FINANCIAL PLANNING
ASSOCIATION *of* AUSTRALIA

7 July 2017

Division Head
Retirement Income Policy Division
Treasury
Langton Crescent
PARKES ACT 2600

Email: superannuation@treasury.gov.au

Dear Sir/Madam

Comprehensive Income Products for Retirement

The Financial Planning Association of Australia (FPA) welcomes the opportunity to provide feedback on the Development of the framework for Comprehensive Income Products for Retirement (CIPRs) discussion paper and the proposed Actuarial Certification Test for CIPRs.

The FPA would welcome the opportunity to discuss with you the issues raised in our submission.

If you have any questions, please contact me on heather.mcevoy@fpa.com.au or 02 9220 4500.

Yours sincerely

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Policy Manager
Financial Planning Association of Australia[1]

[1] The Financial Planning Association (FPA) has more than 12,000 members and affiliates of whom 10,000 are practising financial planners and 5,600 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and super for our members – years ahead of FOFA.
- An independent conduct review panel, Chaired by Mark Vincent, deals with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules required of professional financial planning practices. This is being exported to 24 member countries and 150,000 CFP practitioners of the FPSB.
- We have built a curriculum with 17 Australian Universities for degrees in financial planning. Since 1st July 2013 all new members of the FPA have been required to hold, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional designations, eg CPA Australia.
- We are recognised as a professional body by the Tax Practitioners Board

FINANCIAL PLANNING ASSOCIATION *of* AUSTRALIA

Development of the framework for Comprehensive Income Products for Retirement

Discussion Paper

FPA submission to

Treasury

7 July 2017

Introduction

Innovative retirement income products are needed to address the issues of retirement adequacy, longevity risk for generations growing up under different superannuation and tax systems, and the limitations of the current system.

While the Government must put in place an appropriate and flexible legislative environment to encourage innovative retirement income product development, it must be up to product providers to respond and create a viable and sustainable market for such products.

The Government should not create a MyRetirement regime, similar to MySuper with product conditions, government product approval, and potential carve outs to support a 'nudge' marketing approach.

A primary key to improving the retirement incomes of members must be initiatives that improve consumer financial literacy and capability, and encourage member engagement.

Making decisions about financial matters when planning for and during retirement are multifaceted and complex. Creating a soft-default MyRetirement regime will not overcome these challenges. Continuous active, rather than passive, engagement is vital to ensuring members' retirement needs are met, and to reduce strain on the social security system. A MyRetirement regime sends the message that it is ok to be disengaged with your financial affairs in relation to retirement.

The Government's focus must be on ensuring the superannuation, tax and social security laws are flexible to permit appropriate product development, consumer education and encouraging member engagement.

MyRetirement proposal

The Actuarial Certification Test for Comprehensive Income Products for Retirement (CIPRs) states that "*a CIPR is not a specific product specification. It is a framework, under which a range of possible products may be developed…*"(pg. 2). The discussion paper proposes to name products that meet the requirements of the framework MyRetirement products. Therefore the proposed CIPRs framework would introduce a MyRetirement regime.

The FPA opposes the Government's proposal to introduce a MyRetirement regime, even a soft-default regime for 'disengaged' members.

The MySuper regime works because the accumulation phase of superannuation is passive. It works over a long period of time with regular contributions and the benefits of compound interest, and can performance deliver as a 'set-and-forget' type of long term savings strategy.

The concept of disengaged members is based on behaviours seen in the accumulation phase of superannuation, which is substantially different to member engagement during the pension phase.

Retirement, or the pension phase of superannuation, is active and is significantly different for every individual. Retirement income needs to be actively managed to cater for cash flow demands which commonly change from year to year, and unexpected lump sum needs, for example.

There are multiple risks that must be considered when planning for retirement. It important that members consider the long-term risks, not just the risks right in front of them at the time of retirement – for example aged care needs, increasing medical expenses throughout retirement, unexpected lump sum needs in retirement. As most people have not experienced these longer term risks, they do not believe they are true which can result in complacency and poor product choice that does not meet the member's needs.

Planning for retirement presents many significant challenges that exist quite independently of the technical obstacles that arise not only in superannuation but also in areas such as aged care and estate planning. Of great significance is the impact of behavioural risk on both planning for and decisions during retirement. Retirement lifestyle, identifying true retirement goals, and ensuring that retirement plans are sustainable and give retirees the confidence to spend money to enjoy retirement, are crucial behavioural issues that require engaged decision making.

The active management of assets during retirement is also crucial as each decision and each action can significantly impact the resulting income - when a retiree takes money during the pension phase, it matters; when a retiree rebalances, it matters; when a retiree switches products, it matters. A "balanced" fund, glide path funds, or a single 'set-and-forget' strategy does not work in the retirement phase. Rather it puts the retiree at significant risk of not meeting their retirement income needs, which can change and increase over time, potentially creating additional strain on the social security system.

The discussion paper states that the MyRetirement proposal is seeking to address the problem of:

> *"Individuals face complex financial decisions, a lack of guidance and behavioural biases at retirement but many are unlikely to seek financial advice"[2].*

However, research shows a significant increase in consumers actively seeking financial advice in the lead up to and during retirement, demonstrating a change in behaviour from potentially disengaged during the accumulation phase, to an engaged member in the lead up to and during the pension phase:

- 53% of Australians who currently seek financial advice are over 50 years of age.

- Over 45% of active financial planner clients first started seeing a planner from 50 years of age or above; 39% were aged between 50 and 64 years, which is the age when individuals commonly start their transition to retirement.[3]

The FPA notes that Treasury has undertaken consumer research on its MyRetirement proposal however, we question whether disengaged members would have actually taken part in such a study as participation would in-and-of-itself indicate a level of engagement.

Objectives

The MyRetirement proposal present's the Government's initiative in response to the FSI recommendation 11. The main objective of the FSI recommendation was to provide for longevity risk. However it is clear from the discussion paper, and discussions with Treasury, that the primary aim of

[2] Pg. 5
[3] Financial Advice Report, Investment Trends, August 2016

the MyRetirement proposal is to introduce a regime that provides a minimal increase in retirement income above the amount received from an account based pension.

Longevity risk is a function of two unknowns:

- how long a person will live, and
- how investment markets will perform over that time.

There are currently few products in the Australian market that specifically manage longevity risk.

As indicated in the discussion paper, account-based pensions are the most popular type of income stream product. Purchased with superannuation savings, an account based pension provides an income source during retirement years. As account-based pensions are linked to the market, the member's investment, and therefore the income payments received, will be affected by market fluctuations.

The risk borne by the member is that the income drawn from an account based pension is not guaranteed to last their lifetime; it depends on the initial capital invested and the return from the underlying investments. As account based pensions are flexible, longevity risk can be managed to a certain degree by setting and adjusting the underlying investments, asset allocation and the level of income drawn each year from the pension.

A product that does protect against longevity risk is a lifetime annuity or pension. Unlike account based pensions, a lifetime annuity is not exposed to market returns, so does not suffer as a result of a downturn in the market, and it provides a guaranteed income stream for life. Despite this certainty however these are unpopular because the rate of return is locked in at the time of purchase. Also the value of the lifetime annuity investment is included as an asset under Centrelink's assets test for social security support which impacts on consumer uptake and therefore the viability of such products.

Deferred annuities (a form of longevity insurance), which can be purchased on retirement, generally work by pooling longevity risk. However, they are not tax effective to provide and have a very low uptake in Australia. Under a deferred annuity members of the pool, as a group, retain the investment risk and the aggregate longevity risk (ie the risk that, on average, all members live either longer or shorter than the assumed life expectancy). With an account based pension, the member assumes all of these risks. However account based pensions often now include capital protection options and guaranteed income investment options within the account based pension.

The Government's proposal is for a MyRetirement product to contain both an account based pension component and primarily a deferred annuity as the longevity risk component. Trustees of MyRetirement products will be investing these pooled funds in the same market as the product providers of account based pensions. This means the investment opportunities and potential returns would be similar for both the MyRetirement product and existing account based pensions. Therefore we question how the MyRetirement regime will achieve Treasury's objectives of providing a minimal increase in retirement income above the income received via an account based pension, and lift the standard of living of individuals in retirement.

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Legacy products

Legacy products can be broadly defined as financial products that are closed to new clients but remain in force because there are still investors in the product. According to Treasury:

> *"Life companies and superannuation entities are particularly subject to legacy products partly because of the nature and duration of their products and partly due to the multitude of regulatory and tax differences in these areas. With some products in force for 40 years and more, the number of legacy products in these areas will continue to grow."*[4]

Legacy products arise for a number of reasons including legislative, regulatory, and tax developments which result in financial products becoming outdated or unsustainable/unviable. The outcome is an increase in both the costs and risks to consumers, product providers and the financial system as a whole.

The continuous accumulation of legacy products and the risks they give rise to undermine consumer confidence in the superannuation industry with consequences for the level and allocation of savings by members.

Members invested in legacy products may suffer a deterioration in service levels, poor administration of the product impacting its fees and performance, and higher expenses, as management may focus on the non-legacy range of products where business growth is concentrated; and legacy systems become less equipped to support the needs of legacy product members. Given the lifespan of some products, there may also be potential tax implications for some legacy products.[5]

There is a history of longevity risk type products being developed with little consumer uptake, resulting in significant cost for product providers and creating a string of legacy products with few consumers invested. Examples of products, similar to the proposed MyRetirement product, becoming legacy products after significant investment by the provider include:

- Asteron longevity income stream (14 people in product when closed) - provided a longevity solution with lifetime guarantees but failed to qualify for the exemption on pension assets due to the methodology to share profits among the members of the fund. Hence, this product was removed from the market.

- ANZ money for life - closed due to insufficient scale.

There are many aspects that create a risk that the proposed MyRetirement regime will result in legacy products. Behavioural economics is of particular concern.

Firstly, there is a reluctance by consumers to effectively lock away their money in a longevity type product, with minimal access to lump sum funds if needed, and the risk of losing their savings and their estate should they die soon after investing in the product. Retired public servants receive a pension which is guaranteed for life by the Government and allows any remaining capital to be passed onto beneficiaries after death. Challenger designed an annuities product that allowed capital to be passed on after death, however consumer uptake of that product has been slow demonstrating consumer reluctance for such retirement income products that lock away savings with no guarantee.

[4] Product Rationalisation Issues Paper, Treasury, August 2007, pg. 5

[5] Product Rationalisation Issues Paper, Treasury, August 2007

Secondly, consumers may be uncomfortable with the stability of the product provider and the viability of the product to provide for their needs over the duration of their retirement. For example, APRA statistics show a long term trend of changes in the superannuation market through product provider mergers and closures, and other non-traditional superannuation providers entering and leaving the market (such as banks). In September 2004 there were 99 Industry funds[6] compared to 42 Industry funds just ten years later in December 2014[7]. This highlights how quickly the market can change, demonstrating how real the consumer risks are of provider instability when the member's savings are tied to a pooled product with one provider for what could be 20 or 30 years or even longer.

Some product providers take time to build up adequate scale of members invested in products which effects both the viability of the product and the stability of the provider, which can be both impacted by behavioural economics issues and also create such issues occurring.

However behavioural economics issues cannot be overcome by creating an artificial market for MyRetirement products, which puts consumers at risk. Products must be developed in the consumers best interest, following thorough due diligence by product providers.

The risk of legacy products is exacerbated by the issue noted in the Certification Test – "*The test is applied ignoring the potential for a member to exercise flexibility by making a lump sum partial commutation or withdrawal*" (pg. 4). While the flexibility to choose how to withdraw funds is a desirable consumer outcome, we question the risk this creates in relation to the stability and performance of the product should a certain percentage of members withdraw a lump sum within a limited timeframe. That is, what would be the tipping point for lump sum withdrawals?

Based on industry experience, there is a risk that the MyRetirement will create a false sense of security for consumers due to (among other issues described below) the association of its label to the MySuper regime, but have long term issues resulting in the creation of legacy products with significant negative consequences for consumers, Government and industry.

Consumer protection

The Treasury CIPRs Fact Sheet states that "*if an individual chooses to take up a MyRetirement product, they will receive an efficient retirement income stream product that provides peace of mind, through security of income for life".* This shows the Government's intent to provide greater certainty for Australians during retirement and consumer protection from longevity risk.

As stated by Treasury:

> *"A key objective in establishing consumer protection arrangements should be to ensure that consumers maintain their confidence in the financial system and continue to invest their savings through the channels provided by the system. Loss of confidence in the system may result in a reduction in the overall level of savings, as well as an over-allocation of savings to certain products viewed as being safer and more within the control of the average investor. Against a backdrop of an ageing population and increasing demands on the government's fiscal resources neither of these developments is desirable"[8].*

[6] Statistics - Superannuation Trends September 2004, Australian Prudential Regulation Authority, issued 11 January 2005
[7] Statistics - Segmentation of superannuation entities, Australian Prudential Regulation Authority, issued 19 February 2015
[8] Product Rationalisation Issues Paper, Treasury, August 2007, pg. 4

A Government created MyRetirement regime presents members with a sense of certainty and protection due to its perceived relationship and similarity to the MySuper regime. As such consumers may view such products as being safer and more within their control. It may also encourage passive rather than active engagement in the retirement income system.

This creates a risk that members will invest their superannuation in products they perceive as safer, but that do not enable them to achieve their retirement goals or meet their changing financial needs throughout retirement.

For example, it is concerning that the discussion paper is silent on the treatment of the proposed MyRetirement products on the income and asset assessment for aged care home costs, or for tax and social security purposes, which can have devastating consequences on members' wellbeing throughout retirement and can impact the viability and take up of such products.

The proposal includes a requirement for the MyRetirement product to be flexible and allow lump sum withdrawals. However it is unclear how an individual's or couple's household debt will impact on the sustainability of MyRetirement products, such as:

- the performance of the product if significant lump sum funds are withdrawn from the pool by multiple members within a limited timeframe to pay of household debt (or for other lump sum purposes such as a holiday), and

- the equity for those members of the pooled product who receive an income over an extended period, versus those who withdraw a lump sum soon after investing in the product.

Best interest

Members should be encouraged to consider their retirement goals and needs, and their financial circumstances both inside and outside super, when selecting an appropriate retirement income product, to ensure the product is appropriate and in their best interest.

Trustees 'offering' their own MyRetirement product to individual members have an inherent conflict of interest in this regard. A trustee's fiduciary obligation applies to its members as a whole, including consideration about the sustainability and stability of the fund, which can conflict with what is in the best interest of an individual member.

It is extremely concerning that the MyRetirement regime is based around the inclusion of safe harbour provisions for product providers.

> *"The safe harbour would protect the trustee from a claim on the basis that the CIPR was not in the best interest of an individual member."(pg. 3)*

The best interest obligations were put in place to shift the emphasis of the motivations in the industry from a sales-based to a consumer-centric approach and culture in order to improve consumer outcomes and increase consumer protections, in response to a number of significant and catastrophic failures.

The MyRetirement framework now proposes to offer a carve out from the best interest obligations specifically in relation to the $2.3 trillion[9] of Australian's retirement savings product providers are responsible for.

This best interest carve out, accompanied by the proposal to allow product providers to 'nudge' consumers into MyRetirement products, undermines the purpose of the SIS Act and Corporations Act as consumer protection mechanisms.

Household debt

In 2015 the average Australian household debt was four times what it was in 1988, rising from $60,000 to $245,000 after inflation. The ratio of household debt to disposable income has almost tripled, from 64% to 185% during the same time.[10] The NATSEM analysis of Australian Bureau of Statistics data concluded:

- Mortgage debt still makes up almost 30% of debt for households headed by a person aged 65 or older. This is up significantly from 19.6% in 2004.
- Of the top 10% most-indebted households, it's the over 65 year old households that have increased their level of debt the most – their repayments to income have almost doubled from 9 to 17%.

With Australians now in record amounts of debt, managing the debt issue requires prudence in order to impact positively on wealth later in life and provide the sort of retirement people aspire to. Household debt will have a significant impact on longevity, retirement adequacy and the viability and sustainability of the proposed MyRetirement regime.

However the proposed MyRetirement regime does not detail the impact of managing such high levels of household debt in retirement - the impact of such debt on income levels, quality of life, and the amount of funds in the pool, particularly if lump sum withdrawals are permitted. Household debt will significantly reduce the pool of funds in MyRetirment products and creates an inherent inequity in the regime for those with no or lower debt levels.

Managing household debt is a key aspect of retirement planning and will inhibit the achievement of the Government's stated objectives for the MyRetirement regime.

Recommendation

The FPA opposes the introduction of a MyRetirement regime and the proposed CIPRs framework.

[9] Superannuation Statistics, Association of Superannuation Funds of Australian, June 2017
[10] AMP and National Centre for Social and Economic Modelling (NATSEM) Income and Wealth report – *Buy now, pay later: Household debt in Australia. Issue 38. December 2015*

Preferred approach

The FPA agrees the retirement income phase of superannuation is complex and often confusing for members. Such complexity has resulted in increasing costs of system administration and compliance, reduced competition in service delivery, difficulty for providers to develop innovative products, and a significant reduction in consumer understanding and confidence in the system.

A multi-faceted approach that empowers individuals to make confident informed decisions and continue to engage with the system, is required to address this issue.

Product development

While longevity risk can be managed using lifetime income streams, these are largely unpopular in their current format due to several reasons:

- Cultural aversion to locking money away
- Low levels of retirement savings and the need to maintain flexibility
- Low rates of return due to the conservative pricing and capital reserve policies, and
- The potential for a loss of capital.

Creative product development is currently stifled by legislative restrictions and as a result there has been very little successful development in products that effectively deal with longevity risk.

To date, much of the product development in this area has focussed on providing guarantees on returns or capital values to protect against market volatility. But these options do not guarantee the longevity or adequacy of income for the duration of retirement. Historic periods of extreme market volatility have also highlighted how an economic downturn can cause significant increases in the cost of offering these product features for providers, with costs passed onto consumers to impact negatively on retirement savings.

As detailed in stakeholder submissions to the Retirement Income Streams Review and noted in the subsequent Report released in May 2017, a major inhibitor to the development of products is the wording of the SIS Act that determines what is defined as "an income stream" to be eligible for the tax exemption on current pension assets. The current superannuation laws are too inflexible and limit creative product development.

While the regulatory changes proposed in the discussion paper will create much needed tax exemptions for deferred annuities and similar products[11], there needs to be a corresponding exemption in relation to the social security treatment of such products to provide certainty for consumers and encourage consumer uptake, to facilitate product development.

[11] "From 1 July 2017, the Government will extend the tax exemption on earnings in the **retirement phase** (for products outlined in the annuity and pension rules) to products with variable income streams, such as group self-annuitisation products, and to deferred life annuities." pg. 21

The need for clarity on the treatment of retirement products under the social security means test was highlighted in the Retirement Income Streams Review.[12]

The legislative environment must promote product development that not only addresses longevity risk but importantly caters for the diverse consumer needs in retirement.

Government should ensure there is a legislative environment that is flexible and encourages innovative products to be developed that meet the needs and expectations of consumers (such as deferred annuities and other products). However it must be up to the market to respond to the legislative environment.

The market must be developed by industry, based on significant and appropriate due diligence by product providers investigating the market to determine the viability and sustainability for certain products, and the potential consumer uptake of new products.

Recommendation

Government create the legislative environment that encourages product development (deferred annuities and other products) by:

- rewriting the superannuation legislation definition of an income stream so that it is not an inhibitor to creative product development by allowing more flexibility in the variation of income each year, and still qualify for the tax exemptions on current pension assets.
- proceeding with the tax changes in the proposed Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017.
- providing certainty on the treatment of deferred annuities for social security purposes by granting an exemption for such products.

Government should allow time for the industry to respond appropriately, the market to develop, and assess the consumer uptake and derived outcomes of retirement income products. This must be done before prior to introducing soft compulsion longevity products, safe harbour measures for product providers from consumer protections, or a MyRetirement regime.

Financial education

Planning for and entering retirement can be both an exciting and overwhelming experience. It can involve a complete change in lifestyle and identity for many Australians who may have long associated themselves with a career. It also requires a mindset shift from ‘earning a living’ to ‘spending savings’ and ‘investing to earn’; and therefore an understanding of what the different investment options available mean to an individual’s day to day lifestyle choices over the short, medium and long term.

A member can only make an informed decision on their choices in retirement if the environment encourages them to regularly engage in financial matters and the system. This requires support to easily and continuously improve financial literacy and capability.

[12] Report released May 2017, Pg. 16

> *Knowing how to manage personal finances is one of the most important and challenging features of everyday life. It is a core skill in today's world. It affects quality of life, the opportunities individuals and families can pursue, their sense of security and the overall economic health of Australian society.*[13]

The financial landscape is constantly evolving. Financial decisions and turning points arise in many different circumstances including in the lead up to and during retirement. There is also a wide variation in the personal situations of Australians including diversity of economic, social and cultural backgrounds.

If members do not understand or are mis-sold products, or cannot properly assess whether products suit their circumstances and needs, there is a risk that they will use them inappropriately or stop using them altogether. In retirement, this will significantly impact on the retirement needs of members and place substantial strain on the social security system. Building the financial literacy and capability of members is crucial to support people to make the right choices suited to their own circumstances and needs.

The National Consumer and Financial Literacy Framework, and in particular ASIC's MoneySmart initiatives, have made a significant contribution since their introduction and provide great value to members. For example:

- ASIC's retirement calculator receives approximately 26,000 views per month, and
- ASIC distributed 16,000 copies of its publication *Financial decisions at retirement* during 2015-16[14].

We acknowledge that pre-retirees and seniors are considered key audiences under the National Financial Literacy Strategy, which includes contributions from Government, ASIC, industry, consumer groups and other stakeholders.

> *Increase the use of free, impartial information, tools and resources giving people the tools and guidance they need at different life stages or in changing personal circumstances. Key audiences include Indigenous Australians, pre-retirees, seniors and women.*

However there is a need to allocate responsibility for consumer education on retirement issues, risk, and considerations specifically when selecting pension phase product(s), including independent financial literacy from ASIC on the considerations of different types of products on the market.

Funds must also offer members information (not sales push) to understand product features with the ability to compare products on the market (outside of the fund), with an emphasis on the importance of considering their entire circumstances (inside and outside the fund) and their short, medium and long term retirement needs.

The complexity of the retirement income system has resulted in a significant reduction in consumer understanding and confidence in the system. Therefore personal financial advice should always be encouraged.

[13] National Consumer and Financial Literacy Framework, ASIC, September 2011, pg. 1.
[14] Australian Securities and Investments Commission NFLS Annual Highlights Report 2015–16, pg. 19

Recommendations

The legislative environment must encourage members to regularly engage in financial matters and the retirement income system.

Product development regulation must not discourage member engagement or encourage a 'set and forget' approach to retirement investment.

Initiatives in the National Financial Literacy Framework must support members to easily and continuously improve financial literacy and capability, particularly in relation to pre-retirement and retirement financial considerations.

Access to financial advice

Financial planners are required by law to consider a client's circumstances. This involves gathering client information that goes beyond the information that trustees typically have access to from their members, such as household income, debt and assets (inside and outside of superannuation), health status and risk preferences, all of which are vital in identifying the most appropriate plan and products to achieve a client's retirement goals. Importantly, financial planners work with clients to identify clear short, medium and long term goals that their client would like to achieve.

This information gathering is vital and goes beyond the ability of trustees to obtain from their members.

Financial planners are also well-placed to convey the important trade-offs involved with current and future living standards of retirees drawing on their assets consistent with an individual's longest possible lifespan, as raised in the discussion paper.

It is important that the public not only have access to individually tailored retirement solutions, but also be actively encouraged to seek out appropriate advice from appropriately qualified and experienced financial planners when planning for retirement, to actively decide and manage their retirement options based on their needs and goals.

As stated in the discussion paper, the retirement income system requires individuals *"... to manage multiple complex financial objectives and risks, [with] limited ... ability to... recover from poor decisions".*

Research shows that this issue is relevant not only to those individuals considered 'vulnerable' in their retirement decision-making process (such as those with low superannuation balances, lower levels of financial literacy), but those that assess themselves as being 'highly' financially literate have also been associated with "*possibly dangerous overconfidence in their ability to make financial decisions"*[15].

Financial advice contributes positively to financial literacy, social inclusion, and economic outcomes for Australians of all walks of life. The FPA is making every effort to encourage Australians to seek financial advice by promoting higher education standards and greater professionalism in the financial planning sector. The Federal Government can help by introducing tax deductibility measures to improve the affordability of financial advice for consumers – particularly for those of modest means or who are at

[15] Bateman, Hazel and Eckert, Christine and Iskhakov, Fedor and Louviere, Jordan J. and Satchel, Stephen E. and Thorp, Susan, *Default and Naive Diversification Heuristics in Annuity Choice (January* 31,2015). UNSW Business School Research Paper No. 2015ACTL09. p.29

greater risk of financial exclusion and are most in need of assistance in managing their financial affairs. Financial advice is crucial when making financial decisions about retirement.

The precedent of tax deductibility of professional fees is already set and allows consumers to deduct fees paid to registered tax agents, BAS agents and lawyers. Since July 2014, financial planners have been required to progressively register with the Tax Practitioners Board as tax (financial) advisers, and adhere to the requirements of the Tax Agent Services Act along with their tax agent peers. The amendment to the Tax Agent Services Act in 2013 defines a tax (financial) advice service as a type of tax agent service.

Including financial planners in the Tax Agent Services regime, and the banning of commissions on financial advice through the Future of Financial Advice reforms, has set the right environment to introduce tax deductibility of financial advice fees.

Currently, a fee for service arrangement for the preparation of an initial financial plan is stated by the Australian Taxation Office[16] to be not tax deductible under section 8-1 of the *Income Tax Assessment Act 1997*.

Tax Determination TD 95/60 differentiates between a fee for drawing up a financial plan and a management fee or annual retainer fee. The determination states that the ATO is of the opinion that the expense incurred in drawing up a plan is not deductible for income tax purposes because the expenditure is not incurred in the course of gaining or producing assessable income, but rather is an expense that is associated with putting the income earning investments in place.

Taxation Ruling IT39 states that where expenditure is incurred in ‘servicing an investment portfolio’ it should properly be regarded as being incurred in relation to the management of income producing investments and thus as having an intrinsically revenue character.

Consumers are paying for personal financial advice in varying ways that result in different taxation treatments for no apparent public benefit. This variety of tax treatment appears to be contrary to the ATO’s obligation under the Taxpayers Charter it adopted in November 2003 to treat tax payers consistently.

The inability to claim a tax deduction for the fees associated with an initial financial plan acts as a disincentive for people to seek professional assistance in engaging with their financial affairs, to understand the pros and cons of the options available to them, and make informed decisions, which is vital at retirement. This has widespread cost implications, both for individuals and the community as a whole. Encouraging the use of professional financial planning advice results in a more financially literate community, and benefits society overall.

Quality financial advice can;

- reduce financial and social exclusion for consumers and help them navigate the financial marketplace and learn how to better manage their finances providing them with dignity and peace of mind throughout their life

- deliver significant consumer benefits including changes in savings behaviour, setting proper budgets, following a plan for paying off debt, and organising finances and building wealth

[16] Refer to ATO Taxation Determination TD 95/60

- change people's behaviour and habits of managing their financial affairs by teaching them sensible and simple practices that can be used in their everyday lives to prepare for their future financial needs, and

- improve the financial capability of consumers, enabling them to make informed judgments and effective decisions about the use and management of money throughout their lives. [17]

Research commissioned by the FPA has found that 30% of those who have not used financial advice and do not intend to seek advice in future have stated that the high cost of advice is a key reason for why they have not sought the advice.[18] Public policy initiatives to improve access to affordable advice for all Australians, particularly those most in need of assistance in managing their finances, will reduce the cost of advice for consumers while maintaining consumer protections and advice quality.

Making financial advice more affordable for consumers supports the Coalition's superannuation policy *"[t]o encourage as many Australians as possible to actively plan and save for their retirement, to take full advantage of the benefits the superannuation system provides and to work toward a self-funded retirement."*[19]

It also assists Government to fulfil its obligation to address the substantial issues of financial and social exclusion by helping consumers gain access to expertise to help them navigate the financial marketplace and learn how to better manage their finances particularly in retirement.

Rice Warner research[20] identified clear societal benefits of financial advice;

- reduced debt - increases disposable income for more productive purposes

- higher rates of return on investments over long periods - building wealth

- insurance protection - prevents people from relying on welfare

- higher levels of savings – reduces reliance on government benefits during and after retirement, and

- a financially literate and conscientious society that would make better long-term decisions.

Financial planners provide valuable advice that is important for the long-term economic welfare of Australians. The financial planning profession is uniquely positioned to help Australians build their wealth and plan for a financially independent retirement.

Specifically legislating for initial advice fees to be tax deductible would greatly assist consumers' access to affordable financial advice that is beyond filing income tax returns or concerning their superannuation. While this would involve some additional costs to Government, these costs would be significantly outweighed by the long-term benefits. To control the cost to revenue, the Government could include caps on either the size of the tax deduction or an income cap on those able to receive a deduction.

[17] FPA Value of Advice Research, Rice Warner Actuaries, February 2008.
[18] Investment Trends, 'FPA Member Satisfaction Report' (December 2014)
[19] Brian Loughnane, 'The Coalition's Policy for Superannuation' (September 2013), available at < http://parlinfo.aph.gov.au/parlInfo/download/library/partypol/2717533/upload_binary/2717533.pdf;fileType=application%2Fpdf#search=%22library/partypol/2717533%22>
[20] Above n 4.

Recommendation:

The preparation of an initial financial plan, and ongoing management fees or annual retainer fees, be expressly stated to be tax deductible.

To support this proposal, the Government should engage the Productivity Commission to examine the short-term and long-term position of the Budget if the preparation of an initial financial plan and ongoing fees were tax deductible. This report should be robust to a variety of different solutions, such as means-tested or capped tax deductions.

FPA response to MyRetirement proposal

As previously stated, the FPA opposes the proposed MyRetirement regime.

Default products in retirement should not be permitted, even soft default. Members must be encouraged to engage with the superannuation system to make active decisions based on an individual's own circumstances and needs.

Meeting retirement needs cannot be achieved by making one decision during the pre-retirement phase on a retirement income product sold through 'nudge' marketing. A desired standard of living in retirement can only be achieved through ongoing engagement and understanding of changing needs, circumstances, and financial options, to make informed and continuous financial decisions. It is not a one decision process.

We provide the following comments in relation to details of the proposal only in case the Government proceeds with the MyRetirement framework.

Product marketing

The FPA notes Treasury's proposal to allow product providers (who meet the proposed MyRetirment product conditions) to use marketing techniques to 'nudge' members to opt-in to their MyRetirement product to create a market for such products by stimulating demand.

While the MyRetirement proposal relies on the requirement of funds to act in the best interest of their members (as a whole, not as individuals), a sales approach to nudge consumers into retirement products falls into the provision of financial advice, would not meet the best interest duty in the Corporations Act as it does not consider an individual's circumstance, and should not be permitted.

It is understood that Treasury would like to allow product providers to provide members with a report of the retirement income they would receive if they moved their superannuation balance into the fund's MyRetirement product versus an account based pension product. To permit such a sales based marketing approach would require loosening the marketing restrictions and scaling back advice regulations to give these products a leg up to incentivise product providers and stimulate market uptake.

The FPA opposes Treasury's proposal which clearly permits the use of marketing material to stray into the financial advice provisions. The Government has significantly tightened the rules for financial planners. The advice rules must not be tinkered with to encourage and support a sales culture for product providers. This would be counter to the intent of the FoFA reforms which must be consistently applied across the financial services sector.

Product providers must not be given carve outs from the financial advice provisions. Superannuation funds must be required to do the work required to meet the financial advice regulatory requirements to ensure that moving a member into a MyRetirement product is in the member's best interest.

The 'nudge' marketing approach would also contradict the concerns voiced by all political parties regarding the consumer detriment caused by the historic sales based culture within some financial services product providers.

The general advice exemption on conflicted remuneration can also have a significant negative impact on members who may be the recipient of such marketing techniques, at a time in their lives when an informed and considered decision about their entire financial circumstances and needs is paramount.

In response to a Question on Notice from the House of Representatives Standing Committee on Economics regarding sales techniques for its superannuation rollover campaign, Westpac stated employees were eligible for a ‘discretionary incentive scheme’, which had components related to the number of customers who rolled over, conversion rate and the amount of money rolled over. According to ASIC, the funds under management generated by the campaign comprised a significant input into the calculation of the bonuses that staff members were paid.

Government legislation should not be used to permit product providers to push products onto members that might not be in their best interests. Allowing the use of marketing to nudge members to opt-in to MyRetirement products, combined with the conflicted remuneration exemptions for general advice, will fuel a sales-based approach and lead to increased consumer confusion about an already complex retirement income environment, potentially leaving Australians worse off in retirement. Product providers are not privy to a member’s circumstances outside of the superannuation fund and hence could easily persuade members into being stuck in a product that does not meet their retirement income needs.

As stated in the discussion paper, an individual’s retirement income must consider all assets, needs and circumstances[21]. Nudging a member into a retirement income product based solely on the savings in the superannuation account held with that fund, puts at risk the member’s retirement needs and outcomes.

The support for a sales based culture for MyRetirment products is further evident by reliance on the term and definition of offer/offering, as proposed in the discussion paper.

“Offer/the offering - The process that a trustee would follow to encourage take up of a CIPR”[22].

The FPA opposes the use and reliance on this definition as it is very sales focused, will perpetuate a sales based culture, puts product providers who rely on it at risk of falling into the advice provisions, and is not focused on the needs of the member. Rather it signifies a regime focused on product up take.

If the Government proceeds with the MyRetirement proposal:

- product providers must drive demand within the advice rules. Treasury must not bend the advice rules to create an artificial market
- marketing techniques that stray into financial advice, to nudge member uptake of MyRetirment products, should not be permitted
- marketing restrictions must apply to MyRetirement products as they do for other financial products

[21] CIPRs discussion paper, p. 38

[22] CIPRs discussion paper, p. 49

- consumer protections related to financial products and financial advice must be maintained and should equally apply to MyRetirement products and product providers
- all conflicted remuneration, including sales targets, must be banned on all MyRetirement and other products, should the Government proceed with the proposed safe harbour
- members must be encouraged to seek personal financial advice prior to investing in a MyRetirement product
- intra-fund advice and robo advice should not be permitted on MyRetirement products (see below)
- product providers and ASIC must be responsible for enhancing member education on all retirement matters, including all income product options, and
- should not be labelled MyRetirement. The legislative environment must provide the right settings to make retirement income products that address longevity risk responsive to consumer's retirement needs and viable to produce. It must be up to each product provider to determine a name for the products they sell to consumers.

However the FPA strongly opposes the MyRetirement proposal and a framework that creates a default product, a soft-default product, or a perceived default product, in the retirement income market.

Target market - Disengaged members

As discussed above, the MyRetirement proposal is based on assumptions about disengaged members during the accumulation phase. It does not take into account changes in consumer behaviour when entering or during the pension phase of the superannuation system. It also creates a false sense of security for members who may assume the MyRetirement product will look after their individual retirement needs, and therefore it discourages member engagement.

It would be in the best interest of all Australians for the Government to further enhance its financial literacy program and improve the affordability of financial advice, to encourage and drive member engagement in the superannuation system, rather than creating a false sense of security with the proposed MyRetirement regime.

Consumer need

There are already a number of retirement income products available in the market that rely on pooled funding (such as the Mercer pooled product).

Consumer risks

Treasury's proposed MyRetirement regime presents significant risks for members, such as:

- Income needs
    - It does not guarantee the income received will match the income needs of the members.

- An individual's income needs and circumstances can continuously change during retirement due to various factors related to debt, health, dependents, assets held outside of superannuation, for example.

- Retirement income needs cannot be met based on one decision made during the pre-retirement phase, tying a member to a product for life.

- <u>Underlying guarantee</u>

  - Products that take an individual's savings for the purpose of providing an income for life must come with an unwaiving guarantee, and security as to who is behind that guarantee.

  - There is no underlying guarantee as to the provision of adequate income for life. The proposal plans to address longevity risk by relying on members of the pool dying early and their capital therefore being relinquished and available for other members to use.

  - However, it is also proposed that MyRetirement products be flexible and allow for income streams and lump sum withdrawals. This will advantage some members over others.

- <u>Forfeiture of capital</u>

  - The proposal requires members to agree to the forfeiture of their capital. This restricts an inidividual's capital protection as all their superannuation savings would be relinquished into the fund pool of the MyRetirement product.

  - All superannuation savings would be lost if they died one year after taking out the MyRetirement product, leaving no funds to pay debts or to pass onto beneficiaries who could include a spouse or dependents.

- <u>Availability of funds and product sustainability</u>

  - Given the increasing rates of household debt of retirees (discussed above), there is a risk that lump sum capital will be accessed early in retirement to pay off debts.

  - This shrinks the equity in the product's pool available for investment, significantly reducing earning capacity of the product and putting at risk the fund's capacity to pay members' income.

  - This puts at risk the performance and sustainability of the product.

- <u>Legacy products</u>

  - Creating an artificial market for the uptake of MyRetirement products does not ensure the sustainability of the market or the necessary product performance for both members and funds, posing a significant risk that these will become legacy products.

  - The MyRetirement regime proposes locking up members' superannuation savings in a pooled product for what could be 20 or 30 years or even longer. The known and unknown variables and conditions that could impact product performance over such a lengthy timeframe significantly increase the risk of them resulting in legacy products.

- As discussed above, similar products have been closed creating legacy products at great cost to providers and consumers.

- Fund stability

  - Some providers take a long time to build up enough scale to make products viable and sustainable which effects the stability of both the product and the fund.

  - As discussed above, historically the superannuation market has changed quite dramatically in a relatively short timeframe. For example, in September 2004 there were 99 Industry funds[23] compared to 42 Industry funds just ten years later in December 2014[24].

  - There is a real consumer risk of provider instability, particularly in relation to creating a soft-default market for a pooled product with a potential lifespan of 20 years or more.

  - Concerns about provider stability exacerbates behavioural economics issues that impact product update and ultimately product sustainability.

Product features and deliverables

The FPA is concerned about the following proposed product features and deliverables.

- Investment growth

  - Trustees will be investing the pooled funds in the same market as the product providers of account based pensions. Therefore, investment opportunities and potential returns would be similar for both products.

  - How will MyRetirement products deliver the promised returns to members, above those of account based products relying on the same investment market?

- Social security and tax treatment

  - A key impediment to the development of retirement income products is the tax and age pension implications for consumers using such products. The proposed framework does not detail the intended treatment of MyRetirement products for tax and social security purposes.

  - We note the current parallel consultation on tax changes for deferred annuities in the proposed Treasury Laws Amendment (Innovative Superannuation Income Streams) Regulations 2017, however there has been no indication of corresponding changes in relation to social security consideration.

  - The value of a member's investment in a lifetime annuity is included as an asset under social security assets test, impacting eligibility for social security support, which

[23] Statistics - Superannuation Trends September 2004, Australian Prudential Regulation Authority, issued 11 January 2005
[24] Statistics - Segmentation of superannuation entities, Australian Prudential Regulation Authority, issued 19 February 2015

significantly reduces the ability of such products to meet the needs of consumers. Therefore uptake is low.

- Aged care treatment

  - The discussion paper does not articulate how a member's MyRetirement investment and income will be treated for the income and assets assessment for aged care home costs.

Safe harbour

Treasury proposes the following safe harbour for trustees against a legal claim that they had not met their fiduciary obligations. To use the safe harbour trustee must:

- design a mass-customised CIPR, to be suitable for the majority of members
- design the CIPR to meet the minimum product requirements of a CIPR, and
- follow any other process or disclosure requirements associated with the CIPR offering.

The FPA opposes the introduction of a safe harbour to incentivise product providers to offer MyRetirement products by avoiding best interest obligations to consumers.

Product providers are profit-making businesses with minimal regulatory oversight and should not be given a safe harbor from legal requirements that serve to protect consumers. Product providers must also not be given carve outs from the financial advice provisions. Product providers must be required to do the work required to ensure that moving a member into a MyRetirement product is in the member's best interest.

The proposed MyRetirement regime proposes to produce products that have no guarantee, lock away member's superannuation savings, risks huge loss of capital and an individual's estate, and must support the needs of members for 20, 30 or more years. These consumer risks associated with the proposed regime are exacerbated by the instability of the market and behavioural economics issues (discussed above) impacting on the viability and sustainability of such products.

Due to the risks borne ultimately by the members, a safe harbour should not be attached to the proposed MyRetirement products.

The Government's focus should be to ensure the legislative environment provides the right settings to make retirement income products that address longevity risk, responsive to consumer's retirement needs that are viable and sustainable to produce without the need for crave outs. Ensuring retirement products are in the best interests of consumers should be paramount.

Assessment and certification of MyRetirement products

The FPA opposes trustee self-assessment to certify that the trustee's CIPR meets the minimum product requirements.

The FPA is also concerned about the use of a third-party certification approach to product regulation, where a third-party or independent actuary would certify a CIPR using the Certification Test proposed by the Australian Government Actuary.

While we do not have the expertise to comment on the details of the actuarial test proposed by the AGA, we raise the following concerns:

- what happens to members who invest life savings in a MyRetirement product, if the product certification expires, especially if circumstances arise that result in early expiry?

- is the validity and robustness of the test being compromised in an effort to *"accommodate a wider range of products"* (pg. 10) and therefore allow greater access to the safe harbour for product providers, which would create significant consumer protection issues for members?

- shouldn't all MyRetirement products include "*payments that are guaranteed"* (pg. 11) as a standard feature in order to meet the objectives of the regime?

It is proposed that trustees who meet the MyRetirement minimum requirements be provided with a safe harbour against consumer claims that the product didn't meet their needs. Therefore, if the Government proceeds with this proposal:

- APRA should certify and regulate MyRetirement products, including detail data collection from funds, and producing transparent and comparable performance reports.

- ASIC should be responsible for consumer education, comparability application, and retirement calculator. ASIC should not regulate or authorise this product.

However, the FPA opposes the introduction of the MyRetirement regime.

Intra-fund advice

Treasury has questioned whether the MyRetirement framework could continue to permit superannuation funds to offer this service, including once-off advice relating to the fund's MyRetirement product.

Intra-fund advice is personal advice as it considers an individual's personal circumstance and information relating to the member's account held within the superannuation fund, only. Funds are permitted to collectively charge the cost of providing intra-fund advice across the membership. However the intra-fund advice provisions do not enable a member's circumstances outside of the superannuation fund to be taken into consideration.[25]

The Government recognises that personal circumstances vary from individual to individual; that there is a diverse range of assets that people may hold; and that income can be derived from a multitude of sources. This is evident throughout the tax system, social security system, aged care system, and the superannuation system, for example, which all include detailed income and asset tests that cater for the diversity of individual circumstances.

These Government income and asset tests are particularly prevalent in relation to the financial affairs of retirees, and the services the Government offers in support of retirees. For example, income, for the purposes of the aged care home costs system, can include:

- income support payments from the Australian Government such as the Age Pension, a Service Pension or an Income Support Supplement
- net income from rental property

[25] CIPRs discussion paper

- War Widow or Widower Pensions and some disability pensions
- net income from businesses, including farms
- superannuation and overseas pensions, and income from income stream products such as annuities and allocated pensions
- family trust distributions or dividends from private company shares
- deemed income from excess gifting
- deemed (not actual) income from financial investments, such as:

    - bank, building society and credit union accounts
    - cash
    - term deposits
    - cheque accounts
    - friendly society bonds
    - managed investments
    - listed shares and securities
    - loans and debentures
    - shares in unlisted public companies
    - gold and other bullion
    - account-based income streams from 1 January 2015.

Assets include:

- bank, building society and credit union accounts
- cash
- term deposits
- cheque accounts
- friendly society bonds
- managed investments
- listed shares and securities
- loans and debentures
- shares in unlisted public companies
- gold and other bullion.
- household contents and personal effects (these are typically valued at $10,000)
- foreign assets including investments, business interests and real estate
- investment property
- special collections such as stamps, art works or antiques
- superannuation balances
- private trusts, family trusts and private companies
- net retirement village entry contributions
- refundable deposits paid for accommodation in an aged care home
- part of the value of an individual's former home (in some circumstances)

This extensive list of income and assets serves to illustrate the diversity of personal circumstances held outside the superannuation system that are vital considerations in determining a member's income and other needs for retirement. It also demonstrates the intricacies how a decision about a retirement income product can significantly impact a retiree's access to much needed Government services and support throughout a person's retirement.

However an individual's circumstances outside of the fund such as those in the above list, are excluded from consideration in the provision of intra-advice. This advice is restricted only to matters within the existing fund.

While intra-fund advice serves a role in helping members with one-off personal advice relating to investment choices during the accumulation phase for example, it is not sufficient to meet the needs of members transitioning to or in retirement as it cannot consider individual's circumstances outside of the fund which is vital for quality retirement advice and outcomes.

Therefore the FPA opposes the extension of intra-fund advice to apply to MyRetirement products.

Robo advice

Similarly, while robo advice serves a purpose, it is advice produced by algorithms based on client groupings segmented by common circumstances of individuals. While it considers circumstances at the segmented level, it does not take into account an individual's needs, goals and specific circumstances.

Robo advice is also restricted in its inability to truly assess the suitability and appropriateness of products to an individual's circumstances, which is vital when considering and recommending a retirement income product. Retirement income is complex, and automated advice technologies aren't currently sophisticated enough to deal with this sort of advice as there are too many external factors to take into account.

It is also unclear from the discussion paper, as to who will be permitted to offer robo advice on MyRetirement products and whether this will be restricted to trustees or providers external to the trustees.

The FPA has concerns about permitting robo advice on MyRetirement products based on the assumption that there will be a technological advice solution available in the future which isn't available today.

Therefore the FPA opposes the use of robo advice in relation to MyRetirement products.

Conditions on mass-customised MyRetirement products

Should the Government proceed with the proposed MyRetirement regime, such products should be simple, transparent and facilitate comparability of products.

In designing MyRetirement products, it is proposed that trustees need to take into account the "income needs of its members in retirement" and "whether income, risks, or flexibility are more important for the majority of its members". The FPA questions how practical it is to determine these factors.

Financial product

The FPA supports the proposal that MyRetirement products be classified as a financial product under the Corporations Act.

SMSFs

Should the Government proceed with its proposed MyRetirment regime, the FPA agrees that SMSFs should not be required to offer a MyRetirement product, but could choose to purchase such a product from a product provider.

Pre-retirement disclosure

It is proposed that the following prescribed pre-conditions be disclosed to members in a PDS, and through other channels, such as a Statement of Advice when personal financial advice is provided, or through the fund's call centre when general financial information or general advice is provided:

a) superannuation accounts should be consolidated before commencing an income stream;

b) after the cooling-off period, the CIPR is not able to be easily commuted (or that it may be partially commutable, depending on design characteristics)

c) individuals should consider their needs to access funds for lumpy purchases and their assets outside of superannuation

d) the CIPR is unlikely to be appropriate for those with a terminal medical condition, which means they have a reduced life expectancy

e) the CIPR may not be appropriate for very low balance account members (if their consolidated balance is still very low), and

f) should the member wish to obtain a retirement income product tailored to their individual circumstances, they should consider obtaining personal financial advice.

If the Government proceeds with the MyRetirement proposal, pre-retirement disclosure should include:

- benefits and disadvantages of the MyRetirement product – ie. what it can and cannot do
- the tax implications of investing in a MyRetirement product
- how the MyRetirement product will be treated for social security purposes, specifically the impact on the income and asset test for the age pension
- how the MyRetirement product will impact on the income and assets test for aged care home costs
- must involve comparisons of the fund's MyRetirement product and other retirement income products
- where the member can go to compare the fund's MyRetirement product with other MyRetirement products – eg MoneySmart
- factors the member should consider when selecting a retirement income product such as their retirement goals and needs, and their total circumstances including their assets outside of superannuation
- recommend the member seek financial advice (not intra-fund) prior to investing in a retirement product.

As previously stated, members should be encouraged to consider their retirement goals and needs, and their financial circumstances both inside and outside super, when selecting an appropriate retirement income product. Trustees 'offering' their own MyRetirement product to individual members have an inherent conflict of interest in this regard. A trustee's fiduciary obligation applies to its members as a whole, including consideration about the sustainability and stability of the fund, which can conflict with what is in the best interest of an individual member.

If the Government proceeds with the MyRetirement proposal, prescribed preconditions should be disclosed:

- prior to the purchase of the product
- via other means - information including appropriate tools to facilitate comparability of products, including products that are not MyRetirement products, must be available to consumers from an independent source, such as MoneySmart or from a financial planner.

PDS requirements

If the Government proceeds with the MyRetirement proposal, the disclosure requirements must include a PDS that is:

- all inclusive – that is, one PDS covers all components of the product
- required to be provided the first time the trustee makes the member aware about the product, and available on website with CIPR information, as well as referring to it at the time of purchase/issuing of product.

Decisions about retirement products should be carefully considered. Therefore, members should be provided with the PDS and given time to consider their options and compare products prior to purchase. Hence the PDS must be provided prior to purchase.

This is also necessary to ensure a call centre type sales culture is not attached to a MyRetirement regime.

Comparability of products

Should the Government proceed with its proposed MyRetirement regime, all elements of such products should be comparable and include transparent fund reporting to APRA. This should include reporting on like for like investment performance, a breakdown of fees, incomes paid, number of members, capital invested in the product pool, for example.

Labelling

Products should not be labelled 'MyRetirement' products or a "product that meets the MyRetirement requirements".

A Government created MyRetirement regime would present members with false a sense of certainty and protection due to its perceived relationship and similarity to the MySuper regime. As such consumers may view such products as being safer and more within their control. It would also encourage passive 'set-and-forget' behaviour rather than active engagement in the retirement income system.

This creates a risk that members will invest their superannuation in products they falsely perceive as safer, but that do not necessarily enable them to achieve their retirement goals or meet their changing financial needs throughout retirement.

Portability

If the Government proceeds with the MyRetirement proposal, portability is vital as it affects product viability and sustainability:

- Members must be permitted to select a MyRetirement product from another fund. The regime must not imposes a default regime compelling members to stay with their current fund, and their current trustee's MyRetirement product (ie. members should not be restricted to the fund used for accumulation phase).

- Members must not be constrained by the current super default settings in the industrial awards. Members who are in default funds set in the industrial awards must be permitted to choose any retirement income product from any provider. That is, MyRetirement products should not be included in the industrial awards.

- Members must be permitted to change out of a MyRetirement product if they choose to.