FINANCIAL PLANNING
ASSOCIATION of AUSTRALIA

8 December 2021

Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Email: economics.sen@aph.gov.au

Dear Sir / Madam

Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 [Provisions]

The Financial Planning Association of Australia (FPA) welcomes the opportunity to provide input into the Senate Economics Legislation Committee's Inquiry into the Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 [Provisions].

Schedule 9 – Retirement Income Covenant

The FPA welcomes the inclusion of the Retirement Income Covenant provisions in Schedule 9 of the Bill to oblige registrable superannuation entities to formulate, review and give effect to a retirement income strategy for the benefit of beneficiaries of the fund. The FPA supports the intent of the Covenant and the potential enhancements it should provide users of the superannuation system in the lead up to and during retirement.

The FPA acknowledges the changes made to the Explanatory Memorandum of the Bill to strengthen and make it clearer that superannuation trustees must comply with the financial advice laws in the Corporations Act 2001[1]. It is essential that the Covenant includes a clear and ongoing legal obligation that the laws that govern the provision of financial advice must be adhered to by the trustee regarding the formulation, review and giving effect to the retirement income strategy, including in relation to the assistance the trustee will provide beneficiaries to achieve and balance the objectives of the strategy, as required under s52AA(2) of the Bill.

Superannuation trustees have access to personal information about beneficiaries, which creates a very fine line between the provision of factual information and the provision of general or personal advice as the beneficiary may assume the trustee has considered the individual's circumstances when 'assisting' them with their retirement income needs.

As detailed in our submissions to Treasury on the draft legislation for the Retirement Income Covenant, the FPA recommends the need for trustees to consider the impact of 'frailty risk' on the stability and sustainability of retirement income and when identifying how they will assist members to have flexible access to their savings in retirement. The consideration of 'frailty risk' should occur during the formulation, review and giving effect to the trustee's retirement income strategy.

'Frailty risk' refers to the impact on retirement income of the increasing levels of support retirees have historically needed over the last 10-12 years of their life, with many experiencing high levels of care dependency in the last 4-5 years[2]. This represents on average 17-25% of retirement years[3].

[1] Paragraph 17.60 – 17.68 of the Explanatory Memorandum to the Bill
[2] Australian Institute of Health and Welfare; and Aged Care Steps
[3] Based on ABS statistics on life expectancy

With aged care costs ranging from $5,200 to $260,000 a year[4], and the average balance of superannuation accounts of men and women aged 75 years and over being $366,200 and $270,300[5] respectively, this could represent as much as 71% (men) or more than 96% (women) of a retiree's superannuation savings as they enter the years of their retirement during which they will require the most care.

The FPA acknowledges the inclusion in s52AA(2)(b)(iv) of the Bill that the strategy must address how the trustee will assist beneficiaries to manage expected risks to the sustainability and stability of retirement income over the period of retirement including "*any other risks to the sustainability and stability of the retirement income*".

We note the following paragraphs of the Explanatory Memorandum to the Bill states:

> *17.55 The risks that are listed in the legislation are not exhaustive of the types of risk that could be considered and managed. Other potential risks could include risks associated with beneficiaries' disengagement with, or lack of access to, the fund. There is also the risk to the appropriate management of the sustainability and stability of expected retirement income posed by issues associated with beneficiaries' potential cognitive decline over time.*
>
> *17.57 Trustees are expected to consider situations where it is anticipated that beneficiaries will need access to funds over retirement. Trustees may wish to consider the life stage of beneficiaries and likely consumption needs. It would be prudent for a trustee to consider financial and in-kind support offered by state/territory and federal governments to offset health and aged care costs when determining the needs of beneficiaries to have flexible access to expected funds.*

The FPA welcomes the acknowledgement of the potential impact of cognitive decline, health, and aged care needs on retirement income however, these aged care costs will continue to increase for the Government with the implementation of the Royal Commission recommendations to improve the quality of aged care services in Australia. The increase in demand from the projected ageing population will put further pressure on the level of Government support available to each individual.

The FPA understands the Aged Care Royal Commission did not agree on how to meet the rising aged care costs and the Government did not accept all the recommendations in the Royal Commission Report in relation to aged care funding arrangements. Without a rise in Government assistance there will need to be more of a user-pays system for funding aged care.

Individuals will need to factor in health and aged care costs rather than just rely on Government funding. This in turn will reduce the pressure on Government funding of aged care services. Costs to be considered in the 'frailty years' may include the following:

- Contributions for home packages received which are based on assessable income
- Contribution towards Commonwealth Home Support Program (CHSP) services
- Funding private care to supplement home care packages received
- Funding private care while waiting for a home care package to be allocated
- Capital expenditure to modify the home to cater for the client if they are less mobile
- Funding a move to residential aged care services including upfront (Refundable

[4] Aged Care Steps

[5] Australian Bureau of Statistics Household Income and Wealth, Australia 2017-2018.

Accommodation Deposits – RADs) and ongoing costs

- Funding the transactional and other costs of moving to another living arrangement such as retirement villages.

The level of income that an average person will need in retirement will vary based on their health and support needs and is likely to increase in the last phases of their life, rather than decline as some assumptions indicate. Aged Care Steps and the feedback received from FPA members about their clients' experience, strongly suggests the income needs in retirement are likely to be U-shaped rather than a straight line.

The Bill requires trustees to make assumptions about life expectancy. However, it does not require trustees to make assumptions about aged care and health needs, or specifically consider 'frailty risk', rather it relies on "*financial and in-kind support offered by state/territory and federal governments"* to cover such costs for retirees which is unrealistic and unsustainable.

The FPA recommends the Retirement Income Covenant require trustees to:

- **make assumptions about the health and aged care needs of beneficiaries (particularly in their 'frailty years') when formulating, reviewing and giving effect to the retirement income strategy for the fund.**

- **provide assistance to beneficiaries in relation to understanding aged care needs and costs, such as factual information about aged care services and a tool to allow the calculation of funding options.**

Schedule 8 – Time critical financial advice

The FPA acknowledges and welcomes the inclusion in the Bill of the clarification that a Statement of Advice (SOA) must be provided to a client within five business days (rather than five calendar days) when providing time critical advice.

We would welcome the opportunity to discuss with the Committee any matters raised in our submission. If you have any questions, please contact me on 02 9220 4500.

Yours sincerely

Ben Marshan CFP® LRS®
Head of Policy, Strategy and Innovation
Financial Planning Association of Australia[6]

[6] The Financial Planning Association (FPA) is a professional body with more than 12,000 individual members and affiliates of whom around 8,500are practising financial planners and 5,207 are CFP professionals. Since 1992, 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 superannuation for our members – years ahead of the Future of Financial Advice reforms.
- The FPA was the first financial planning professional body in the world to have a full suite of professional regulations incorporating a ethical principles, practice standards and professional conduct rules that underpin professional financial planning practices.
- We have an independent Conduct Review Commission, chaired by Dale Boucher, dealing with investigations and complaints against our members for breaches of our professional rules.
- We built a curriculum with 18 Australian Universities for degrees in financial planning through the Financial Planning Education Council (FPEC) which we established in 2011. Since 1 July 2013 all new members of the FPA have been required to hold, or be working towards, as a minimum, an approved undergraduate degree.
- When the Financial Adviser Standards and Ethics Authority (FASEA) was established, the FPEC 'gifted' this financial planning curriculum and accreditation framework to FASEA to assist the Standards Body with its work.
- We are recognised as a professional body by the Tax Practitioners Board.