28 January 2022

Ms Nicole Chew
Senior Lawyer, Superannuation
Australian Securities and Investments Commission
GPO Box 9827
BRISBANE QLD 4001

Via email: SuperForecastsConsultation@asic.gov.au

Dear Ms Chew

Consultation Paper 351: Superannuation forecasts: Update to relief and guidance

CPA Australia and Chartered Accountants Australia and New Zealand (CA ANZ) welcome the opportunity to provide comments on Consultation Paper 351 (the "Consultation Paper", "CP 351"): *Superannuation forecasts: Update to relief and guidance* consultation, presently underway at ASIC.

CPA Australia and CA ANZ represent almost 300,000 professional accountants globally. Our members work in diverse roles across public practice, commerce, industry, government and academia throughout Australia and internationally.

CPA Australia and CA ANZ generally support the proposals contained in the Consultation Paper. However, we have raised concerns in a number of places that the anticipated convergence between retirement estimates and superannuation calculators may be not fully realised. We consider that retirement estimates are best considered as equivalent to default settings for superannuation calculators – and believe that this position allows comparability for calculators developed by both trustees and non-trustees alike.

Further discussion of our recommendations is included in the attachment to this letter.

For further information in relation to our submission, please contact Richard Webb, Policy Advisor Financial Planning and Superannuation at CPA Australia at richard.webb@cpaaustralia.com.au or Tony Negline, Superannuation Leader at Chartered Accountants ANZ at Tony.Negline@charteredaccountantsanz.com .

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Yours sincerely

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Attachment

Response to the Consultation Paper

Executive summary

Retirement estimates and superannuation calculators are enormously important to working Australians. These tools can provide a quick guide at a given point in time as to whether is likely to have sufficient retirement income.

However, we recognise that these tools are also capable of being utilised for purposes for which they are not designed. For this reason, CPA Australia and CA ANZ make this submission broadly in support of ASIC's Consultation Paper, and most of the proposals contained in it.

We consider that retirement estimates and superannuation calculators are likely to form the backbone to a future, functionality-based, approach by trustees to interacting with superannuation members. Yet we note that there continues to be a conflict between traditional views of retirement estimates and superannuation calculators, and the idea of convergence.

This conflict is highlighted in paragraph 56 of CP 351, where it states that:

> *We think that an interactive retirement estimate may be beneficial for superannuation fund members. Allowing them to change inputs and assumptions may help members to explore the impact of different inputs without needing to access a superannuation calculator and re-enter information about their age, current balance and other factors.*

We disagree that interactive retirement estimates and superannuation calculators should be separate. Indeed, we consider that retirement estimates (and members' personal information) should form default settings for superannuation calculators, and this provides an excellent basis in our view of how this consultation should envisage convergence of these tools.

Although CP 351 only considers retirement estimates and superannuation calculators, it is commendable that these are now being considered as adjoining jigsaw puzzle pieces, rather than unrelated tools designed to serve different aims. We consider that future approaches will see member benefit statements, advice and transactional functionality brought in to complete the picture.

We also consider that, although only fund trustees can provide retirement estimates, the same methodology should be used for default settings of superannuation calculators provided by entities who are not trustees, as well as calculators provided by trustees outside of enhanced retirement estimate functionality, such as those provided to the general public on fund websites.

While we have generally supported the proposals contained in CP 351, we make a variety of recommendations, including:

- Default information for superannuation calculators should resemble parameters for retirement estimates as closely as possible

- The proposed exemption to present values in retirement estimates for members retiring in less than two years is inappropriate and should not proceed
- Relief should extend to trustees willing to provide retirement estimates to members who have not made or received a contribution to their account during the year; have an account balance of less than $6,000 at the date of the estimate; or have a defined benefit interest in the fund
- The removal of the no-action position in RG 229 should not proceed unless there is assurance that trustees who follow the methodology and assumptions proposed in CP 351 – or have sought their own specific exemption from ASIC – will not be in a position to be considered by ASIC to have misled a member
- Where investment options are replicated, investment and administration fees and costs used in superannuation calculators should be considered reasonable if the current disclosed fee rates are used, unless the trustee is reasonably aware of changes to fees and/or costs
- Equivalent immediate annuities at market rates could be used as a benchmark against which trustees' retirement estimates could be measured
- Indexation of the present values of Age Pension payments should be to wage inflation and not price inflation, and
- Indexation prescribed for use in retirement estimates and superannuation calculators should be subject to change as appropriate

We have also suggested that warnings be used in the instance that a parameter such as retirement age is changed in a way that adversely affects another parameter, such as where actuarial life expectancy changes to be in excess of the default 25-year drawdown period. Additionally, we have expressed concern at how Proposal C9 – which would remove relief in the instance that a superannuation calculator appeared to prefer certain retirement products or made unreasonable assumptions about Age Pension eligibility – would work in practice. Finally, we have indicated some concerns around how trustees are able to exclude employer contributions which, in their opinion, have not been made compulsorily.

In this submission, we have responded mainly to the proposals contained in the paper. Direct responses to the questions contained in the discussion paper will be by exception only.

Responses to proposals

Proposal B1

We propose to continue to provide relief from the licensing, conduct and disclosure obligations relating to personal advice for providers of superannuation forecasts by making a new single legislative instrument that covers both superannuation calculators and retirement estimates. As is currently the case, our relief for superannuation calculators will remain available to all providers, and the relief for retirement estimates will be available only to trustees.

CPA Australia and CA ANZ support this proposal. We agree that relief should be provided to ensure that these vital services can be provided to superannuation fund members in a way that provides a degree of uniformity and simplicity.

Retirement estimates by their very nature are only able to be provided by trustees, meaning that it would be difficult to extend the relief for retirement estimates to other providers. However, we note that even though the relief for retirement estimates only applies to trustees, we believe that sensible wording of the legislative instrument will see starting assumptions for superannuation calculators set in such a way that, given an equivalent level of information, superannuation calculators should replicate a retirement estimate.

Proposal B2

We propose to remove the relief for superannuation calculators in ASIC Instrument 2016/207 and include it in the new legislative instrument for superannuation forecasts.

CPA Australia and CA ANZ support this proposal.

Proposal B3

Instead of mandating specific standardised text, as is currently required in [CO 11/1227] for retirement estimates, we propose that the disclosure requirements for both superannuation calculators and retirement estimates be principles based and require providers to clearly and prominently state:

(a) the purpose and limitations of the calculator or estimate;
(b) the impact of any significant limitations of the calculator or estimate;
(c) the assumptions;
(d) for an amount payable or accruing at a future time of two or more years, the present value of the calculation or estimate;

> *(e) that the calculator or estimate is not intended to be relied on for the purposes of making a decision in the absence of advice; and*
> *(f) why the provider considers the default assumptions to be reasonable for the purposes of working out the calculation or estimate.*

CPA Australia and CA ANZ generally support this proposal. However, we do not understand why part (d) appears to remove a requirement for present values to be stated if the time to retirement is less than two years. The point of using present values is to ensure that members are able to consider retirement outcomes in terms of present expenditure. We are concerned that the removal of this requirement could be used to inflate forecast retirement estimates and mislead members. Consequently, we recommend that present values be used for members retiring within the next two years.

Proposal B4

> *We propose to:*
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> *(a) in our relief, retain a requirement that superannuation calculators must not be used to advertise or promote a specific financial product, and introduce a requirement that retirement estimates must not advertise or promote a specific product; and*
> *(b) provide guidance on how assumptions relating to a specific financial product can be used without breaching the requirement not to advertise or promote a specific financial product: see draft RG 000.93–RG 000.96.*

CPA Australia and CA ANZ support this proposal.

Proposal B5

> *We propose to retain the requirement that retirement estimates may only be given to members aged under 67 who have been a member of the fund for the year ending on the date of the estimate. We propose to additionally require in the relief instrument that a retirement estimate must not be given to a member who:*
>
> *(a) is in the retirement phase at the date of the estimate;*
> *(b) has not made or received a contribution to their account during the year ending on the date of the estimate;*
> *(c) has an account balance of less than $6,000 at the date of the estimate; or*
> *(d) has a defined benefit interest in the fund.*

CPA Australia and CA ANZ support part (a) of this proposal, as we recognise that the purpose of retirement estimates is to assist Australians as they save towards retirement. However, we have concerns about both this proposal generally, as well as parts (b), (c) and (d) of the proposal.

Part (b) removes relief for retirement estimates provided to fund members who have not had contributions made during the year. Part (c) removes relief for retirement estimates provided to members with balances of $6,000 or less. We do not believe the premise of paragraph 48 of CP 351, which suggests that an “unpredictable” pattern of future contributions (that is, zero) makes for unsuitable retirement estimates, is sound.

As we explained earlier in this submission, paragraph 56 best explains why there would be value for these members in receiving retirement estimates if they are permitted to change input values. At the very least, we would expect that for members who may be only interacting with the superannuation system early on in their working lives, or for those who may be spending time out of work, the reduced expectations created by lowered retirement estimates may be the stimulus needed to make additional retirement contributions.

Part (d) removes the relief for trustees in the provision of retirement estimates to members of defined benefit products. We believe that a blanket exemption is inappropriate, as this could be short-sighted. Whilst defined benefit superannuation products take on many forms, there are a large number of members of superannuation funds that would benefit from the provision of retirement estimates, even if such an estimate is unable to have parameters which can be modified in a calculator.

In addition, there are a number of funds which offer defined benefits to members in conjunction with defined contribution investment options. Even if a hypothetical member of such a fund was invested solely in the defined benefit product, we do not understand why such a member might not benefit from a retirement estimate, which could then be adjusted in a calculator to add additional contributions into the fund’s available defined contribution products.

CPA Australia and CA ANZ recommend that relief should be extended to trustees who wish to provide members, in situations (b), (c) and (d), with retirement estimates.

Proposal B6

We propose to allow trustees to deliver retirement estimates through member online portals, as well as through periodic statements. We will amend our guidance to clarify that retirement estimates can be provided to members more frequently than through periodic statements. We will also clarify in our guidance that a retirement estimate may be given in video or audio format provided the requirements of our relief are met (e.g. in relation to disclosure).

CPA Australia and CA ANZ support this proposal.

Proposal B7

We propose to explicitly allow for interactive retirement estimates in our relief and guidance. An interactive retirement estimate is a retirement estimate delivered through an electronic

facility or device that is worked out using data a trustee holds on a member, but where the member can also interact with the estimate by changing the assumptions.

CPA Australia and CA ANZ support this proposal.

Proposal B8

We propose that the single legislative instrument would expire after a set period of time.

CPA Australia and CA ANZ support this proposal.

Proposal B9

We propose a six-month transition period for the new requirements.

CPA Australia and CA ANZ support this proposal.

Proposal B10

We also plan to update ASIC's Moneysmart superannuation and retirement calculators during the transition period to align with the framework under the single legislative instrument.

CPA Australia and CA ANZ support this proposal.

Proposal B11

We propose to remove the no-action position for retirement estimates outlined in RG 229.

CPA Australia and CA ANZ do not support this proposal unless there is assurance that trustees who follow the methodology and assumptions proposed in CP 351 – or have sought their own specific exemption from ASIC – will not be considered to have misled a member.

Proposal C1

We propose to adopt a single framework for how economic and financial assumptions should be made for superannuation calculators and retirement estimates when relying on our

proposed relief. We will apply this framework through the new relief instrument. We will update our guidance on how ASIC intends our relief to apply.

CPA Australia and CA ANZ support this proposal.

Proposal C2

Under this framework, we propose to give trustees and other providers flexibility to set their own reasonable assumptions relating to investment earnings, fees and costs for superannuation products. These assumptions must be reasonable and certain disclosure requirements must be met: see draft RG 000.116–RG 000.128.

CPA Australia and CA ANZ support this proposal.

Proposal C3

We propose to prescribe some default assumptions relating to the retirement age, drawdown period and inflation rates to foster consistency and comparability across providers. These requirements would apply to both superannuation calculators and retirement estimates. Some additional requirements would also apply to retirement estimates in working out the annual income stream and the use of member data: see draft RG 000.129–RG 000.168.

CPA Australia and CA ANZ support this proposal.

Proposal C4

We propose to update our guidance to explain how trustees and other providers can set reasonable assumptions. We consider assumptions are likely to be reasonable if they are:

- *(a) backed by evidence or expert opinion;*
- *(b) not intentionally biased towards encouraging members to make a specific financial decision (e.g. by leading to a higher or lower forecast);*
- *(c) kept up to date with government policy settings and expected changes to future economic and financial conditions; and*
- *(d) internally consistent—that is, each assumption should be reasonable in the context of all the others: see draft RG 000.172–RG 000.185.*

We also expect that providers will revise their assumptions at least every three years, or more frequently if there are material changes to a relevant input or statutory assumption, and

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take steps to limit the risk of providing a misleading forecast because assumptions are out of date: see draft RG 000.186–RG 000.190.

CPA Australia and CA ANZ support this proposal.

Proposal C5

We propose to update our guidance to state that we expect trustees who provide both superannuation calculators and retirement estimates will set assumptions consistently across these forecasts. There should be reasonable grounds for using different assumptions (e.g. tailoring assumptions for a retirement estimate based on an individual member's investment strategy): see draft RG 000.182–RG 000.183.

CPA Australia and CA ANZ support this proposal.

Proposal C6

For superannuation calculators and retirement estimates, we propose to:

(a) give trustees (and other providers of superannuation calculators) the flexibility to set their own reasonable assumptions for investment earnings, fees and costs; and
(b) require that these assumptions be reasonable and that certain disclosure requirements are met.

This would allow trustees to set assumptions based on the product(s) an individual member is currently invested in (for retirement estimates) or on the types of product that the trustee offers (for superannuation calculators). We would update our guidance to explain how providers can set reasonable assumptions: see draft RG 000.116–RG 000.128.

CPA Australia and CA ANZ provide conditional support for this proposal. Superannuation calculators and retirement estimates are intended to be prospective. Where a fund's investment options are expressly replicated (or even just named) in the calculator, there should be very good reasons given as to why investment fees and costs are not charged at the same rate as how they are intended and disclosed to be charged. We would expect that using existing investment fees and costs is reasonable, except in the instance that trustees are reasonably aware of changes to fees and/or costs. That is, changes could not be made because of a mere expectation that a change will be made.

For calculators and retirement estimates which do not expressly replicate investment options in a superannuation product, we would support the approach which has been taken.

Proposal C7

For retirement estimates, we propose to require that trustees must set default assumptions about administration fees based on the administration fees paid by the member over the previous year. Trustees could make reasonable assumptions about how administration fees would change in future (e.g. due to inflation or any scheduled fee changes): see draft RG 000.124.

Although CPA Australia and CA ANZ generally support this proposal, we note the prospective nature of retirement estimates, as we similarly noted in our response to Proposal C6, and query whether a more appropriate default provision for administration fees and costs might be the same rate as how they are intended and disclosed to be charged, rather than the effective rate paid historically.

For example, if the normal administration fees payable by a fund member is $100 per annum, however a member has paid an effective administration fee of $95 for the most recent full year of membership, we are uncertain why the normal fee would not be required to be used, unless there are sound reasons the trustee is aware of that the lower fee will continue to apply.

Proposal C8

We propose to prescribe default assumptions for the retirement age (age 67) and drawdown period (25 years) that must be applied to superannuation calculators and retirement estimates: see draft RG 000.129–RG 000.132.

CPA Australia and CA ANZ support this proposal. However, we believe that member protections could be enhanced by the requirement of warnings where one of the prescribed parameters (retirement age or drawdown period) is changed.

For example, if a member wishes to retire at 62 instead of 65 and consequently changes this parameter in a superannuation calculator, a 25-year drawdown period is unlikely to extend to actuarial life expectancy. In this instance, the user may need to be alerted to the issue that they may also need to change their drawdown period to provide a more realistic outcome.

Proposal C9

For superannuation calculators, we do not propose setting prescriptive requirements about how providers should make assumptions about annual income streams or age pension benefits. However, these assumptions must be reasonable and a superannuation calculator must not be used to advertise or promote a specific financial product.

We are uncertain how this would work in practice. For a comprehensive superannuation calculator, we would expect that the user is able to select one or more retirement products. As these would necessarily provide differing retirement outcomes, it is difficult to see how a specific financial product (where a trustee offers more than one financial product in retirement) would not be favoured (or be perceived to be favoured) by any given scenario.

We consider that attention should be given to ensure that as much functionality is available in superannuation calculators as possible and consider that the risk of inadvertently promoting a specific financial product may hamper innovation.

We are concerned about the inclusion of potential age pension benefits. We agree that the age pension is an important, if not essential, benefit for many retirees. As the Retirement Income Review research shows this is likely to remain the case for many years. However, access to the age pension is very member circumstance specific and it is highly unlikely that a set of assumptions will ever be reasonable across a broad cross-section of super fund members.

Proposal C10

For retirement estimates, we propose requiring trustees to work out the annual income stream on the basis that the member would have a constant income from year to year, after inflation, for 25 years. This includes drawing down their lump sum on retirement to zero and taking into account the minimum drawdown rules: see draft RG 000.133–RG 000.140.

CPA Australia and CA ANZ generally support this proposal. However, we also consider that this option could be enhanced with the adoption of a benchmark ofan equivalent immediate annuity priced at market rates. This would have the effect of imposing accountability on trustees for performance of retirement income products.

We are aware that APRA would need to be consulted in relation to the policy setting. This approach is consistent with current policy, such as the performance test and APRA's heatmaps.

Proposal C11

For retirement estimates, we propose giving trustees the option to include age pension amounts in the annual income stream for a retirement estimate only if it is an interactive retirement estimate (i.e. delivered through an electronic facility or device that allows the member to make changes to the assumptions used to work out the retirement estimate). Trustees that do so would be required to apply prescribed default assumptions (e.g. about homeownership and partner status). Trustees would also need to work out annual income in a way that reflects how the member's age pension entitlement may change as their retirement balance is drawn down: see draft RG 000.141–RG 000.149.

CPA Australia and CA ANZ support this proposal. We presume, however, that Age Pension payments and related thresholds would be indexed as per current policy settings (that is, the higher of Consumer Price Index (CPI) or Male Weekly Average Time Earnings (MWATE) over the most recent period) whilst other age pension thresholds would be indexed by the CPI as per current policy settings.

Proposal C12

> *For retirement estimates, we propose to make some changes to how trustees must make assumptions about a member's superannuation contributions and insurance premiums. Specifically, we propose to:*
>
> *(a) continue to require that trustees use the member's contribution levels over the previous year (less insurance premiums, contribution taxes and any inward rollovers); and*
> *(b) require that trustees assume this amount will change in line with legislated future changes in the rate of Superannuation Guarantee, as well as wage inflation.*
>
> *Trustees could exclude any non-compulsory contributions a member has made in the previous year, where it is possible to do so and on the basis that the trustee discloses that these contributions have been excluded in working out the estimate: see draft RG 000.152–RG 000.156.*

CPA Australia and CA ANZ support this proposal. However, we are concerned about how contributions to superannuation funds can be labelled under superannuation. SuperStream presently allows employer contributions to be labelled a number of ways and still be made in a way which is compliant with employer responsibilities for the purposes of either the superannuation guarantee, or additional employer requirements, such as those required under awards or enterprise agreements.

In particular, there are enterprise agreements (such as those made in the higher education sector) where contribution types are given names such as "salary sacrifice" even though there may be a mandatory element to these specified in such agreements.

We are not certain that foolproof methods exist for trustees to be fully satisfied that they have successfully excluded non-compulsory employer contributions made on behalf of a member for a previous year, and are uncertain how this exclusion would work in practice.

Proposal C13

> *For retirement estimates, we propose to continue to require that insurance premiums paid by the member in the previous year be deducted from the amount of superannuation contributions. However, insurance premiums must not be deducted if the member does not have insurance at the time the retirement estimate is made: see draft RG 000.157–RG 000.160.*

CPA Australia and CA ANZ support this proposal.

Proposal C14

We propose to set standardised default inflation rates that must be used when showing the present value of a retirement estimate or the output of a superannuation calculator. These rates would reflect growth in wages (wage inflation) during the accumulation phase and growth in consumer prices (price inflation) during the retirement phase: see draft RG 000.163–RG 000.168.

CPA Australia and CA ANZ support this proposal. We have made additional comments in relation to standardised rates in our response to Proposal C15.

Proposal C15

In prescribing the specific rates that providers must apply, we propose to use Treasury estimates of long-term nominal wage growth (4.0% p.a.) for the accumulation phase as set out in the 2021 Intergenerational report*. We propose to use the mid-point of the Reserve Bank of Australia's inflation target (2.5% p.a.) as an estimate of long-term price inflation for the retirement phase.*

CPA Australia and CA ANZ support this proposal, subject to a change in the instances where Treasury recognises that this may be appropriate.

We note as an aside that the present practice used by a number of providers of superannuation calculators – including ASIC's MoneySmart – assumes price inflation is in place for indexation of the Age Pension. Given that the Age Pension is in fact indexed to the higher of CPI or MWATE, we suggest that this is an opportunity to fix this issue.