9 February 2024

Retirement Advice and Investment Division
The Treasury
Langton Crescent
PARKES ACT 2600
retirement@treasury.gov.au

Dear Sir/Madam,

Submission on retirement phase of superannuation – discussion paper

The Institute of Financial Professionals Australia welcomes the opportunity to provide this submission on the retirement phase of superannuation discussion paper.

We have examined the discussion paper and recognise the need to optimise the retirement phase of superannuation. This will ensure there is a variety of retirement income products in the market to help support individuals in their retirement. As members of our association primarily look after clients that have self-managed superannuation funds (**SMSF**), our submission relates to our experience with a focus on SMSFs. We assume that large APRA-regulated funds and product providers will provide responses to the other key consultation questions raised in this discussion paper.

Our comments / suggestions for the retirement phase of superannuation

1. Exclude SMSFs from the retirement income covenant

The discussion paper discusses whether SMSFs should be included in the retirement income covenant (**RIC**) as SMSF trustees cannot be expected to "solve on their own" the "risky, long-horizon, multi-dimensional problem" of navigating retirement income products.

In our view, for the reasons set out below, SMSFs should continue to be excluded from the RIC obligations. This is primarily because a RIC is not required for SMSF trustees as they are already heavily engaged with their superannuation, including the retirement phase. A RIC obligation would therefore merely place further red tape obligations on SMSFs without any benefit to SMSF members' retirement needs.

To recap, the RIC requires superannuation funds to propose suitable retirement income products and outcomes for fund members. SMSFs were excluded from the RIC when it commenced on 1 July 2022 for several reasons, mainly not to burden SMSF trustees with more unnecessary red tape due to potential duplication or overlap between the SMSF investment strategy covenant and the RIC.

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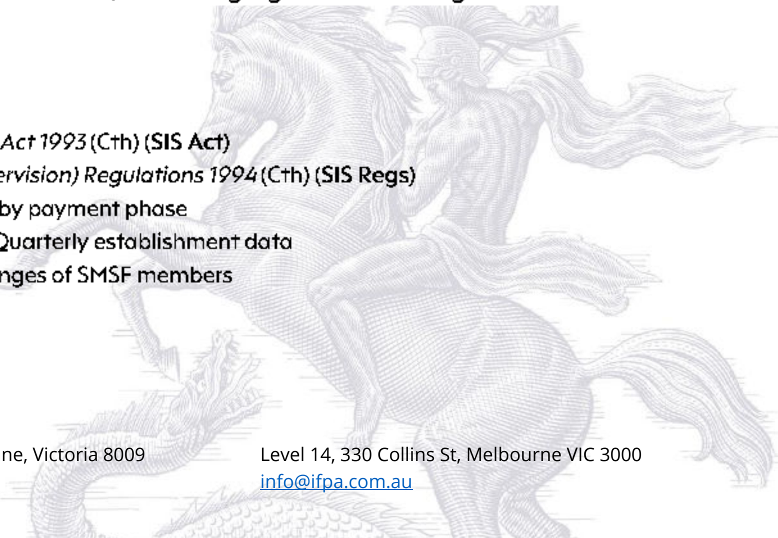
The law[1] currently requires SMSF trustees to regularly review and formulate an investment strategy that gives regard to all the circumstances of the fund, at least on an annual basis. Having another covenant will also cause more confusion for trustees as they are already considering the investment composition and risk for their entire fund. SMSF auditors are also required to check compliance with the investment strategy covenant so extending the scope of their audit to also check compliance with the RIC will also lead to more red tape and increase the time and complexity of the audit. Although the RIC is not required for SMSFs, we believe SMSF trustees should still address the expected risks associated with maximising a member's expected retirement income as part of their overall investment strategy.

We are seeing an increasing number of funds move from accumulation phase to the retirement phase as the system matures and Australia's population ages. This is because many Australians in SMSFs are baby boomers and in the later stage of life. In fact, around 45%[2] of SMSFs are already in retirement phase which illustrates that SMSFs have been leading the way in the retirement income area for some time now.

That said, recent ATO statistics have shown that more younger people are setting up SMSFs of their own. In the September 2023 quarter, 36%[3] of new funds were established by members in the 35-44 age range and the median age of SMSF members of newly established funds is 46[4]. The main reason for establishing an SMSF hasn't changed from previous years, with almost 70%[5] of new SMSF trustees citing they want to take more control over investments as they seek greater transparency, flexibility, and the ability to tailor their investment strategy to their unique needs. As the majority of SMSFs are still two-member funds, these statistics show that people who set up an SMSF have a close connection with their SMSF member balance and are therefore actively involved in their retirement savings and their retirement outcomes.

It is also our experience that many SMSF trustees are seeking the advice of trusted professionals to assist with their investments, help manage risk with their portfolios, ensure they have access to their savings and to help them maximise their income. The ATO statistics also show that capital protection remains a priority for most SMSFs as many SMSFs increased their allocation to more defensive asset classes during the prevailing economic conditions we have experienced. Of course, encouraging all retirees regardless of



[1] Section 52(6) of the *Superannuation Industry (Supervision) Act 1993* (Cth) (**SIS Act**) and regulation 4.09(2) of the *Superannuation Industry (Supervision) Regulations 1994* (Cth) (**SIS Regs**)
[2] ATO SMSF: A Statistical Overview 2021-22, Table 12: SMSFs by payment phase
[3] ATO SMSF Quarterly Statistical Report – September 2023, Quarterly establishment data
[4] ATO SMSF: A Statistical Overview 2021-22, Table 19: Age ranges of SMSF members
[5] 2023 Vanguard/Investment Trends SMSF Report

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what superannuation fund they have to seek financial advice is one important step that can be taken to help them achieve their objectives.

We have also seen the ATO take a more prominent role in educating SMSF trustees on their roles and responsibilities as trustees. The ATO has recently published lifecycle publications to help trustees navigate their SMSF, from starting an SMSF, to running their SMSF and lastly to winding up. These guides (among many other ATO website collateral) are easy to read guides for trustees to refer to and they encourage trustees to engage trusted professionals, such as tax agents and accountants, approved SMSF auditors, financial advisers, legal practitioners and others to help them run the fund. This is a key message that should continue to be pushed to all SMSF trustees, regardless of whether they are existing or newly established funds.

Estate and succession planning has also been a hot topic for many retirees given our ageing population. With the outcome of many high profile death benefit cases clarified around death benefit nominations and the ATO's views on death benefits confirmed, many trustees are revisiting their estate planning needs. Although these are positive steps, the government and the industry can continue to play a role in helping everyday Australians understand the need to obtain good advice to ensure a better financial future.

For all these reasons, we don't believe there is a need for another covenant to dictate how SMSF members should manage their retirement savings, as the framework exists already for member trustees to take on this important responsibility.

2. Care required for SMSFs offering retirement income products

We welcome the introduction of more retirement income products in the market as with an ageing population and increased life expectancies, more retirees need to rely on retirement incomes that are sustainable into their late 80s and 90s. As such, greater product choices provides greater flexibility for retirees, as advisers can help their clients decide whether these products are used as part of an 'income layering strategy' or an income 'bucket strategy', making sure both short-term and longer-term income needs are covered.

As page 23 of the discussion paper notes, there are a number of barriers to product availability by funds or life insurers and also barriers to the take-up of suitable lifetime income products by members. In our experience, many clients do not take-up such products as these products are complex, capital restrictive and often not perceived as 'value for money'. Further, many clients struggle to understand how these products work in practice and how they are assessed for social security purposes. Also, the lack of ongoing product flexibility and the prospect of locking in lower returns in a low interest rate regime also contributes to the take up rate remaining low. The current requirement to guarantee

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capital, not just income, continues to limit innovation within the prevailing 'guaranteed' retirement income product range.

With that said, care must be taken if such products are made available to SMSFs so that we do not end up in the same situation that occurred when legacy pensions (ie, defined benefit pensions and market-linked pensions) were allowed in an SMSF. To recap, in the May 2004 Federal Budget it was announced that funds had to have at least 50 members in order to offer a defined benefit pension. This prevented SMSFs from offering legacy pensions and after several extensions, this came into effect on 1 January 2006.

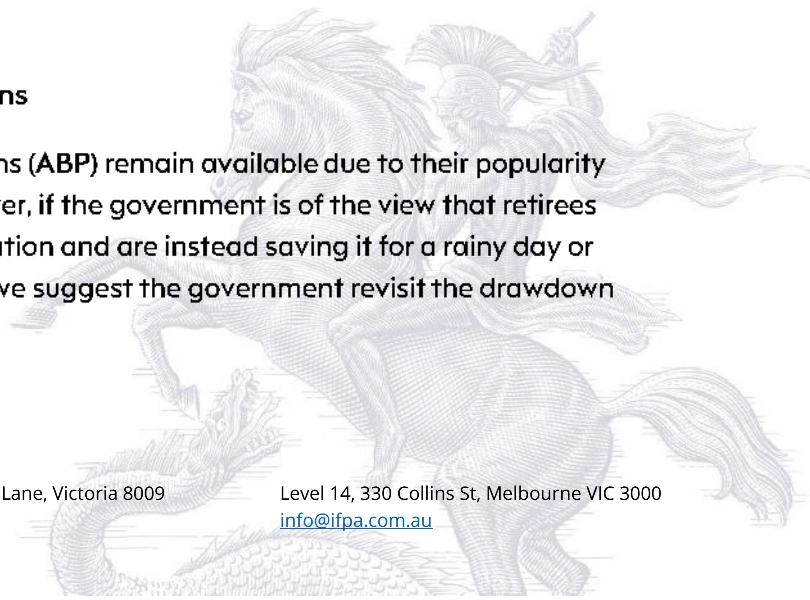
Furthermore, SMSFs have been unable to commence a new market-linked pension from a member's accumulation interest since 20 September 2007. The only exception to this rule is if an old legacy pension is commuted and a new market-linked pension is commenced. As a result, we still have many SMSFs that are stuck in old legacy pension products that they cannot get out of easily.

The industry is still waiting on the "exit strategy" proposal for legacy pensions that was first announced in the 2021-22 Federal Budget to be legislated. If enacted, this proposal will allow SMSF members with certain legacy pensions to commute or convert them to newer style pension products. However, this proposal has not been picked up since last announced in 2021 which has left many members stuck in these old legacy pensions with reserves that are wanting to exit their SMSF.

If newer retirement income products become available, how they are offered to SMSFs will require great care so we can avoid previous mistakes. For example, assume a trustee purchases a product with the member as the beneficial owner (like a life policy). If the members dies, any residual balance is payable as a death benefit. However, the issue that needs ironing out is what happens if a member wishes to leave the SMSF. In this scenario, will the product be portable, or will the ownership of the product be able to be assigned to the member? Issues such as these need to be considered in order to determine whether it will be viable for SMSFs to offer any newly constructed products. These issues also apply to members of large APRA-regulated funds. That is, members of APRA-regulated funds should also have the flexibility to exit the fund and be able to transfer their benefits to another superannuation fund of their choosing.

3. Revisit account-based pension drawdowns

It is important that account-based pensions (**ABP**) remain available due to their popularity and flexibility they provide retirees. However, if the government is of the view that retirees are not drawing down on their superannuation and are instead saving it for a rainy day or for estate/succession planning purposes, we suggest the government revisit the drawdown



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rates. This option may involve increasing the drawdown rates or changing the way annual drawdown amounts are calculated.

4. **Create an objective for the whole retirement system**

As we have pointed out in our objective of superannuation submission to Treasury, we believe that the government should create an objective for the whole retirement system rather than legislating the objective of superannuation in isolation.

As observed in the Retirement Income Review in 2020, Australia's retirement income system consists of three key pillars – superannuation, a means-tested and publicly funded Age Pension, and voluntary savings (including home ownership). These pillars interact and are inextricable. For example, as noted in the Retirement Income Review, an individual relying on the Age Pension and/or superannuation in retirement will have a better financial quality of life if they own their own home (and are therefore not paying rent or mortgage repayments). They also benefit from concessional social security treatment as the home remains an exempt asset. To reiterate, any legislated superannuation objective aimed at influencing policy makers moving forward, must be considered in the context of the overall retirement income system encompassing these other pillars – it should not be formulated in isolation.

With many announcements such as the objective of superannuation, Division 296 and the accessibility to advice under the quality of advice review affecting the superannuation and financial services industry still pending, there appears to be an overlap in what the government is trying to achieve. For this reason, we suggest a holistic review be undertaken of the entire superannuation and retirement income system and that only legislation that will lead to positive and tangible policy outcomes should be proceeded with.

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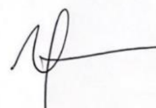
If you have any questions in relation to this submission, please contact Phil Broderick on (03) 9611 0163 or pbroderick@sladen.com.au or Natasha Panagis on (03) 8851 4535 or n.panagis@ifpa.com.au.

Yours faithfully,



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INSTITUTE OF FINANCIAL PROFESSIONALS AUSTRALIA

About the Institute of Financial Professionals Australia

The Institute of Financial Professionals Australia is a not-for-profit membership association (originally known as Taxpayers Australia, then more recently Tax & Super Australia) and has been serving members for over 100 years. With a membership and subscriber base of over 15,000 practitioners, our association is at the forefront of educating and advocating on behalf of independent tax, superannuation and financial services professionals.

This submission is made by us on behalf of our members' interests.

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