AUSTRALIAN INSTITUTE of SUPERANNUATION TRUSTEES

18 January 2019

Mr Mark Fitt
Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

Email: economics.sen@aph.gov.au

Dear Mr Fitt,

Re: Social Services and Other Legislation Amendment (Supporting Retirement Incomes) Bill 2018 [Provisions]

In brief: Schedule 1 to this Bill implements changes to Age Pension means testing to allow for new innovative income streams. AIST recommends that Schedule 1 be deferred due to the lack of a unified retirement income strategy at a policy level, the identification of major flaws in the Government's retirement income framework as identified by the Productivity Commission, and the outstanding gaps in consumer superannuation disclosure which are yet to be resolved.

AIST wishes to take this opportunity to thank the Committee for the opportunity to make this submission in relation to schedule 1 of the *Social Services and Other Legislation Amendment (Supporting Retirement Incomes) Bill 2018* ("the Bill"). In a general response in relation to schedules 2, 3 and 4, AIST supports the increase to the Work Bonus, as well as the expansion in the Pension Loans Scheme and we welcome the technical amendment which ensures that Age Pension recipients who qualify for an employment income nil rate period retain their Health Care Cards or Pensioner Concession Cards during that period. We do not plan to comment specifically on these measures and will only respond in detail to schedule 1.

The means test changes contained in schedule 1 of the Bill form part of a variety of measures aimed at broadening the retirement incomes options available to Australian superannuation fund members.

During policy development, consultation in relation to retirement incomes was historically fragmented into different parts with different scopes. The retirement incomes review, commenced in 2014, was rooted in an election promise to review the appropriateness of the retirement income drawdown rates, as well as the regulatory restrictions to the availability of relevant and appropriate income stream products. Importantly, the paper identified similar policy aims to those identified as appropriate to CIPRs in the Financial System Inquiry, which issued its final report six months afterwards.

The announcement by the Government in 2015 that they would implement the recommendation from the Financial System Inquiry in relation to CIPRs, together with the Retirement Incomes Review that was then underway, resulted in a number of channels of work, being the design of CIPRs, changes to the tax rules in relation to innovative income streams, work on a disclosure framework for retirement income streams and proposed new means testing rules for lifetime income streams.

Although separate initially, these measures were loosely designed to ensure that superannuation funds were in a position to implement Comprehensive Income Products for Retirement (CIPRs), originally defined in the Financial System Inquiry as a retirement income product which balanced the needs for regular and stable income, longevity risk management and flexibility.

Taken out of context, the measure proposed in schedule 1 of the Bill appears to go a considerable way to satisfying one of the aims of the Government, being the goal to remove regulatory barriers to the use of innovative (in this case, lifetime) income streams. However, viewing this in context is problematic, since we do not have a context to view this in.

AIST from the outset pointed out that the scope of work being undertaken by Treasury and others had been unnecessarily limited to the regulatory framework for retirement income streams (specifically tax and prudential requirements), as well as the means testing framework. We recommended in our initial submission to Treasury that there be an inquiry with a broader scope, which was able to also consider the role of tax as it related to all competing non-super investments, the sustainability of superannuation restrictions, the adequacy of social security arrangements and other matters relevant to retirement which, at that time, had not been considered, such as aged care and healthcare.

This broader inquiry was never undertaken. The work undertaken to date has therefore appeared as disparate threads tied together loosely, but without any unifying direction tying them together.

In the meantime, the Government has issued policy announcements designed to implement CIPRs as a default solution for hypothetical members with relatively simple problems. Implementation of the proposed retirement income framework will require trustees to mandate CIPRs for their members including in situations where the trustee suspects that this will not be in the members' best interests. Proposals forming part of the Government's position in relation to fixing this issue revolve around the creation of a "safe harbour" which, whilst protecting trustees from breaches of either the trustees' or advisers' best interest duties prescribed in law, would also protect unscrupulous issuers of poorly designed products.

To be clear, AIST supports the need for superannuation funds to have a retirement incomes framework in place for their members. AIST believes that trustees must address the real question of what happens to members when they reach retirement and how they may address members' needs at this point, for which their fund has been managing their savings. However, in its current form, this requirement must be reassessed. The recent report by the Productivity Commission inquiry into assessing efficiency and competitiveness of superannuation addressed quite specifically (pp. 233-236) the "central aspect… the way in which [a CIPR] is to be presented to members as a *first offering…*", (the Commission's emphasis) and led to the finding (Finding 4.4) that the proposed covenant would result in members enrolling in products for which they are not suited. Recommendation 10 of their report goes further, recommending that the covenant itself needs to be reassessed and the Commission suggests abandoning the requirement to offer a preferred product, "if the flaws cannot be sufficiently remediated (by the now deferred date of 1 July 2022)."

The Government and other interested participants such as AIST are presently deliberating the contents of the Productivity Commission's report. The Commission's report and in particular, Finding 4.4, make the case that schedule 1 of the Bill, which is intended to provide incentives for retirement income products that may be difficult to exit, needs to be deferred until the flaws outlined in Recommendation 10 of the report are fully addressed.

In any event, as Treasury indicated in their Retirement Income Disclosure Consultation Paper, there are remaining parts to the proposed Retirement Income Framework that remain before "consumers are supported to make informed decisions about the income, risk and flexibility associated with different retirement income products", including retirement income projections and changes to the regulatory framework. In addition to this, a combination of regulatory carve-outs and delayed transition as it relates to other measures means that disclosure in relation to products, which are intended to be substantially more complex than ordinary account-based income streams, requires urgent remediation. These carve-outs and transitional measures include choice product dashboards which have been deferred until 1 July 2019; and fee and cost disclosure (RG 97), which is presently the subject of an ASIC consultation.

We are not convinced that all parts of the retirement incomes puzzle have been treated with the appropriate degree of seriousness that was warranted throughout this process. In the federal Budget of May 2015, it was announced that the assets test taper rate would be doubled to $3 from January 2017. As AIST and others have identified in a number of places, this results in the absurd situation where middle-income earners would receive less income in retirement than lower income earners. The changes to means testing have been directly attributed by Dr David

Knox, Senior Partner at Mercer[1], to Australia falling out of the top three places in the Melbourne Mercer Global Pension Index.

We are also concerned that, in the absence of basic consumer protections which, at the very least, must include sufficient consumer disclosure to enable fund members to have informed consent when selecting these products, social security incentives commencing on 1 July 2019 are badly timed and inappropriate.

Whilst we are aware that the industry requires certainty in relation to the new rules, we believe that these are being implemented in the wrong order, and the unintended consequences of incentivising Australians to potentially choose the wrong retirement income product at this early stage are too great.

Finally, in the absence of a Government response to the Productivity Commission inquiry, we recommend that this measure be deferred until such a time that the issues identified by the Productivity Commission can be dealt with. AIST does not believe that this can occur without a holistic review of retirement incomes, as explained earlier in this submission.

For further information regarding our submission, please contact Richard Webb, Policy & Regulatory Analyst .

Yours sincerely,

Eva Scheerlinck
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the $1.3 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

[1] Mather, J. (2018). Scott Morrison blamed for retirement system falling out of global top 3: Mercer. *Australian Financial Review*. [online] Available at: https://tinyurl.com/y86vmnpe [Accessed 17 Jan. 2019].