the retirement phase:

(c) the interest supports a superannuation income stream in the retirement phase under s307.80 of the Income Tax Assessment Act 1997.

This would enable a simple and fair treatment of deferred superannuation income streams for Div296 purposes in line with the other regulations.

Innovative Income Streams

Subject to product design, innovative income streams in the retirement phase will be valued as a:

- Deferred annuity,
- Pooled superannuation income stream, or
- under 1.06B of the SIS Regs

For all innovative income streams the maximum commutation value where the product is in the retirement phase is calculated under 1.06B. For consistency suggest that all innovative income streams in the retirement phase are valued under 1.06B of the SIS Regulations.

5. Other matters

Technical corrections to Explanatory Statement

We recommend that references within the regulations Explanatory Statement be reviewed and ensure they are updated to the latest regulations.

For example, the retirement phase flow chart reference appears to not have been updated to 307-230A.09 from 307-230A.08 (the exposure draft was subsequently updated to A.09 from A.08 following the latest changes).

Clarification of minimum deferral period in Family Law (Superannuation) Regulations 2025

For deferred members or former employees – clarity on the definition of “minimum deferral period” in the Family Law (Superannuation) Regulations 2025.

Family Law Values (FLVs) are prepared by funds on an ad hoc basis. While an FLV is intended to provide a present value of a defined benefit interest, the current methodology gives rise to potential interpretive difficulties for funds where there is uncertainty as to the correct application of the legislation.

By way of example, the definition of “minimum deferral period” in subclause 39(4) of Schedule 3, Part 6 and Part 7 of the Family Law (Superannuation) Regulations 2025 provides that:

*“In relation to a benefit payable to the member spouse, it means the period until **the earliest date on which the benefit may be paid** (other than on death or disability).”*

On this basis, the earliest date on which the benefit may be paid is generally age 60, due to access to transition to retirement income streams and the retirement condition of release, rather than the member’s retirement age, which if not specified in the governing rules is taken to be age 65 under section 4 of Schedule 3 of the Family Law (Superannuation) Regulations 2025.

We would welcome clarification from Treasury on what is meant by “earliest date” with the definition of minimum deferral period, with the expectation that this would align to the definition of a member’s retirement age, or provide an avenue to have this query answered.

Calculation of notional taxed contributions

We note that the draft regulations amend Schedules 1A and 1AA of the Income Tax Assessment (1997 Act) Regulations 2021 by updating the valuation parameters that will affect the new entrant rate used to work out defined benefit members’ amount of notional taxed contributions and defined benefit contributions. As noted in the explanatory material, actuarial input will be required and depending on the time of making the regulations, there is likely to be insufficient time for funds to obtain the advice for all their defined benefit schemes by 1 July 2026.

It is important for defined benefit members and advisers to understand how their notional taxed contributions are calculated before the start of the financial year as it may affect their financial decisions, and for funds to have sufficient time to update their member communication and guides. Accordingly, a deferral of the change to 1 July 2027 is recommended.

Transitional arrangements for the new TSB values

Item 9 of Schedule 2 inserts transitional provisions which deal with when the new TSB value provisions apply.

Section 1000-8.01 of the Income Tax Assessment (1997 Act) Regulations 2021 provides that sections 307-230A.01 and 307-230A.02 apply in relation to working out what your TSB just before 1 July 2027 or on or after 1 July 2027. As a result, TSB for just before 1 July 2026 will be worked out using a similar methodology to that used before the commencement of the Amending Act.

The same timeframe should also be provided for innovative retirement income streams that are valued under other sections of the regulations such as section 307-230A.03 or section 307-230A.09

