FINANCIAL ADVICE ASSOCIATION AUSTRALIA

5 September 2023

RetirementReportingFramework@treasury.gov.au

Dear Treasury,

Retirement Reporting Framework

The Financial Advice Association of Australia[1] (FAAA) welcomes the opportunity to provide feedback to Treasury's consultation on the proposed Retirement Reporting Framework.

The FAAA recognises the fundamental role of superannuation in the retirement income system in supporting Australians during this important stage of life.

We note the intent of the proposed Framework is to *"build upon the Retirement Income Covenant and ensure greater transparency for member outcomes across the retirement phase of superannuation"*. In principle, the FAAA supports the intent of the Framework. However, we note the complementary nature and the likely influence the draft 'guidance on best practice principles for superannuation retirement income solutions' (as stated in the consultation papers) would have on the implementation of the Framework, and suggest Treasury consider our feedback on both these consultations in unison.

We would welcome the opportunity to discuss with Treasury the matters raised in our submission. If you have any questions, please do not hesitate to contact me (phil.anderson@faaa.au) or our Senior Manager, Policy, Heather McEvoy (heather.mcevoy@faaa.au) on (02) 9220 4500.

Yours sincerely

Phil Anderson
General Manager Policy, Advocacy & Standards
Financial Advice Association Australia (FAAA)

[1] The Financial Advice Association of Australia (FAAA) is the largest association representing the financial advice profession in Australia, with over 10,000 members. FAAA advocates for the interests of financial advisers and their clients across the country.

Retirement reporting framework

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Financial advice

We note the consultation paper reference to the intended interaction between the draft Framework and the Principles, with the government's proposal to permit trustees to provide simple retirement advice, that is also personal financial advice, under the Delivering Better Financial Outcomes (DBFO) reforms.

The FAAA appreciates that not all Australians have access to financial advice. We support the intent of the Retirement Income Covenant (RIC) to ensure there is appropriate information available for non-advised Australians and superannuation members who are disengaged from the superannuation system, at the critical life stage of approaching or in retirement, to help them make more informed choices.

The Framework and Principles refer to the use of 'information and guidance' provided by a trustee to help members make informed choices about retirement income solutions. The RIC also refers to trustees providing 'offers' and 'nudges' to members. In addition, the Framework consultation paper refers to trustees' engagement with members measured through the provision of 'prompts' and 'nudges'. These engagement mechanisms appear to be used in many indicators and metrics in the proposed Framework as an indication of fund performance in meeting member needs and delivering good member outcomes. We are concerned by the use of 'nudges' and 'prompts' for these measures.

As detailed in our submission of 2 May 2025 to Treasury, in response to the consultation on the DBFO Tranche 2A reforms, we are concerned about precisely how the super 'nudges' regime would operate in practice and how this may impact existing adviser client relationships. We expressed concerns about how these nudges could involve recommendations based upon limited knowledge of a clients' personal circumstances or rather that of a cohort that they may belong to and how this may create issues with respect to consumer protections. We also expressed particular concerns about the utilisation of nudges for the purposes of providing retirement advice, where the decision is so important and often cannot easily be reversed.

We have taken nudges and prompts to mean the same things and will treat them as one in this submission. It is our view that the 'nudge' should always be based upon the member's personal circumstances and not be a blunt product sales exercise. The focus of the 'nudge' should be the member's personal circumstance, more than it is with respect to any financial product. 'Nudges' for a particular reason should be a once off, and not utilised as a 'series of nudges' that is designed to encourage a member to take any particular action. 'Nudges' should also not be used as a substitute for genuine personal financial advice.

However, it is clear that 'nudges' are intended to be a member engagement activity that is proactively undertaken by the trustee, rather than being member driven or in response to a member enquiry.

The framing of this member engagement communication is particularly important, and it should be subject to very careful warnings. We would strongly encourage that messages sent to members as 'nudges' should always include a recommendation that the member seek personal financial advice.

Australians must be able to clearly and simply understand when, and to what extent, their specific personal circumstances have actually been considered in relation to information, guidance, offers, nudges, prompts and financial advice that is provided to them.

The FAAA makes the following recommendations in regard to the Framework as a whole, including the separate indicators and metrics proposed in the consultation paper.

- ‘Nudges’ or ‘prompts’ be clearly defined with clear consumer protections around their use. It should be made clear when a message sent from trustees to members is done so as a ‘nudge’; and should include clear warnings as to the intent of the engagement - that it is not genuine financial advice, and that the member should seek financial advice.

- ‘Nudges’ should not be used as a measure of member engagement. Member engagement must be measured based on the quality of the engagement, not the volume or number of engagements a fund has with a member.

- The policy settings must make it clear as to the boundary between ‘information and guidance’ provided to a member by a trustee, ‘nudges’ trustees give members, and the provision of financial advice, including general advice and personal advice.

- The final Framework and Principles use accurate terminology, consistently applied.

    - For example, the purpose of indicator 3 refers to “*personalised information on issues relevant to their interest in the trustee*”. Referring to ‘personalised information’ confuses the boundaries between personal advice and trustee ‘information’. The term ‘personalised information’ should not be used. This term is too closely related to ‘personal advice’, which is dependent upon reliance on knowledge of the client’s personal circumstances. A reference to ‘interest in the trustee’ is also likely to be confusing.

- Any ‘information and guidance’ provided to a member by a trustee must include:

    - A clear warning that it is information only and not financial advice.

    - A clear recommendation to the member that they seek personal financial advice to assist them in making a decision about the retirement income options that are appropriate for their circumstances. This should include a clear explanation about the difference between intra-fund advice on their interest in the fund, more comprehensive advice that considers their broader personal circumstances provided by a registered relevant provider (financial adviser) and factual information. In the context of the proposed introduction of a ‘new class of adviser’ (NCA) under the DBFO reforms, this distinction should also be disclosed. This disclosure should include a statement on the minimum professional standards that apply to a relevant provider versus a NCA. The provision of this information is in line with the stated purpose of the Framework to ‘increase transparency’ across the retirement system.

These recommendations are in line with the Framework’s principle that ‘*Indicators and metrics should have consistent interpretation across trustees and leverage APRA definitions where appropriate’*.

We have provided feedback on the proposed Framework in the relevant sections below, focusing on specific advice-related proposals.

Member-focused policy settings

The Framework consultation paper suggests that data collected on the proposed indicators and metrics will be published annually from 2028; and that *“the Framework will be an important tool to help drive engagement with the retirement phase, similar to the Australian Taxation Office’s YourSuper comparison* *tool, ASIC's Moneysmart website and APRA's Comprehensive Product Performance Package for the accumulation phase"*.

This appears contradictory to the purpose of the Framework, as outlined in the consultation paper, that it is to measure member outcomes and that the publishing of data is not intended to create a fund performance tool for choosing retirement income solutions[2]. Any public data of this nature that proposes to measure services funds offer to members, will serve as a consumer comparison tool, particularly when published on consumer-focused government websites, with funds likely using it as a marketing opportunity to attract members.

We note the Framework consultation paper states: "*Consistent with the Covenant's three objectives, it should not be expected that every trustee offers every offering measured in the indicators, nor should the Framework incentivise overservicing by the industry*". We support this premise and suggest this regulatory expectation should be made clear with the publication of data to facilitate consumer understanding and comparability (if that is the intended outcome of the publication) and reinforce the intent of the Framework for trustees.

Care should be taken to ensure that measures of indicators are not used as performance targets. As stated throughout the Framework consultation paper, *"ultimately it is member choice that determines their outcomes in retirement"*.

We are particularly concerned about this issue in the context of the pending DBFO reforms.

The FAAA recommends care should be taken to ensure the policy settings for the Framework (and the Principles) do not promote a sales-based culture within the superannuation system. The members' best interest and improving member outcomes should drive the policy settings, not seeking competitive advantage on the basis of the reporting under the Framework.

Cohorts

Members who are acting under comprehensive financial advice from a relevant provider of their own choosing - i.e. not from a super fund advice offering – would primarily engage with their superannuation account based on the advice they agreed to in the Statement of Advice from their adviser. As proposed, the Framework will capture 'members who receive comprehensive advice from a financial adviser of their choosing' under nearly all indicators and metrics.

This cohort of members will impact the accuracy of the data collected for measuring trustee performance and result in the risk of misinformation being published for consumer consumption, as such members would be engaged with retirement income solutions as recommended by their adviser, not because of trustee offerings, prompts or nudges. Having a dedicated cohort for this group of members would enable trustees to exclude this cohort from data to elicit more accurate results when measuring indicators of member engagement and outcomes.

We note the potential challenges associated with identifying members of this cohort. For example, advice fees paid from super accounts data would only capture members with an ongoing fee arrangement where

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fees are deducted from the super account and hence may be not identify all 'members who receive comprehensive advice from a financial adviser of their choosing, including those paying fees from a bank account. To ensure the identification of a member from this cohort is accurate, this may need to be captured via a specific question in the member data. Alternatively approaches could include:

- a systems prompt for members approaching/in retirement to identify whether they have 'received financial advice from an adviser of their choosing', which would enable identification of this cohort.

- relying on other evidence that the member has a financial adviser, such as a third party authority or if the adviser is registered as the 'servicing adviser'.

Importantly, identifying this cohort under the Framework would also facilitate the implementation of the proposals in the best practice principles consultation paper. For example, better targeting of Retirement Income Covenant obligations, particularly to ensure appropriate messaging about "*information on the trustee-designed retirement income solutions and products available through the fund*".

The FAAA recommends a mandated requirement for the inclusion of a cohort and the identification of 'members who receive comprehensive financial advice from a financial adviser of their choosing' be required for all trustees covered by the Framework.

We note that the stated purpose of the Framework is to measure and ensure improved member outcomes in retirement. To achieve this at a fund level would suggest that unique cohorts based on the fund's membership would deliver the most meaningful data.

However, if the data is to be publicly available and published on consumer websites, as indicated in the consultation paper, consideration should be given as to whether fund level cohorts would allow consumers to appropriately and accurately compare fund data. Data sets should be easy for consumers to understand and appropriately compare with other funds when published.

We question the value in measuring trustee cohorting practices and how this would improve member outcomes.

Detailed indicators for measuring fund offerings

Indicator 1: Provides options for drawdowns other than minimum drawdown rates (MDR) for account-based pensions (ABP)

As discussed above, we have concerns about trustees proactively prompting members to consider a particular retirement based call to action, such as the take up of alternative drawdown rates. We suggest care should be taken in prompting members to change their drawdown rate based solely on the amount of money they would receive as a result of the change. As stated in the consultation paper, it may not be in the members' best interest to move to an alternative drawdown pathway.

Members may not choose to move to an alternative drawdown rate for a number of factors such as assets held in other funds or outside superannuation, the age of the member, their account starting balance, eligibility for the Age Pension, or the number of years they have spent in retirement, all of which will impact the data in measuring whether the fund is meeting the needs of its members. There may be many reasons why a member does not choose to take up an alternative drawdown rate.

These are key considerations that would have been taken into account by a financial adviser in the advice provided to a client in retirement in recommending a drawdown rate.

If a member has previously received financial advice, moving to an alternative drawdown rate on the basis of a prompt by the trustee, may be in conflict with the recommendations of their financial adviser and may not be in that member's best interests. Consideration should be given to the potential impact on members who receive ongoing financial advice.

The ability to contextualise this data would offer clearer insights as to whether the services offered are delivering better member outcomes. The FAAA agrees that there is merit in collecting further demographic data to contextualise this indicator. This will help ensure its accuracy and usefulness in assessing whether the trustee's offering considers the demographics of its members.

We are assuming that all funds should provide flexibility as to drawdown rates, even if they do not activity encourage consideration of the alternatives. In tracking this data, it would be appropriate to consider the actual drawdown rates for people in retirement phase relative to the minimum drawdown rates for their age. We imagine that this data may vary on the basis of account balance as well. Beyond a simple Yes/No answer, the reported data may need to consider a range of a additional factors such as age and account balance.

Subject to these concerns and the matters discussed above about factors impacting the reliability of data, we are happy to support this.

2. Indicator: Has a longevity protection product or offers through a third-party provider

We support the intent of this indicator however believe that it needs to be more than just Yes/No. Consideration should be given to advised clients who may have an annuity product they may have obtained outside of super or from another fund, and the impact this would have on the accuracy of the data.

We would also highlight the importance of financial advice in the decision to acquire a longevity protection product, particularly in the context of the different options and implications of these products, including with respect to treatment under the asset test and eligibility for the aged pension.

Indicator 3: Offering and take-up of intra-fund advice to members

Yes, the FAAA supports the intent of this indicator. However, as addressed in indicator 4, we would like to see it more comprehensively capture the uptake of advice, whether provided through a fund offering or otherwise by an adviser of the member's choosing.

Intra-fund advice is personal advice and it is essential that this is understood and appropriately described in the Framework, Principles, and trustee engagement with members. The only substantial difference is the way that the advice is paid for (i.e. collectively charged).

We recommend that trustee public reporting on the uptake of intra-fund advice should not be limited to retirement advice but should measure the uptake of all intra-fund advice offerings. The cost of collectively charged advice offerings should also be measured and published alongside this data on intra-fund advice.

4. Indicator: Offers and take up or referrals of members for comprehensive advice

The Framework consultation papers states: *"Trustees may choose to offer comprehensive advice to their members, either through in-house arrangements or a third-party provider. Alternatively, trustees may suggest that members seek their own financial adviser independently of the trustee. These choices are for the trustee to make, either in regard to the needs of their members, their legal obligations and business operations."*

We support the suggestion that it is a choice for the trustee to determine their financial advice offering to members. We are concerned about the implied suggestion that this indicator would only focus on take up of the trustee's in-house or third-party comprehensive advice offering. This seemingly excludes members who choose to seek advice from an adviser of their choosing. In our view all forms of comprehensive advice should be captured in this indicator.

To ensure the accuracy of the data and offer insights into the effectiveness of the financial advice regime in supporting Australians, we recommend that financial advice that is provided independently of the fund also be measured by the trustee under this indicator. For example, the indicators and measures on the offering and uptake of comprehensive financial advice should include:

- 'simple' retirement advice provided by the trustees as proposed under the DBFO tranche 2 reforms.
- comprehensive advice provided by the trustee, or by a third party the member is referred to by the trustee
- comprehensive advice provided by a financial adviser of the member's choosing.

The consultation Framework states: *"This would provide more meaningful information on the extent to which a trustee's membership base is seeking and receiving advice on their broader circumstances and retirement planning. Where a trustee does not offer comprehensive advice, this would be reported as 'nil.*" We are concerned that a nil report would not accurately reflect the uptake of different advice offerings available to members (both inside and outside the fund).

5. Indicator: Utilisation of retirement information and tools

It is suggested in the consultation paper that the purpose of indicator 5 is to *"understand the extent to which trustees proactively engage with members approaching or at retirement to prompt them toward comprehensive advice".* We are confused by the reference to 'prompt them towards comprehensive advice' as the indicator focusses on the utilisation of retirement information and tools. This focus on utilisation of information and tools might also provide insights into the effectiveness of the trustee's education resources. This purpose should be made clear in the indicator.

The consultation paper states: "*There may be further benefits to understanding the utilisation of tools and guidance that are only available to a trustees' membership base. This indicator may be more insightful to* *understand the use of tools, such as retirement income calculators, which are only accessible to members that have accessed advice*".

We support the intent to measure the uptake of information and tools. However, it is a concern if, as suggested by this statement, some tools can only be accessed by members if they have received financial advice through the trustee advice offering, particularly given such advice is often only available under collective charging arrangements. This appears counter to the objective of superannuation and the RIC. We question why these tools would only be available to those members who have accessed advice. Such tools should be available to all members of the fund; and disclosure information, such as a PDS, should be made publicly available by the trustee.

Questions

<u>Q5. Should these indicators evolve over time to reflect changing industry practice and what could be a suitable point to reassess these metrics?</u>

Yes. The metrics should be reassessed as part of an implementation review of the changes and on an ongoing basis. It is common practice for regime changes to undergo an implementation review of this nature to assess the impact of the reforms and reassess that they remain fit-for-purpose. A review cycle of every three years may provide a sensible balance between the timeframe required to assess the impact of the data and the cost and complexity of changing measures.

We imagine that some of the data may prompt further questions that leads to a modification of the data that is collected or the inclusion of addition information.

<u>Q6. Should there be an indicator measuring the level of proactive engagement funds have with their members on each of these indicators? Q7. How could the Framework measure the success of proactive engagement?</u>

It is assumed by these questions in the context of the Framework, that this refers to proactive engagement by the trustee, not the member.

Based on the consultation paper and the pending DBFO reforms, we are concerned that 'proactive engagement' will be based on the 'nudges', and 'guidance and information' provided by trustees. Measuring the level of 'proactive engagement' should be considered with care so as not to promote a sales type approach or excessive use of nudges.

We are also concerned about how the publication of such measures could be misunderstood as a sign of a good performing fund with positive outcomes for members, which may not be the case. It could even be an indication of overservicing members with 'nudges' resulting in an uptake by members of retirement offerings that may not be good for them.

We suggest that this depends on the type of engagement the trustee has with its members and how 'success of proactive engagement' is measured. The measurement of success in this area would likely be highly subjective.

A measure of proactive engagement should not be based on the volume or amount of 'nudges', but the quality of the information provided in helping members make an informed decision, and the response it generates from the member.

Members outcomes metrics

Benchmarking

The Framework proposes the use of benchmarks for some metrics. While benchmarking can act as a minimum standard and as a means of standardising behaviour, publishing data that measures fund performance against any benchmark needs to be done with care.

Benchmarks can often substitute as targets. We do not want to see measures that motivate the wrong behaviours.

As the data is proposed to be published, measures should be simple and provide helpful data to aid consumer awareness and potentially decision making.

Metric 1: Take-up of retirement products

Plans for retirement are an individual choice. We support this metric, however note that it will be impacted by a range of factors, including whether the transition to retirement occurred within this fund, or whether the money was invested straight into the pension phase.

There are other factors that will distort the data. For some people who are over 65,they may chose to continue to work and retain an active accumulation account to receive employer contributions. They may also hold a pension phase account within this fund or at another fund. There may have been members who took action in respond to advice they receive and transferred their funds out when the reached the age of 65.

Metric 2: Account-based pension drawdown rates

Please refer to our discussion above.

Metric 3: Balance Utilisation

While we understand the intent of this metric, we agree with the complexities identified in the consultation paper associated with trustees preparing and taking meaning from this data and issues with the long-term nature of the metric reducing the relevance of such data.

This measure assumes that retirement is a once off permanent exercise. In reality some people transition into retirement, continue to work part time and continue to earn super. This might result in additional flows into their pension account, through the establishment of a new Account Based Pension or through a pension refresh. The inclusion or exclusion of pension refreshes would be an important consideration.

Should this metric proceed, an additional cohort could be based on years in retirement.

Metric 4: Take-up of longevity protection products and ABPs

Our concern with this metric is its reliability and meaningfulness. In terms of reliability, it may be that the member holds an external longevity product, that is not taken into consideration. This could be a product that is promoted by the trustee or a product they chose independently.

There is an assumption that a higher rate of longevity product uptake is a good thing, however this may not be the case. Members with much higher balances my have less reason to seek a longevity product. Neither does this data provide insight into whether the member has actively considered a longevity risk product. The member may have actively considered a longevity product, either on their own or through financial advice, however for a range of reasons chosen to take an Account Based Pension instead.