Development of the framework for Comprehensive Income Products for Retirement

9 July 2017

AIST Submission to Treasury
AIST

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 $700 billion 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.

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Executive summary

In brief:

AIST recommends that a post retirement framework be required to be developed by trustees. This would assist trustees in developing a preferred retirement income strategy for their members, in line with members’ needs and best interests. To strengthen putting the best interests of members first, current gaps in the Choice disclosure space require attention as a priority. Given the importance of post-retirement issues, AIST calls for a working group be established to review key post-retirement issues as well as the establishment of a holistic review of retirement incomes.

AIST welcomes the opportunity to respond to this discussion paper. The post retirement phase is where the outcome of members’ long term superannuation savings directly impacts the lives of members. AIST does not support the mandating of CIPRs as preferred retirement income products for funds and recommends that trustees formulate their own preferred strategy as part of the construction of a retirement incomes framework.

As part of this submission, AIST has made the following recommendations as part of this submission:

- Trustees should develop a retirement incomes framework for their members;
- Retirement incomes frameworks should ensure that benefits are passed back to members;
- Transparency and comparability for retirement income products should be improved to at least the level of MySuper;
- Enhanced trustee obligations should be mandated for members using preferred retirement income strategies;
- Member needs must be considered when constructing retirement incomes frameworks;
- Trustees should not be subject to requirements which force them into acting against their members’ best interests;
- Preferred strategies recommended to members by trustees must not be difficult to exit; and
- Establish an industry wide working group and later conduct a holistic review of retirement incomes.

A safe harbour would be necessary in the event that trustees were forced to implement specific products for their members as preferred retirement income products. In this event, safeguards must be implemented to minimise moral hazard.
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| Member needs must be considered when constructing retirement incomes frameworks | Preferred retirement income products should explicitly state a net return to members after fees, in addition to the income a member is likely to receive after retirement.  
All members’ needs for flexibility should be considered, on top of lump sum and bequest preferences. Consumer rights should considered as part of this. |
|---|---|
| Trustees should not be subject to requirements which force them into acting against their members’ best interests | ‘Black box’ retirement vehicles are undesirable.  
Members should be compensated for any loss of consumer rights, such as the right to change providers.  
Further consultation is needed regarding the highly important matter of post-retirement. We recommend:  
- Immediate consultation with an Industry-wide Working Group (IWG); and  
- A longer term review that undertakes a holistic review of retirement incomes. |
| Preferred strategies recommended to members by trustees must not be difficult to exit | A retirement incomes framework is a manifestation of trustees’ duty to act in the best interests of their members.  
Trustees should not be required to pre-select CIPRs as the preferred retirement income strategy for their members.  
A safe harbour may be necessary if trustees are required to recommend CIPRs as preferred strategies to their members. Appropriate safeguards would be necessary to minimise moral hazard. |
| Establish an industry wide working group and later conduct a holistic review of retirement incomes. | The IWG could address issues arising from the current consultation paper, as well as any flowing from submissions (see Appendix B for possible scope). A holistic review to examine the interaction between the various pillars of retirement incomes is also called for. |
Development of the framework for Comprehensive Income Products for Retirement (CIPRs)

Introduction

AIST agrees that Australians need good retirement solutions. Australians have been the beneficiaries of the Stronger Super reforms, which delivered MySuper, a product that has delivered lower fees and better net returns than Choice superannuation products. AIST supports a requirement for trustees to implement a retirement incomes framework as a key requirement in promoting members’ interests, and – where trustees believe this to be in the best interests of their members – to offer a preferred retirement strategy to their members at retirement.

Importantly, MySuper was developed with the members of funds in mind who have exercised their right to defer choice of superannuation utilising the following key principles:

1. One fund’s member demographics are unlikely to resemble that of another fund. For this reason, a ‘cookie cutter’ approach to MySuper was discouraged.
2. Transparency around fee structures and fund investments provides members with the knowledge that their trustees are acting in their best interests.
3. The flexibility of choice allows members to choose alternative retirement savings strategies where MySuper isn’t necessarily for them.
4. The combined effect of the above factors result in an approach to default members that prioritises them ahead of other members who know a little bit more about how they are investing.

AIST believes that the same underlying philosophy as MySuper should underpin the creation of new retirement income solutions which are to be aimed at preferred use by a fund’s members. Available in the accumulation phase as MySuper, members should continue to be able to rely on their trustees’ expertise once they reach retirement. However, just like with MySuper, we do not support a cookie-cutter solution for all members, nor do we necessarily support a product-based strategy. If trustees of one fund determine that a specific investment option in a simple account-based income stream is in the interests of their fund’s members, this should be what is offered. Likewise, if trustees of another fund determine that they prefer a strategy for their members that incorporates elements of CIPRs and of other types of retirement income solutions, this should be what is offered.

The idea for CIPRs is to suggest to members by way of a guided choice that they move into a certain product ahead of all other retirement income products. Whilst this may not necessarily be technically equivalent to a default retirement income product, there can be no other planned outcome than the perception that trustees are suggesting to members that in the absence of other instructions, a CIPR would be the best strategy for them. It is therefore appropriate that we consider MySuper as a template for these reforms.
Development of the framework for Comprehensive Income Products for Retirement (CIPRs)

AIST (in conjunction with the Australian Centre for Financial Studies) undertook research in 2015\(^1\) which showed that for members with smaller account balances, the use of an account-based income stream may be preferential, given the flexibility to make withdrawals, together with the security provided through access to the Age Pension. However, the broader theme that Ralston and Maddock’s paper highlights is that it would be exceedingly difficult to design a one-size-fits-all solution that all trustees could support as being in their members’ interests.

AIST believes that trustees should develop a retirement incomes framework. Such a framework must consider whether it is in members’ best interests for trustees to provide them with a preferred retirement incomes solution at retirement, and if so, what form that strategy takes.

Development of the framework for Comprehensive Income Products for Retirement (CIPRs)

Recommendations in detail

Trustees should develop a retirement incomes framework for their members

A retirement incomes framework would resemble other policies that funds must develop and maintain. In particular, we believe that it would be most similar to the requirement for an insurance management framework which is a requirement in Prudential Standard SPS 250: Insurance in Superannuation (SPS 250). A requirement to manage the retirement income needs of a fund’s members could therefore include policies that address:

- How the trustee demonstrates consideration of the income needs of their members;
- A way to ensure appropriate managing of expectations of members in the accumulation phase (such as in statements, projections, online calculators and digital advice tools) to consider their retirement savings as income rather than a lump sum;
- Consideration of different strategies to manage member needs, including longevity risk, investment risks (not limited to market risk) and members’ needs of flexibility (not limited to accessing lump sums or leaving bequests) and where these strategies can be executed using one or a combination of retirement income products or features; and
- Trustees’ conclusions as to whether a preferred retirement income strategy is justified, and what form that strategy takes on.

We consider that this work may negate the need for a safe harbour. Conversely, in the event that trustees would be required to mandatorily offer CIPRs to their members, there may be no alternative but to ensure that a safe harbour is available.

In resolving what is needed for their members, trustees would need to use a variety of different data about their members.

We would expect more of a focus on flexibility in the interests of members whose balances are lower and/or where life expectancy is shorter. For these members, the age pension already provides a material level of longevity insurance.

There will be a trade-off between the longevity risk premium and income that is available for current consumption. It is possible that trustees will choose different trade-offs and different levels of guaranteed income for members who are fortunate enough to outlive their cohorts. It may then be very difficult to compare products.

In the accumulation phase, trustees must design products for the majority of their members where they offer a MySuper product. As the MySuper product is designed to be the investment option where member money is directed in the instance that investment instructions aren’t
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provided by the member to their trustee, or even where the member is not yet ready to choose a fund, the MySuper product must be designed in such a way that it is able to address the needs of a majority of members.

This is the same problem that trustees face in retirement. Trustees need to know the longevity profile of their members, however trustees also need to be aware of the needs of members in retirement. This is not so clean cut – members with longer longevity are more likely to need to spend on healthcare\(^2\) for example. This is consistent with findings related to the need for aged care assistance such as nursing homes\(^3\).

Longevity data for members is difficult to obtain. Life insurers use mortality and morbidity rates for insurance products which are designed for use in the medium term, however in the long term, the data is not as clear-cut. Members in some industries now with greatly reduced life expectancies may find that with improved work practices and better knowledge of harmful vices such as smoking, longevity may improve.

Clearly, a large number of assumptions will need to be made by trustees and it will be difficult for trustees to determine the types of trade-offs necessary to accommodate the majority of their members.

**Retirement incomes frameworks should ensure that benefits are passed back to members**

AIST’s members operate in the profit-to-member space, where savings created through appropriate pricing of benefits are passed back to members. The profit-to-member ethos suggests that with retirement income products, the benefits due to pooling of retirement savings should be passed back to members. Although we understand that in resolving longevity risk and market risk there may be some cross-subsidisation across members, the purest form of the ethos sees members directly benefiting where they can be individually matched with savings.

A retirement incomes framework must address how to direct the benefits of pooling back to members in a way that is equitable, and where this is not possible, must address how to communicate to members how any participation in pooled products assists with the retirement comfort of the cohort using such products. Such communications are vital to ensure informed

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consent upon entering such products, particularly if ordinary consumer rights (such as the right to exit or change provider) available to member of other superannuation products are changed as a result of entry into such products.

Transparency and comparability for retirement income products should be improved to at least the level of MySuper

The history of transparency in superannuation is not a good one, particularly in the retail sector. We are aware of a number of instances through history where legislation and regulatory solutions have been required in order to ensure that superannuation fund members know what it is that they are getting. It was not all that long ago that commissions on investment and insurance products were not appropriately disclosed by bank-owned super funds.

Transparency is the “Achilles heel” of the Stronger Super reforms: Under development for 6 years and still being worked on, and unsatisfactory in many areas. The need for consistency and transparency must be a much higher priority of Government. This is particularly important for retirement products, due to their higher account balance, but also because these products will be relied on by retirees to last the rest of one’s lifetime.

The need for transparency extends beyond fees to a number of areas. There is presently a list of projects being undertaken in the financial services industry aimed at improving disclosure, including:

1. Portfolio holdings disclosure aims to look down into the investments in a superannuation fund so that members can have an informed view of what it is that they are investing in.
2. Website disclosure mandated by section 29QB of the Superannuation Industry (Supervision) Act 1993 (the “SIS Act”) requires superannuation fund trustees to maintain certain items of information, such as in relation to directors, board meetings and annual reports online and strictly governs when these must be updated.
3. Product dashboards, presently mandatory for MySuper investment options and under development for Choice investment options require the maintenance of a rigid information set which is designed to promote comparability between investment products.
4. Reporting requirements mandated by section 29QC of the SIS Act are designed to ensure that information provided to the prudential regulator as part of fund reporting can be equated with similar information provided to the financial services regulator.
5. Fee and cost disclosure described in ASIC’s Regulatory Guide 97: Fee and cost disclosure (RG 97) is presently under examination by industry working groups and has been for some time.

Concerns regarding carve-outs and preferential treatment for certain products paint a picture of an industry where disclosure is inconsistent.
The fact that so many disclosure issues are either under development or under review accurately highlights issues related to disclosure in the superannuation industry. A summary of key gaps, exemptions and carve-outs from the regulatory framework is contained in Appendix C.

Common features of issues related to the projects above include the inability for members to properly consider the impact of related party payments, particularly where investments are placed by fiduciaries with associated entities. Another issue is the opacity of pricing related to use of pooled investments. There are presently no limits as to how many layers of pooled investments money can be invested through, however there is a limit to how far regulation appears to want to look. It goes without additional clarification that a “ticket is clipped” at every level of investment pooling, and that associated entities are often used.

According to the World Bank\(^4\), a core element of improving pension system efficiency is to ensure that costs which do not contribute to increased returns are reduced. They go on to note that ‘competition by itself appears to be inadequate to drive lower costs if individual choice alone is involved. Lack of transparency is a big issue in determining costs.’\(^5\)

AIST points to investment in a retirement income product as a situation where the above must be disclosed and consistently reported. Although presently treated differently than investments, money that makes its way into the statutory funds of insurers is conceptually similar to money that is paid to investment managers: Money is paid to a third party to manage in the anticipation that it may be requested back some day. We argue that for this reason alone, disclosure of members’ money held with insurers must be treated the same way as money held with fund managers.

Similarly, disclosure of risks needs to be provided to members of super funds and trustees must be diligent around the risks lying deep in investment and insurance pools. It has long been a minimum expectation that trustees will ensure that the market risk associated with riskier investment portfolios such as equities investment options is accurately and appropriately disclosed to members. After the global financial crisis, we now expect liquidity risk to be disclosed correctly, in addition to being managed correctly.

However, as we have identified problems with the current Standard Risk Measure incorporated into the MySuper product dashboard requirements – which only addresses market risk – we would similarly expect that other investment risks are appropriately identified and disclosed to members.


\(^5\) The World Bank (2016), as cited in a previous footnote, p.21.
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of superannuation funds subject to them. Such risks that CIPRs create, but are not acknowledged include the following:

- Counterparty-credit risk;
- Mortality risk; and
- Interest rate risk.

For superannuation fund members using account-based income streams, these risks are virtually non-existent. However, just because these risks have not been faced in the past does not mean that they should not be properly disclosed once they appear in members’ retirement savings. All retirement income options are ‘Choice’ (i.e., not MySuper) and disclosure for Choice retirement income products must be improved to MySuper standards.

Finally, it should be noted that disclosure provides a way for members to assess some of these risks for themselves. For example, the knowledge of what is in the statutory fund of an insurer and the sustainability of its cash flows can better assist members to assess for themselves what the counterparty-credit risk of a fund which uses that insurer to guarantee the income payable out of its CIPR.

Enhanced trustee obligations should be mandated for members using preferred retirement income strategies

Having made the points above about disclosure, we also need to acknowledge that low financial literacy standards exist in Australia. Low financial literacy exists as much at retirement as it does at any other stage and members need to be protected by higher trustee standards.

Assisting members with financial literacy needs is not the only area where members need additional protection. AIST believes that preferred retirement strategies should ideally be analogous to MySuper in all respects. This would include mandating enhanced trustee obligations to members who use preferred retirement strategies, including:

- Promoting the financial interests of members using a trustee’s preferred strategy;
- Determining annually whether these members are disadvantaged relative to if those members had used preferred retirement income strategies elsewhere, due to the scale of members or assets;
- Discussion of the annual disadvantage determination above in the fund’s investment strategy; and
- Inclusion of investment return target and level of risk applicable to the preferred retirement income strategy (where possible) in the investment strategy.
However, the reality of some of the products being considered is that cross-subsidisation may be necessary to make such products operate effectively. Where this is the case, we support mandating product features that protect vulnerable members who are likely to use preferred products.

The duty to promote the financial interests of members should be adapted to reflect the circumstances of retirees, including consideration of items such as members’ longevity, other income supports, fees and costs, underlying risk-weighted longer term returns, etc.

Directors of superannuation funds who offer a preferred retirement income strategy should also be subject to the requirement to exercise a reasonable degree of care and diligence in ensuring that the trustee is carrying out their duties above.

**Member needs must be considered when constructing retirement incomes frameworks**

As we have identified through the various inquiries and consultations relating to superannuation, members want good net returns from their investment. This is as important for Choice as it is for MySuper.

This is a concept which can get progressively more difficult to achieve in the retirement phase – in this paper, for example, the notion of flexibility or a residue at the end of one’s investment is considered as “leakage”. This attitude suggests that money in the hands of members is not acceptable, however money retained by insurers is perfectly fine. AIST strongly endorses measurements which accurately reflect the net returns to members after fees. We recommend that if CIPRs are used, they must come with a way to explicitly state a return to members after fees, where fees and other costs are properly identified. This should be in addition to user-tested disclosure regarding the income a member is likely to receive during their retirement.

Similarly, if flexibility is to be treated seriously as a feature, it must reflect responses to members needs and must not be trivialised as lump sum fripperies or as estate planning. Discussions with financial planners reveal that retirees are also concerned about serious needs for members that should be addressed under the umbrella heading of flexibility, including:

- Aged care;
- Health care;
- Emergency expenditure, e.g. travel;
- Right to choose a different provider;
- Right to choose a different retirement income strategy; and/or
- Longevity planning (which makes catering for future expenses less certain).
Whilst we would agree that it is admirable that the discussion paper has considered access to non-super assets to cater to some of these needs, the reality is that financial advisers and superannuation funds alike have been advising members for decades that the optimal environment for assets needed in retirement is superannuation. For members who are fully invested in this space, recourse to non-super assets may not be available.

**Trustees should not be subject to requirements which force them into acting against their members’ best interests**

Members do not want retirement income solutions from their trustees which have not been thought through well enough. They do not deserve ‘black boxes’ (see Box 1, below) and must be compensated for the loss of any flexibility or consumer rights.

**Box 1: Should black boxes compromise transparency to members?**

A black box structure may undertake to provide a service which achieves all the three CIPR requirements: Income, risk management and flexibility. However, this structure provides no information to members about its very operation. Information would enable members to make informed decisions regarding the investment, including:

- Disclosure of details of investments in the statutory pool;
- Disclosure of details of calculation methodology regarding income payments, including internal life expectancy variables used; and
- Verification, such as an independent actuary’s statement, of the sustainability of present and forecast future liabilities and payment rates.

The addition of guarantees, such as a guaranteed income amount and guaranteed payment periods automatically imposes counterparty-credit risk on members invested in such products. Once reliance on such guarantees is in place, there is a need to ensure that members invested in these products are aware of the ability of these guarantees to be upheld. Transparency regarding the operational and investment risk of the fund, whilst not immediately borne by the member, is crucial to judgements regarding the counterparty-credit risk of the investment. Best practice would see guarantees on the products be independently credit rated in order to ensure that the counterparty-credit risk at any given moment in time is appropriately communicated to members.

Black boxes are problematic for a number of reasons, a key one being transparency. The idea of a black box is the antithesis of industry reforms that regulatory and regulator initiatives such as product dashboards, portfolio holdings disclosure and ASIC’s *Regulatory Guide 97: Fee and cost disclosure* (RG 97) are seeking to resolve. AIST sees problems where there is insufficient disclosure of related party payments and consider that, just where a “normal” account-based
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To this end, we also acknowledge that trustees have a role to play in ensuring that the most appropriate retirement income strategies and solutions are placed in front of their members. AIST believes that these can be wrapped up into a compact between trustees and members where a retirement incomes framework is designed by trustees with their members in mind.

Trustees are in the best position to understand their members. They know what they are contributing and what their occupations are. They have arranged insurance on their members’ behalf, looking into the risks presented by this pool of lives. They have built MySuper products that reflect their understanding of their members’ need for good net returns at an appropriate level of investment risk.

Members do not want to have a retirement income stream placed before them which their trustees are explicitly recommending against. AIST recommends that trustees be responsible for determining what is in the best interests of their members.

We also consider that further consultation is needed regarding the highly important matter of post-retirement. We recommend:

- Immediate consultation with an Industry-wide Working Group (IWG); and
- A longer term review that undertakes a holistic review of retirement incomes.

We have discussed these in more detail below.

**Preferred strategies recommended to members by trustees must not be difficult to exit**

Throughout this submission, we have understood the term “Comprehensive Income Product for Retirement” (CIPR) to refer to a product that:

- Meets the structure and standards proposed in the discussion paper; and
- Is used by trustees as their preselected retirement income product.

Our responses to Section C as well as Question 35 (our responses to the discussion paper are contained in Appendix A of this submission) in particular should be viewed within this context.

We wish to make it clear that trustees will find it difficult to preselect a product that locks members into a strategy that may be difficult or even impossible to exit later on. We note that...
account-based income streams are not generally subject to these limitations and may be preferred by trustees for this reason.

Some trustees may not even wish to recommend a preferred retirement product, let alone a CIPR. AIST supports the decisions that trustees make in the interests of their members and believes that a retirement incomes framework developed in the best interests of their members is an unfettered manifestation of this duty.

Where we have responded to questions that specifically relate to CIPRs, our responses should not be interpreted as tacit approval that trustees should be made to preselect CIPRs for their members.

**Establish an industry wide working group and later conduct a holistic review of retirement incomes.**

AIST strongly recommends that further consultation is needed regarding the highly important matter of post retirement. We suggest the following two step process:

- **A more immediate consultation** - That an industry-wide working group (IWG) be convened in the very near future. The IWG could address issues arising from the current consultation paper, as well as any flowing from submissions. The IWG could comprise Treasury, ASIC, APRA, superannuation funds, product providers, consumers, actuaries, and academics. We have drafted a series of questions which the IWG could examine (Appendix B).

- **A longer term review** - As a review which could take place in the longer term, AIST takes the opportunity to call for a holistic review of retirement incomes which considers the impact of tax both inside and outside of super as well as the Age Pension.
Appendix A: Responses to Discussion Paper Questions

Section A: Defining a CIPR

1. How can trustees design CIPRs to deliver the best outcomes for their members? What are the trade-offs of different design approaches and features?

An appropriate evidence base is needed to ensure that a CIPR can be designed in the best interests of members. When determining if a CIPR is in the best interests of their members, trustees should carry out a proper profile of membership demographics, considering such data as their membership occupation groups, normal pension commencement age, commutation and income drawdown patterns, and data around life expectancy history.

It must be emphasised that there is a lack of longevity data in post-retirement that would be available to trustees to adequately assess the risk of their particular membership profile. Longevity risk is not homogeneous in post-retirement and does vary (as in the case of pre-retirement) based on broad factors such as gender, social-economic status and access to health care. This experience will take years to develop. The lack of this data will either result in conservative pricing to the detriment of the current cohort or lack of sustainability in the product to the detriment of future cohorts of members.

2. Are there any lessons from defined benefit schemes that can be applied to the CIPRs framework?

Defined benefit funds have been managing risk in order to ensure that member’s benefits can continue to be paid. However, unlike defined benefit funds where the employer may be called upon to guarantee sustainability of the benefits, an accumulation fund does not have a source of additional funding if the product becomes unsustainable. We would expect greater regulatory requirements than defined benefit arrangements for this reason.

While there is very little experience in the Australian market in the management of pension liabilities (e.g. CSS, PSS and some corporate funds e.g. Unilever), there is a great deal of experience in the UK and European pension market which until recent times dominated by the provision of lifetime pension benefits. These pension benefits were provided in the context of corporate funds.

The pressure of increased longevity has in some cases, resulted in the unsustainability of current pension benefits. In addition, it should be noted that longevity risk in post-retirement is not homogeneous with the UK now home to an annuity market which is priced based on postcode. There are significant risks in the provision of annuity products and the need for actuarial control cannot be understated. The failure of a post-retirement product in which members have been
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forced to participate will have huge ramifications in member’s confidence in the superannuation industry.

In addition, any arrangement where a preferred retirement solution is placed in front of members is likely to be seen as carrying trustees’ imprimatur. Trustees must be mindful of the reputation risk inherent in carrying out such an exercise, especially if it is not warranted. Safe harbours cannot protect against lost reputations.

3. Do you agree with the proposed three minimum product requirements of a CIPR? What are the alternatives?

AIST is concerned that achieving a balance between the three ideals of the product will be very difficult to achieve in practice. In particular, we note that traditional investment wisdom considers the following to be hurdles that these products must overcome:

- Payment rates from guaranteed income products are traditionally low putting this aim at odds with the need to pay higher income than account-based pension minima.
- The need for flexibility to provide a lump sum and/or bequest is considered to be ideal, however, this need tends to obstruct a goal of an income for life to overcome longevity risk.

AIST agrees that these member needs are going to be different from membership to membership. We disagree that the notion of flexibility needs to be limited to lump sums and and/or bequests. We consider that a third possibility must be the preservation of consumer rights, including the right to change providers, as discussed earlier in this submission.

In addition, we recommend that transparency regarding these products must be upheld. We are mindful that in existing annuity products and some annuity-pension hybrids, the knowledge of what is inside the investment is a “black box” (see Box 1) to members invested in these products.

4. How important is achieving a minimum additional level of increased income to the introduction of the CIPRs framework?

We would consider this subject of fundamental importance to the introduction of the CIPRs framework. However, we accept that where members make trade-offs in retirement, the need for guaranteed income may compromise the ability to get an income based upon account-based pension minima.

AIST believes that the key measure of any superannuation investment must still be net returns to members.
5. **How should income efficiency be defined?**

Essentially, income efficiency suggests that there be a measure to look at the income that an individual is likely to obtain from their investment during retirement. This seems reasonable in principle. In practice there are a number of limitations:

- If a relative measure is used, such as where amounts are immediately payable, will this consider income throughout the lifetime of a member, or will it only consider the income payable at commencement? If immediately payable, will comparisons be able to be adjusted throughout the life of the product?
- If in absolute terms, will there be consistency in determining the term over which the calculation is made? We consider that there would be considerably different results between estimates of life expectancy.
- Related to the above question, it may be possible that a deferred income stream may not commence until considerably later in the member’s retirement (assuming still alive). Considerably different figures for the likelihood of income paid to a member during their retirement may be gathered if a static method is used to estimate the liabilities for the purposes of this calculation compared to a stochastic method. Will the likelihood of an individual to obtain deferred income payments consider attrition of members between commencement and life expectancy?
- Lastly, putting a cap on ‘leakage’ from the system can only work where disclosure is on a level playing field. Unfortunately, the well documented issues related to disclosure discussed above demonstrate that fee and cost disclosure is not on a level playing field with various avenues available for providers to be exempt from full disclosure. We would consider that a cap on leakage could only be implemented once resolution of all remaining issues in this space is finalised. We are concerned that insufficient weight is given to the cost of the annuity component (i.e. premiums to the insurer) versus the value of capital in the hands of the member, and that there is a strong underlying assumption that an annuity will provide a higher, smoother return to the member for a longer period, than an ordinary ABP. This is an assumption that needs to be rigorously tested.

Similar to our response to previous questions, it will be difficult to determine efficiency due to the lack of homogeneity of the risks for each fund in relation to the design of a post-retirement product.

A useful parallel is the design of defined benefits in corporate funds. However, due to the lack of an employer as in defined benefit funds as the ultimate guarantor of the product, there will differences in the level of reserving that each fund chooses in order to underwrite the risk. An additional problem with this parallel is that often, the design of a defined benefit is considerably difficult to compare to other superannuation benefits.
In the retail market, it is important that the provider disclose the amount that is retained from the member’s account above administration costs as profit for the provider. We consider that these amounts should extend to amounts recouped through related party payments, including investment management fees, profit margins on statutory funds, and gross interest margins on amounts deposited.

Finally, we consider that long deferral periods are problematic for trustees. Long deferral periods could potentially skew likely income amounts and could allow providers to game pricing. For example, where a member commences an income stream and has a life expectancy of another 15 years, the pricing of a deferred income component which pays a benefit after a waiting period of 16 years is going to be priced very attractively, even though the likelihood of that component making a payment is low. On the other hand, a long deferral period may be an example of the kind of longevity insurance that CIPRs is intended to provide. Trustees will need to ensure that such terms are set in the interests of their members and communicated accordingly.

6. **What minimum level of increased income should be required; that is, what should be the minimum level of income efficiency? How should guaranteed products be accounted for?**

Income efficiency as a notion needs to capture accurately the policy intention of this measure, which is higher income throughout retirement where income is increased to reflect the more efficient use of the full amount of a member’s capital. However, where guaranteed income is used, the dividend payable to investors who use these products must reflect the loss of utility corresponding to the degree of flexibility that has been traded in.

If investors are not appropriately compensated for this loss of flexibility, these products will fail to capture investors’ interest.

7. **Which indexation option best achieves the goal of increasing standards of living in retirement?**

Pension funds have traditionally used CPI as the indexation option. We would agree that this manages inflation risk well enough, however this introduces another element of risk in the pricing and funding of these products.

Although we would agree that the hypothesis that a nominal amount better reflects the idea that people spend less in retirement, this would mean that retirees are less well prepared for shock expenditure in retirement such as aged care or health care. Whilst nominal amounts would pay larger amounts earlier on after considering the effects of inflation, it would be expected that contingent liabilities such as aged care and health care increase with inflation.
8. Are there comparability benefits from specifying which indexation option would be required of a CIPR?
Yes. Utilisation of the same indexation multiple allows better comparability. Most importantly, it would allow projections to be provided where amounts use “today’s dollars” which would enable members to properly examine income amounts in light of their own personal expenditure.

9. What elements/types of flexibility are most valued by individuals in retirement, and does flexibility need to be provided for through a CIPR?
AIST is concerned that there is a focus on bequests and lump sums in this discussion paper when discussing the need for flexibility, and discussed this earlier in this submission.

We would also consider that where a provider makes available a number of strategies within their CIPR product, liquidity needed to execute this should be considered as part of this needed flexibility. This would be in addition to where a member changes their mind and decides to switch outside the CIPR to an “ordinary” retirement income product, such as an account-based income stream.

We consider that a bullet point that is missing from the discussion on page 19 of the discussion paper is a need to preserve the rights of the members to change providers. Ideally, an innovative income stream would provide members with a way to do this, even if their income stream (which may be still paying an income) has no commutable value.

10. To what extent should savings outside superannuation be used to meet unexpected costs in retirement?
AIST is open to the use of non-superannuation assets to cater to unexpected expenditure needs of retirees, however we strongly recommend that this be undertaken in a way that is equitable.

We explained earlier in this submission, a considerable number of retirees have been advised by financial advisers and superannuation funds alike to put assets intended to be used in retirement into the superannuation environment. These members may then not have substantial assets outside superannuation. To lock these assets away from these members planning to use these to fund retirement contingencies must be thought through carefully by trustees and regulators.

11. Is the proposed structure of a CIPR appropriate?
We would agree that the structure proposed in the discussion paper appears to meet the objectives that were set out for these products by the Murray inquiry. Whether such a structure is appropriate to be offered to a fund’s membership should be a matter for trustees.

12. Are there any risks or issues with trustees partnering with third parties to enable them to offer certain underlying component products of a CIPR?
Partnering with third parties is a likely outcome where a number of these products will require the use of insurers and others to provide key components of CIPRs. We believe that for the most part,
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APRA’s prudential standards related to outsourcing are adequate to manage the risks that trustees face. However, we have more immediate concerns in relation to risks faced by members.

AIST is concerned that little discussion has taken place to note that in the new structures it will be members who bear counterparty-credit risk, mortality risk and interest rate risk, amongst examples of new risks that are not immediately present in account-based income streams. Manager risk might also be an issue, depending on how much the fund outsources.

These risks are considerably different to the investment risks that CIPRs are supposed to address, which is primarily market risk and not a lot else.

We take this point to note that in addition, issues related to disclosure around investment, and fee and cost disclosure are likely to be issues, especially where a black box structure is in place. We re-iterate that black boxes must not be used to conceal fees and costs, in particular where these include payments to related parties.

An example of this would include the costs of research and development of these products: considerable work will go into the development of these products and since these are being developed for members of specific funds, we believe that the costs of development of these products are material enough to require disclosure to members. Where costs of research and development are paid for by entities outside superannuation funds, all costs must be charged back to funds to ensure a level playing field.

AIST recommends that work should be commenced as soon as is practicable to ensure that full disclosure is accurately conveyed to members prior to signing up to one of these products. Ideally, user-testing of this disclosure should be mandated due to the expected complexity of these products.

13. Should trustees be able to offer one or multiple CIPRs as the mass-customised retirement income product offering to members? Why/Why not?
A concern that AIST has with regards to these products is how they are sold to members of superannuation funds. Superannuation is regarded by a lot of Australians as complex enough: The idea that something even more complicated than the existing offerings is of a great concern to us.

We also have concerns regarding the costs of these products to members not impacted by these products: We believe that as complex products multiply, so too do costs to members.

Additionally, we note that for most trustees, it will be ambitious enough to design a product that is appropriate for a large portion fund’s members generally, let alone a small subset of members. However, if trustees are able to justify different pre-set retirement strategies for different cohorts
of members (which may or may not include a CIPR as part of the strategy), this would assist them to better meet their best interests duties.

In any event, CIPR products must not be exempted from other reporting and disclosure regimes. Due to their relative complexity compared to other superannuation products, CIPRs might require more reporting and disclosure.

14. If funds were able to offer multiple CIPRs as the mass-customised retirement income product, on what basis would CIPRs differ?

Although we choose not to respond to this question directly, we have commented earlier in this submission on the need for trustees to ensure that retirement income policy and costs are considered in the best interests of members. We believe that any decision to offer more than one CIPR by trustees should ensure that these considerations are paramount.

Section B: The regulatory settings for trustees

15. What are the key impediments currently preventing trustees from offering a mass-customised CIPR to their members?

A requirement of a fund’s retirement incomes framework would be whether trustees who offered CIPRs to their members had considered whether the product is in the interests of their members. As discussed previously in this submission, trustees’ choice of what should be offered to members as a preferred retirement strategy may not even be a specific product such as a CIPR.

Funds with a retirement incomes framework would consider how best to serve members with regard to balances at retirement and general expectations of life expectancy. Trustees may be reluctant to offer a CIPR to their members if their research did not support its use.

Other issues that might cause trustees to rethink introducing CIPRs to their members include inflation risk depending on treatment of inflation, anti-selection due to white collar members selecting against a blue collar fund, poor disclosure issues or investment or manager risk that may cause the product to be unsustainable.

16. Would a safe harbour for their best interest obligations remove a key impediment to trustees designing and offering CIPRs?

The safe harbour would have the advantage of not penalising trustees for offering CIPRs to their members. However, it may also impose moral hazard. Unfortunately, a safe harbour would be necessary where the offering of a CIPR is mandatory because there will be cases where CIPRs wouldn’t be in the best interests of members.

AIST believes that funds must not be put in a position that is in conflict with their responsibilities to members. Consequently, we believe that the only reasonable option is that trustees are empowered to determine what the appropriate preselected product is for their members and that
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this may not necessarily be a CIPR. If this was to be the case, there may not necessarily be a need for a safe harbour. In addition, incentives for providers to offer sub-optimal retirement income strategies where they are mandated to offer “something” should be resisted.

17. Which trustees should consider offering a mass-customised CIPR to their members? Should the safe harbour be made available to all trustees or a certain population of trustees?
In the event that all funds are required to offer a CIPR, AIST believes that the safe harbour should be made available to trustees.

18. After an appropriate transition period, should the Government consider whether there should be an express obligation on trustees to offer a CIPR? If so, what length of transition period would be appropriate?
AIST does not support the mandating of CIPRs. Trustees should be able to determine what arrangements (if any) should be preselected in the best interests of their members.

Section C: Ensuring that products meet the minimum product requirements

19. What process should be used to ensure that a CIPR meets the minimum product requirements?
AIST strongly supports Option A as the preferable option in respect of CIPR certification. We would consider that whether a regulator or an actuary signed off on a CIPR product, we believe that the offering of these products to members will require new duties to apply to trustees. We consider that, due to the offering of these products, there will be at the very least a separate requirement for an investment strategy that specifies a set of requirements outside the fund’s ordinary investment strategy. This will require regulator monitoring.

We concur with the suggestion that self-assessment may pose unacceptable risks to members in the event that a product is subsequently found to be non-compliant.

We consider that where there is any doubt about trustees’ ability to provide members with the enhanced duties that these products warrant, this alone provides good reason as to why regulator authorisation should be a requirement.

20. Would it be appropriate for actuaries to provide third party certification? If so, what, if any, additional regulation of actuaries would be required?
AIST would support the ability for actuaries to provide third party certification where this process is part of the authorisation process required under Option A discussed in the previous question. We note that actuarial assessment is expensive and we believe that it would be desirable to keep this to a minimum. In particular, we note that the design of some CIPRs, for example, where group self-annuitisation is used, necessary actuarial involvement may be minimal.
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We note that requirements for regular actuarial assessments place actuaries in very similar regulatory territory to auditors. This may be require actuaries to be registered with ASIC, similar to company auditors.

21. Should there be ongoing re-authorisation/re-certification requirements for CIPRs? If so, how and how often should this be done?
AIST believes that this should be undertaken every two years. We note that where a MySuper risk rating is assessed at a higher level, APRA has the power to change this to an annual requirement. We would support equivalent requirements for CIPRs.

22. What should the consequences be if a CIPR no longer met the minimum product requirements? Is it possible to avoid creating legacy products?
AIST believes that a regulator should be empowered to revoke the authorisation of CIPRs which fail to meet the minimum requirements.

AIST has concerns regarding what would happen in the even that members of a CIPR found themselves in a product that no longer met the minimum requirements. We agree that this risks creating legacy products, however, we are also uncertain what this will mean.

Will members find themselves trapped in a product that they cannot exit? AIST has recommended elsewhere in this submission that members would ideally be able to change provider should they need to, and that this should be able to happen regardless of whether commutations are allowed. We believe that such a process will minimise the harm to members in such products.

We would further recommend that trustees who are required to offer CIPRs are also required to ensure that contingency planning includes the ability to migrate members out of old CIPR products and into new ones in an orderly fashion. We believe that rules similar to the successor fund transfer rules could govern this process.

Lastly, we would agree that the safe harbour provision should no longer be available, however trustees should be provided with a reasonable timeframe to make members aware of their options before imposing any solutions on members.

Section D: Facilitating trustees to offer a CIPR

23. How can the framework facilitate trustees providing an easier transition into retirement for individuals, and what else can be done to meet this objective?
AIST believes that the definition of “offering” requires more explicit explanation. The discussion in Section D of the discussion paper is somewhat light on detail, which has left us needing to assume a great deal about how this will be executed in the real world. In the main, we have assumed that trustees would be expected to provide a “guided choice”, where a preferred retirement income product is projected ahead of other retirement income options. For example:
A requirement for websites to list retirement income products CIPR first, which may present some design issues;

Requirements for funds to ensure that members commencing retirement are confronted with a question about whether they have considered the fund’s CIPR product prior to any further action, which may present some inconvenience;

Prefilled application forms or online application processes requiring members to opt-out, which may draw criticism for its similarity to online End Use Licence Agreement (EULA) processes;

Requirements for funds to provide a retirement “case manager” who would first offer members commencing retirement a look at the fund’s CIPR product, which may present an opportunity for inappropriate sales; or

Online triage, where member will be directed to CIPRs prior to even knowing about other retirement products the fund may offer.

We stress at this point that presentation, layout and other channels can be effective in nudging people into products that are not in their best interests. AIST makes the point that these behavioural nudges must not impede trustees in acting in members’ best interests. Trustees should therefore promote retirement income options that they endorse on the basis of members’ best interests.

This process presents an immediate problem, in that it is possible that any dissatisfaction that the member may have with the product may not manifest until months or years after the product has commenced. Unlike account-based income streams which can be easily rolled over or used to purchase an annuity, the right of CIPR members to change strategies has not yet been positively affirmed.

AIST would support the process outlined on pages 32-33 of the discussion paper being in almost any order that can be thought up, provided that this problem can be fixed. Essentially, the rights of members must be paramount and there must be a way to allow members to change their minds within a reasonable time period. Particularly if members are being nudged into a product that may have some limitations in this regard.

24. To which members would it be most appropriate for trustees to offer a CIPR?
   All members or only MySuper members?

We consider that trustees are in the best position to determine to which members a CIPR would be most appropriate to be offered such a product. The advantages of such a process are the following:

- Trustees would be able to better target these products based on member profiling. Such member profiling could be undertaken in various ways, but could include insurance
occupational group and any information provided during underwriting, employer history, contributions history, account balances, choice of investment options;

- Alternatively, where trustees have already determined that their funds’ general demographics are likely to favour the use of a CIPR for all members, the fund could choose to offer this product to their MySuper members, or possibly even all of their members;
- By choosing who to offer CIPRs to, trustees would be able to avoid a scenario whereby they are forced to offer a CIPR but also obliged to recommend against it. Such an outcome would be a failure of both policy and professionalism.

Trustees’ decisions to offer a CIPR to specific members should be accompanied by a robust disclosure regime to ensure that appropriate disclosure of risk, fees, costs and product limitations are appropriately delivered to the members in question.

25. **In what circumstances should trustees not offer a CIPR to certain members?**

We would support trustees’ ability to determine that certain groups should not be offered a CIPR. This could be for a number of reasons, however two of these may be:

- Members for whom trustees determine a CIPR would not be in their best interests; and
- New members who may introduce unacceptable selection risk against existing members.

26. **Should the safe harbour only apply to the offering of a CIPR to certain members?**

AIST believes that the safe harbour should be made available to trustees in the event that all funds are required to offer a CIPR.

27. **What information about CIPRs should be conveyed to members by trustees during the pre-retirement phase and how often should this occur? Should this information, its form and frequency, be prescribed?**

AIST supports consistent and common disclosure, laid out in the same way by all providers for comparability.

We believe that disclosure is more effective if it is framed in an appropriate way. Framing does not have to take place at the time that the disclosure is made – it could be built up to by improving expectations of members.

A general principle that is relevant at this point is AIST’s long-held position that members are better considering their retirement savings in terms of the income that it pays throughout retirement, rather than in terms of the lump sum balance that it has become. Unfortunately, through the terms of the working lives of Australians, their superannuation has been presented to them in statements and in online facilities as an account balance.
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For a product like a CIPR, the need to re-frame information prior to retirement is paramount. AIST would support requirements that brings requirements for statements (including projections), online calculators, internet account facilities and financial product advice requirements into line with a regime that sees superannuation as an income first, account balance second. We believe that such requirements would better manage members’ expectations.

We agree with the idea that pre-retirement engagement should be used as much as possible to manage expectations leading into retirement. We would support the proposed pre-retirement disclosure examples of page 35 with some exceptions:

- In line with the moves in recent times to increase the preservation and Age Pension ages, together with the proposed increase in the Age Pension age to 70, we believe that use of the preservation age (currently moving to 60) for projections is no longer appropriate and would recommend that either the unpreserved age (65) be used, or the new Age Pension age (67) in its place.
- The explanation of risks faced in retirement should be thorough. We note – as we have noted repetitively throughout consultation on a number of papers from retirement incomes review onward – that certain investment risks are conspicuous by their absence amongst the examples mentioned. We recommend that disclosure of investment risks must be thorough and that risk management explanation must deal with all identified risks.
- Disclosure in point-of-sale documents must also be available prior to retirement.

Disclosure of look through information must also be provided on a level that is consistent with the new portfolio holdings disclosure requirements, as well as choice product dashboards and RG 97 requirements.

28. When should the pre-retirement engagement between a trustee and a member commence and how frequently should it occur? Should this timing be prescribed?

With respect to managing member expectations, funds should be engaging with members as early as possible. We note that in managing expectations, we believe that the entire reporting framework to members should be reviewed. We have explained this in greater detail in our response to Question 28.

This question may be more concerned with the timing of at which point funds should be offering their preferred retirement solution to members. To this end, we support the following:

- A Product Disclosure Statement (PDS) (or a number of PDSs) should be required to be issued as part of the process. Given the likely complexity of the products which may be offered, this is not negotiable.
- We would support the engagement point being members contacting their funds about retirement.
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- We would strongly recommend against preservation age being a trigger point for this and, given the potential for mis-selling of financial products, would suggest a ban on this being a trigger on its own.

We agree with the dot points as discussed on page 36 of the discussion paper, however note that members should be made aware that they may lose insurance or other benefits available to them as members of the fund in the accumulation phase.

29. What is the best way to communicate the offer of a CIPR to members? Will warnings/pre-conditions when offering a CIPR be effective? If so, which warnings/pre-conditions are necessary? If not, what is the alternative?

AIST believes that trustees would be in the best position to determine the best way to communicate a CIPR offer to their members.

We take the opportunity once again to counsel against nudging people into products which are not easily commutable without appropriate disclosure and warnings. Among the warnings that members need to be aware of, we would include:

- Warnings about risks specific to these products, including counterparty-credit risk, mortality risk and interest rate risk; and
- Warnings about the loss of consumer rights due to lack of commutability, including (if applicable) the right to change providers and the reduced access to emergency funds later on in retirement.

Trustees who offer a CIPR to their membership must be mindful that members who use preselected products are likely to not be as cognisant of the relevant investment risks as members who select alternative products.

30. What is the most appropriate type of disclosure document to provide further information about a CIPR to consumers and intermediaries such as financial advisers?

In addition to the PDS, we would suggest that online disclosure should be used for further information. As with Choice investment options, CIPRs should eventually be subject to the product dashboard requirements, and we would support information that is not required to be in a PDS to be made available on funds’ websites in order to assure comparability. We would also support the standardising of fee and cost disclosure to ensure comparability on product dashboards.

Highly relevant information which is periodically updated should be provided online, such as any financial information relevant to assessing the counterparty-credit risk of the guaranteed income.
Net returns to members after fees which should be available to members in some form or other. Where net returns are specific to individual members, they should be available in a way that is easy to access by members, such as through statements or secure internet facilities. This should be in addition to indicative net returns for prospective members using CIPRs.

Consumer testing of all disclosure documents and website disclosure should take place to ensure easy comprehension by consumers. AIST does not support complex or difficult to compare products that must be explained by financial advisers as this leaves consumers open to exploitation.

31. **What is the best way to assist individuals to assess the pros and cons of a CIPR?**

Trustees should hold a view and make it clear what that view is about how they will meet their members’ best interests in retirement as part of their retirement incomes framework. This should consider each of their retirement cohorts.

We note difficulties currently in assessing differently designed MySuper products against each other, for example where one product may use a single diversified investment option and another uses a glidepath-style lifecycle option. We consider this to be a relatively trivial problem of comparison compared to the world of potential products that CIPRs could become.

We would consider it helpful to members to have online access to tools used by trustees in assessing the CIPRs for use amongst their membership. For example, where a CIPR has been assessed using techniques such as historical simulation or Monte Carlo simulation, this could be provided online so that parameters could be adjusted by members to assess their situations and see how these products could assist them.

As previously discussed, we believe that certain legislated information such as an independently assessed and comparable ratings of counterparty-credit risk must be provided. This could be provided by a large ratings agency such as Fitch, Moody’s or Standard & Poors, or could be provided by a specialist agency. However, such ratings must promote comparability.

32. **What is the best way to foster competition in the CIPR market and broader retirement income product market?**

AIST supports consistent and common disclosure, laid out in the same way by all providers for comparability. Common and consistent disclosure is relevant to information being meaningful to members, and meaningful information is vital to ensure informed consent.
33. Should CIPRs be able to be provided via direct channels and financial advice?

AIST would support the provision of CIPRs via these channels. However, AIST does not support the creation of CIPRs as deliberately opaque investment vehicles which will require an adviser to decipher. AIST is concerned that the addition of CIPRs to a fund’s superannuation offerings provides an opportunity for arbitraging between members with differing degrees of financial literacy and observes the potential for these products to be considerably more complex than existing retirement income offerings.

34. Is there a need for regulation of fees and pricing of CIPRs? What are the options?

AIST agrees that there is a need for regulation of fees and pricing of CIPRs.

We support efforts to ensure that all relevant fees and costs are disclosed. We believe that the existing regulatory framework may not accurately capture products such as CIPRs and supports regulation of fees and pricing of CIPRs. Amongst the many things that CIPR providers should be required to disclose are:

- Pricing of retirement income products and how the pricing methodology is arrived at;
- Life expectancy assumptions used by providers in pricing decisions;
- Disclosure of fees collected by investment in related parties;
- Disclosure of related party payments which are not necessarily fees;
- Adviser payments and the basis for how they are calculated; and
- The complete banning of volume-based payments and commissions, similar to those in place on MySuper products.

Section E: Products outside the mass-customised CIPR framework

35. Should a retirement income product that meets the minimum product requirements of a CIPR be labelled as such?

AIST agrees that a fund’s preferred retirement income product should be labelled as such, where a fund has such a product. As explained elsewhere in our submission, if a fund believed that an account-based pension (and a specific investment option within it) was suitable to be offered to members as a preferred option, then this should be explicitly labelled.

AIST disagrees that products that aren’t “offered” to their members could be a CIPR. We have interpreted one of the requirements implied by this discussion paper to be described as a CIPR is that it would be suitable to be “offered” to members. AIST has no opposition to innovative income stream products that meet all other requirements, however.

We believe that members may be confused by the nomenclature – in short, where funds offer a CIPR to their members, we believe that this is in effect, a recommendation. It would be confusing
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if members missed the offer of the preferred CIPR and went through the product options to find that there were, for example, three of them.

Section F: Other matters

36. Is ‘MyRetirement’ a more appropriate label for a CIPR in both the product and framework sense?

Although AIST supports sensible and “catchy” names for superannuation products which encourage engagement and interest, we are generally cautious about the use of such names. We take this time to remind of structured products developed and marketed to retail investors during the global financial crisis with names that didn’t really explain the nature of these complex products. Although unable to suggest names, we suggest that “MyRetirement” would be relatively well-placed to convey the general idea of what a CIPR would be designed for, but could also be use where a fund has nominated another type of retirement income product as their preferred option.

37. Would portability foster competition between CIPRs as well as other retirement income products? If so, how could portability be built into the design of a CIPR, should portability be mandatory or discretionary for trustees, and what would be the implications of this?

The rights of consumers to change providers must be upheld and AIST considers portability for both competition and consumer purposes to be of paramount importance. Innovative solutions must be found to avoid the need for commutations, especially where an account has no commutable value, but still has income payable.

Although some have suggested this to be difficult, a solution to the portability problem might be for one fund to “sell” the liability to another fund in response to a request to “rollover” by a member. This could be done a number of ways, but absolute transparency must ensure that the member choosing to switch providers is aware throughout the whole process of what they would receive if they were to change providers, as well as what they would be giving up.

In addition, in our response to Question 23, we noted that where members are nudged into a new product which is orders of magnitude more complex than competing products, they must have a reasonable opportunity to switch products if the original product is not for them. We would expect this to be possible in the other direction.

We are confused by the suggestion on page 41 that a CIPR might not be a CIPR if part could be rolled over. Our understanding of the product standards is that the product is precisely supposed to cater for just such an event by offering this flexibility in the first place. The fact that someone has chosen to use the entire amount should be immaterial.
38. Should it be mandatory or left to the discretion of trustees to decide whether to allow for period certain guarantees in the design of CIPRs? What would be the implications of this?
The trustees are best able to determine whether this feature is in the interests of their members and how it affects them.

39. What should be the maximum and minimum cooling off periods?
AIST note 14 days (financial products) and six months (non-commutable immediate annuities) may be preferable for product parity reasons. However, regardless of cooling off periods we support longer periods to allow for product portability. We noted in our response to question 23 that if are to be nudged into CIPRs, and due to likely limitations on commutations in CIPRs, a reasonable period should be allowed for members to choose to leave if they change their minds. This may be longer than six months.

It should also be mentioned that there exists considerable difference between cooling off periods in the design of different defined benefit retirement income products. Use of product parity reasons for determining cooling-off periods may therefore not be possible.

40. Should the CIPRs framework accommodate (and if so, how):
   a. joint CIPRs for couples?
   b. collective defined contribution schemes?
   c. aged care refundable accommodation deposits?
AIST strongly recommends that further consultation is needed regarding the highly important matter of post retirement. We suggest the following two step process:

- A more immediate consultation - That an industry wide working group (IWG) be convened in the very near future. The IWG could address issues arising from the current consultation paper, as well as any flowing from submissions. The IWG could comprise Treasury, ASIC, APRA, superannuation funds, product providers, consumers, actuaries, and academics. We drafted a series of questions which the IWG could examine (Appendix B).
- A longer term review - As a review which could take place in the longer term, AIST takes the opportunity to call for a holistic review of retirement incomes which considers the impact of tax both inside and outside of super as well as the Age Pension.
Appendix B: Post retirement framework working group

Introduction

AIST has suggested a two step further consultation process within this submission. The first of these – a more immediate consultation – is that an Industry Wide Working Group be established. The IWG could address issues arising from the current consultation paper, as well as any flowing from submissions.

The following raises the type of questions an industry-wide working group (IWG) could address. The IWG could comprise - for example - Treasury, APRA, ASIC, superannuation funds, product providers, consumers, actuaries, academics.

Suggested questions for an Industry-wide Working Group to consider

1. **Discuss overarching objectives**
   - To provide, together with Social Security, an adequate income in retirement.
   - Consider other objectives, e.g. flexibility, intergenerational wealth transfers, and transparency.

2. **Considering members’ needs**
   - What is an ‘adequate’ income? Is it the ASFA comfortable standard or a variation?
   - Is there a way to benchmark data to help determine a member’s financial needs – could standards be set?
   - To what extent should the trustee take into account matters external to the fund, such as Social Security and other assets and liabilities, etc?
   - What should be taken into account in determining whether a CIPR (single or multiple) should be offered?

3. **Meeting members’ information needs**
   - What information do members need pre-retirement (e.g. retirement income projections, calculators, etc)
   - What information is required for members at or near retirement?
   - How can information to members be provided clearly, concisely and effectively to give members an understanding of the fees, likely return and risk characteristics of the various products on offer?
   - Is there a way to assess the relationship of any premiums paid to what a member might expect in the future?
4. **Regulatory environment**
   - Are there any additional matters needed within the disclosure regime given the rising pool of post retirement moneys?
   - Consider the interaction between CIPRS, post retirement frameworks and the product design and ASIC intervention powers (the concept of ‘target market’).

5. **CIPR certification process**
   - Review certification process through a broader audience.
   - Who should certify – how to guarantee independence of process?
   - How might the interplay between ‘required minimum income’ and minimum Account Based Pension drawdowns work?
Appendix C: At a glance - inconsistent treatment of choice superannuation products

This is an extract from AIST’s submission⁸ to the Senate Inquiry into consumer protection in the banking, insurance and financial services sector:

The following table summarises the numerous exemptions, gaps and inconsistencies afforded through the legislative environment to choice superannuation products. At 30 June 2015, choice superannuation products cover $904,556 million of members’ pre-retirement superannuation moneys compared with $428,300 million in MySuper. More detail regarding these may be found in AIST’s submission.

Table 1 – Overview of exemptions from regulatory framework

<table>
<thead>
<tr>
<th>Different treatment</th>
<th>Comments</th>
<th>Impact on consumers</th>
</tr>
</thead>
<tbody>
<tr>
<td>No explicit duties on trustees to promote the financial interests of beneficiaries, or apply a scale test for choice products/investment options.</td>
<td>The value of retirement savings in pre-retirement choice products/investment options is double the value in MySuper products. In 2014 SuperRatings found substantial differences between fees for MySuper and choice products, particularly within retail superannuation funds – even when the underlying asset allocations were almost identical. According to APRA there are 120 MySuper products but over 40,000 member investment choices.</td>
<td>The compounding effect of higher fees over long term reduces retirement incomes for members of choice products. Choice overload baffles members. The choice sector of the superannuation system is not achieving efficiencies of scale.</td>
</tr>
<tr>
<td>The Government deferred the requirement for choice dashboards in 2014, 2015 and 2016.</td>
<td>The Super System Review, Financial System Inquiry, and the Grattan Institute have all concluded that the level of fees paid by members is too high.</td>
<td>Members of choice products/investment options do not have a dashboard and so cannot easily compare their returns, fees or costs with MySuper products.</td>
</tr>
</tbody>
</table>

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# Development of the framework for Comprehensive Income Products for Retirement (CIPRs)

<table>
<thead>
<tr>
<th>It plans to amend the law so funds would only need to produce dashboards for their 10 largest choice options.</th>
<th>SuperRatings has criticised the poor level of disclosure of fees, noting there is still a long way to go to achieve comparability of fees across MySuper and choice products/investment options.</th>
<th>Under the Government’s proposal, dashboards will not be required for most choice investment options.</th>
</tr>
</thead>
<tbody>
<tr>
<td>APRA does not collect or publish statistics on choice products/investment options equivalent to the comprehensive statistical collection derived from the MySuper reporting standards.</td>
<td>APRA deferred collecting data for choice products/investment options for consideration during the development of the requirements for choice dashboards.</td>
<td>Members rely on APRA, employers, advisers, Government, researchers, commentators and trustees to analyse the characteristics and performance of choice products/investment options. Lack of data hampers this.</td>
</tr>
<tr>
<td>No requirement to ensure switching funds is in the best interests of the member when giving general advice or under no-advice business models.</td>
<td>ISA analysis of Roy Morgan research found an increase in cross-selling retail superannuation using general advice and no-advice business models.</td>
<td>Members are switched from a MySuper product to an inferior choice product/investment option, when it is not in the best interests of the member.</td>
</tr>
<tr>
<td>New fees and costs disclosure requirements do not apply to superannuation held via a platform.</td>
<td>According to Rainmaker, over 70 per cent of retail superannuation assets in Australia are held via platforms. According to Lane Clark Peacock, UK members may be paying up to 20 basis points per annum to access an active fund through a platform when compared with the cost of going direct to the fund manager. According to the UK Financial Conduct Authority, platforms add 20-90 basis points to costs.</td>
<td>Disclosure for superannuation held via a platform understates fees and costs paid by the member. ASIC admits it would be misleading to compare the fees and costs of platforms and non-platform superannuation funds. The compounding effect of higher costs over long term reduces retirement incomes for members.</td>
</tr>
<tr>
<td>The (unimplemented) dashboard regime for</td>
<td>While the Government amended the regime to require dashboards for</td>
<td>Members who hold their superannuation via a platform will</td>
</tr>
</tbody>
</table>
## Development of the framework for Comprehensive Income Products for Retirement (CIPRs)

<table>
<thead>
<tr>
<th>Choice products/investment options will not include platforms.</th>
<th>Products/investments held via a platform, platforms themselves will be exempt.</th>
<th>Not have a dashboard for it, compounding an existing difficulty comparing their returns, fees or costs with MySuper products.</th>
</tr>
</thead>
<tbody>
<tr>
<td>APRA does not collect or publish statistics on platforms equivalent to the comprehensive statistical collection derived from the MySuper reporting standards.</td>
<td>APRA deferred collecting data for choice products/investment options for consideration during the development of the requirements for choice dashboards.</td>
<td>Members rely on APRA, employers, advisers, Government, researchers, commentators and trustees to analyse the characteristics and performance of superannuation held via a platform. Lack of data hampers this.</td>
</tr>
<tr>
<td>No requirement to produce a shorter PDS for legacy products.</td>
<td>According to Rice Warner, around 30% of personal superannuation assets are held in legacy products.</td>
<td>This makes it difficult for members in legacy products to compare the performance, fees or costs of the product with a contemporary product, understand the exit costs and assess whether they would be better off switching to a contemporary product.</td>
</tr>
<tr>
<td>The (unimplemented) dashboard regime for choice products/investment options will not include legacy products.</td>
<td>Rice Warner found fees and costs for legacy products are on average more than double those for contemporary products. UK Independent Project Board found £26 billion in legacy pension schemes had investment manager fees above 1%, with nearly £1 billion exposed to fees over 300 basis points per annum.</td>
<td>Members who hold legacy superannuation products will not have a dashboard, making it difficult to compare their returns, fees or costs with contemporary products.</td>
</tr>
<tr>
<td>APRA does not collect or publish statistics on legacy products equivalent to the comprehensive statistical collection derived from the</td>
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</tr>
</tbody>
</table>
MySuper reporting standards.

| Conflicted remuneration is banned for most of the financial services industry, but there is an exemption for advice about retail life insurance. | In 2014 ASIC found more than one third of advice about retail life insurance reviewed did not comply with the law.  
96% of non-compliant advice was given by advisers paid an upfront commission. | Consumers are at significant risk of being recommended a life insurance policy that is not in their best interests.  
Industry and Government proposals to address this do not include banning commissions. |