



AUSTRALIAN INSTITUTE of  
SUPERANNUATION TRUSTEES

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The Manager  
Retirement Incomes  
The Treasury  
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### Retirement Income Covenant: exposure draft legislation

**In brief:** AIST supports a principles-based retirement income covenant, but strongly urges that associated financial advice issues be addressed.

AIST also recommends a data-sharing arrangement with Government agencies to facilitate implementation, safe harbour protections for super funds, an initial 12-month period for voluntary implementation, standardised labelling, special consideration for Indigenous peoples, and confirmation that retirees will continue to have flexible access to their savings (including lump sums).

#### About AIST

*Australian Institute of Superannuation Trustees (“AIST”) is a national not-for-profit organization whose membership consists of the trustee directors and staff of industry, corporate and public sector superannuation funds.*

*As the principal advocate and peak representative body for the \$1.5 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.*

*AIST advocates for financial wellbeing in retirement for all Australians regardless of gender, culture, education, or socio-economic background. Through leadership and excellence, AIST supports profit-to-member funds to achieve member-first outcomes and fairness across the retirement system.*

*The Australian Institute of Superannuation Trustees (AIST) welcomes the opportunity to make a submission to Treasury on the Strategic assessment consultation paper.*

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## Executive summary

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AIST supports the addition of a principles-based retirement income covenant to the section 52 covenants in the SIS Act.

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AIST supports the proposed objectives for retirement income strategies, recommending that the other objectives be subject to the primary objective of maximising expected income throughout retirement.

Introduction of a retirement income covenant has implications for the provision of financial advice, and AIST recommends consequential legislative and regulatory changes to address these:

- ASIC should update their guidance about the boundaries between the provision of factual information and general advice in relation to the Retirement Income Covenant, and the Explanatory Memorandum foreshadow this.
- The legislation should explicitly provide protection from liability for a fund where a higher drawdown rate is a part of properly constructed and compliant retirement income strategy.
- The Explanatory Memorandum should foreshadow the extension of intra-fund advice to allow the provision of advice on how a member might best provide for their retirement, including consideration of household's retirement adequacy, Age Pension eligibility, non-superannuation assets, and income. The Government should announce legislation to support such an extension.
- The Explanatory Material should reiterate that a super fund is able to offer members general advice about retirement product options without breaching anti-hawking legislation, and that the Government expects that ASIC will be issuing guidance and parameters within which this can occur.

The proposed retirement income covenant will continue to allow retirees to choose how they access their retirement balances.

- The Explanatory Memorandum should explicitly confirm that this means retirees, and especially those with modest levels of retirement savings, are not precluded from accessing these as a lump sum.

The Government should use the retirement income covenant as an opportunity to structurally consider how the superannuation system, both accumulation and post-accumulation phases, can be adjusted to improve outcomes for Aboriginal and Torres Strait Islander people.

- The legislation should explicitly state that trustees will have regard to the needs of Aboriginal and Torres Strait Islanders in their retirement income strategies and development of cohorts

While AIST support the requirement for super funds to publish a summary of their retirement income strategy, the proposed requirement for trustees to make every determination made about their strategy public is unnecessarily onerous and should be removed.

Safe harbour protections should be provided to super funds in line with *Treasury's Retirement Income Covenant Position Paper* of May 2018.

In order to support the development of retirement income strategies and associated cohorts of members, the Explanatory Memorandum should foreshadow a data-sharing framework for Government agencies (eg, ATO and Services Australia) to release de-identified data to assist trustees meet their obligations.

The legislation should be amended to provide a flexible implementation period, where the requirement for a retirement income strategy would be voluntary for the first 12 months from 1 July 2022 and become mandatory on 1 July 2023.

The Explanatory Material should foreshadow the Government's intention to have clearly defined and consistent retirement income product labels, and standardised disclosures.

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## Discussion

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AIST has long been an advocate of a principles-based retirement income covenant. In our latest submission, which was in response to the Government’s Position Paper released in July 2021, we noted our support for the proposed introduction of the retirement income covenant<sup>1</sup> (**‘the covenant’**).

As part of our submission AIST made several recommendations that we believe would enhance the introduction and implementation of the covenant<sup>2</sup>. The release of the Exposure Draft (**‘the Bill’**) and the accompanying Explanatory Material does not appear to address some of the key recommendations outlined in our submission which we consider are pivotal to optimal implementation of the covenant. A summary of these recommendations is included in **Appendix A**.

### Policy Considerations

#### A legislated objective

The principles-based approach is welcome as it provides flexibility to trustees of superannuation funds to develop a strategy that is best suited to its membership. Noting the existing policy settings, we consider the introduction of the covenant to be a positive step towards the development of a more cohesive retirement system.

However, we believe that a principles-based approach must be accompanied by a clear guiding objective for superannuation as part of a broader, comprehensive legislated objective of the retirement income system.

This would align with the findings of the Retirement Income Review (**‘the RIR’**). In its Final Report, it noted:

*“A clear objective for the system, agreed by the Australian community and through the Government, is needed to guide policy, improve understanding and provide a framework for assessing performance of the system”<sup>3</sup>.*

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<sup>1</sup> AIST (2021), *Retirement Income Covenant Position Paper – AIST Submission to Treasury*, 6. [https://www.aist.asn.au/getattachment/Media-and-News/News/2021/AIST-Submission-to-Treasury-Retirement-Income-Cove/AIST-Submission-to-Treasury-Retirement-Income-Covenant\\_FINAL.pdf.aspx](https://www.aist.asn.au/getattachment/Media-and-News/News/2021/AIST-Submission-to-Treasury-Retirement-Income-Cove/AIST-Submission-to-Treasury-Retirement-Income-Covenant_FINAL.pdf.aspx)

<sup>2</sup> Ibid., 5.

<sup>3</sup> Retirement Income Review (2020), *Final Report*, 79. <https://treasury.gov.au/sites/default/files/2021-02/p2020-100554-udcomplete-report.pdf>.

AIST reiterates its recommendation that the introduction of the covenant be progressed in tandem with (but not delayed by) a legislated objective of the retirement income system, including the role of superannuation.

### Hierarchy of objectives

AIST supports the objectives of the retirement income strategy (**'the strategy'**) outlined in the draft Bill. The three objectives of the strategy are, in summary:

- (a) To maximise expected retirement income over the period of retirement;
- (b) To manage expected risks to the sustainability of retirement income over the period of retirement, including longevity, investment, and inflation risks alongside any other relevant risks to this objective; and
- (c) To have flexible access to expected funds over the period of retirement.

The draft Bill and Explanatory Material make it explicit that these objectives must be balanced. AIST supports all three objectives and notes that although they must be balanced, the interaction between the objectives requires prioritisation as they develop within the broader retirement income system and its two other pillars – the Age Pension and private savings.

AIST recommends that consideration be given to a tiered approach to the objectives over the period of retirement, with a top-down priority as follows:

1. Maximising expected retirement income
2. Management of expected risks to the sustainability of retirement income
3. Flexibility of access to expected funds

We consider this approach for several reasons. First, maximising expected retirement income during the period of retirement contributes directly to the long-term reduction of the fiscal burden arising from the Age Pension – although this will remain a key pillar in protecting retirees from longevity risk.

This leads us to consider the second objective as the next step in optimising retirement income: to manage expected risks to the sustainability of retirement income. As noted earlier, the Age Pension provides a level of basic income protection against longevity risk. This pillar will remain important as a cohort of the population continues to retire without a lifetime of superannuation guarantee contributions. This factor is particularly pertinent in the context of the retirement gap between women and men and also accounting for Australia's Age Pension rate, which has a lower replacement rate compared to other OECD countries<sup>4</sup>. This second obligation must be managed in

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<sup>4</sup> Replacement rate of 41.0% of pre-retirement earnings as of 2018. Estimate obtained from *OECD Data – Net pension replacement rates*. <https://data.oecd.org/pension/net-pension-replacement-rates.htm>

tandem with Government retirement policy, which would also seek to manage these risks; it should not fall solely on superannuation trustees.

Finally, having regard to flexible access to expected funds, we note that existing settings in superannuation already provide some flexibility of access. Account-based pensions are an effective retirement income stream for most retirees as they are relatively low cost. There is an under-developed market for annuities which arises not only from a supply-side constraint, but that there is also little demand for these products. However, we support the principle of more flexibility and regard this objective to be important.

We consider that this tiered approach will contribute to the policy intent of the retirement income system of “[delivering] adequate standards of living in retirement in an equitable, sustainable and cohesive way”. It will also assist trustees in implementing, giving effect, and reviewing the strategy by providing a clear guiding principle.

### **The interaction with financial advice and existing provisions**

Establishing a principles-based covenant requires consideration of the interaction with, and role of, financial advice. There are practical concerns that relate to the overlap between what is expected from superannuation trustees regarding guidance and *assistance* and what is considered advice.

Despite extensive guidance from the Australian Securities and Investments Commission (‘ASIC’), there remains some confusion about the boundary between general and personal advice. Although this is extensively canvassed in the 2012 **RG 244 Giving information, general advice and scaled advice**<sup>5</sup> and the more recent **RG 90 Example Statement of Advice: Scaled advice for a new client**<sup>6</sup>, differing views about this persist and the issue has seemed intractable.

This lack of clarity needs to be addressed in order for advice to play an appropriate role in retirement income strategies. ASIC should update their guidance about the boundaries between the provision of factual information and general advice, including in relation to the Retirement Income Covenant, and the Explanatory Material foreshadow this.

For example, and of particular importance, the status of recommendations or encouragements for a particular cohort solution to include drawdown levels that are greater than the regulated minimum drawdown levels should be made clear in Government or regulator guidance.

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<sup>5</sup> ASIC (2012), <https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-244-giving-information-general-advice-and-scaled-advice/>

<sup>6</sup> ASIC (2017), <https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-90-example-statement-of-advice-scaled-advice-for-a-new-client/>

If such drawdown recommendations are replicated in general or personal advice provided to fund members, the status of this and the implications for funds should be clarified. In particular, the legislation should explicitly provide protection from liability for a fund where a higher drawdown rate is a part of properly constructed and compliant retirement income strategy.

If general information provided to an individual member identifies them as being part of a specific cohort and outlines the recommended drawdown rate for their age in that cohort based on the data gathered for the purposes of the strategy, it is difficult to understand how this would not be regarded as personal advice.

The effective operation of the covenant should reduce the need for personal advice and increase the proportion of fund members who are able to make a decision on their preferred retirement income solution without the need for comprehensive personal financial advice.

For this ambition to be realised, there are additional measures that should be put in place:

1. Clear guidance about the extent to which a fund can encourage a member to adopt the retirement income solution recommended for their cohort; and
2. The expansion of intra-fund advice to include advice about retirement products.

In order to supplement a fund's retirement income strategy AIST also calls for the removal of obstacles to the use of alternatives to comprehensive personal advice. This includes factual information, general advice and intra-fund advice, and should include consideration of strategic advice.

- **Intra-fund advice**

Intra-fund advice is a cost-effective way for super fund members to obtain advice as a part of their fund membership. The Financial Services Royal Commission ('FSRC') found no evidence that intra-fund advice had been misused or related to misconduct<sup>7</sup>. On the contrary, intra-fund advice provides mass-market advice very widely and successfully.

The value of intra-fund advice has not, however, been fully or consistently utilised. There are two areas where this should be remedied, both of which are relevant to the Retirement Income Covenant.

First, clarifying the provision of intra-fund advice on how the member might best provide for their retirement may provide a model for accessible advice that has not been prone to misconduct. Such a model should also reflect that people commonly seek pre-retirement advice as couples/household,

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<sup>7</sup> Commonwealth Government (2019), Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report* Volume 1, 242-243.

and that this (including consideration of a spouse's super) should be allowable within an intra-fund advice topic on retirement and paid for via existing intra-fund advice models. This is particularly pertinent given that other relevant retirement income such as the Age Pension is assessed based on whether someone is in a relationship.

Second, AIST members report that one of the main advice strategies for members in the accumulation phase leading up to retirement is increasing contributions and managing contributions for a couple's best interests. Therefore, intra-fund advice should be extended to include a household's retirement adequacy, Age Pension eligibility, non-superannuation assets, and income.

This approach is a natural fit with the approach outlined in the draft Bill and Explanatory Material, whereby a fund is required to have regard to these criteria in developing cohorts. While the retirement income solution recommended for the various cohorts may be suitable for a broad cohort of members, this would be appropriately supplemented by accessible intra-fund advice for members who are unclear about the suitability of the cohort for their needs, or who may have different needs.

- **Anti-hawking**

While the Explanatory Material states that the covenant obligations are consistent with anti-hawking legislation permitting super funds to contact their existing members with retirement product information, there is a grey area that should be specifically addressed in the explanatory memorandum to the legislation.

The Explanatory Material should also reiterate that a super fund is able to offer members general advice about retirement product options, and that the Government expects that ASIC will be issuing guidance and parameters within which this can occur.

- **Lump sum payments**

Policy settings must not undermine the benefits of letting retirees choose how they access their retirement balances. Many members are retiring with relatively modest balances, and they should not be precluded from accessing some or all of this as a lump sum. Access to a lump sum may help retirees clear debt or in for other purposes that help them prepare for retirement aligned with their needs. The risks arising from a lack of liquidity are higher as a person approaches retirement or is in retirement, and this type of access may alleviate these risks.

Retirement income strategies must recognise circumstances where it might make sense for a retiring member to use their savings in a way that contributes to their quality of life (for example, purchasing a car) over receiving a small superannuation pension.



## Aboriginal and Torres Strait Islander peoples

There is a significant retirement gap for Aboriginal and Torres Strait Islander peoples, in particular for Indigenous females. Indigenous males retire with 27% less, and females with 39% less, superannuation “than the median non-Indigenous male worker”<sup>8</sup>. This gap must be addressed as part of any enhancement to the retirement income system, including as part of the retirement income covenant.

We acknowledge that addressing the retirement gap of Indigenous Australians requires broader consideration of public policy issues that go beyond the scope of this consultation. Nevertheless, AIST considers that the introduction of a retirement income covenant without due consideration of Aboriginal and Torres Strait Islander peoples will further widen the retirement gap.

It is imperative to consider the objectives of the proposed covenant in the context of broader settings that impact the accumulation phase of Indigenous people. The covenant intends to address the gap arising from trustees’ focus on accumulation and the lack of any obligations post-accumulation. This is appropriate when considering the average beneficiary, but evidently it is inadequate when major issues must first be addressed for Aboriginal and Torres Strait Islander peoples in relation to the accumulation phase itself.

For example, analyses of Indigenous employment reveal that employment rates between Indigenous Australians and non-Indigenous Australians diverged in the years leading up to 2016<sup>9</sup> with Indigenous Australians having lower levels of employment. This has dire and direct repercussions on the ability of Aboriginal and Torres Strait Islander peoples to accumulate sufficient income for retirement. There is no consideration in the draft Bill of how trustees are expected to address this in the current framework.

We do not consider it is appropriate to merely determine Aboriginal and Torres Strait Islander members as a cohort for which a strategy must be developed without due consideration of issues such as financial literacy, materially lower life expectancy, and higher reliance on welfare. Issues which we consider must be addressed by the Government, with input from Indigenous stakeholders, superannuation trustees, financial services providers, and community stakeholders.

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<sup>8</sup> MacDonald, K., & Guest, R. (2019). KiwiSaver: A jewel in the crown of New Zealand’s retirement income framework? In J. Luetjens, M. Mintrom, & P. ‘t Hart (Eds.), *Successful Public Policy: Lessons from Australia and New Zealand* (pp. 477–504). ANU Press. <http://www.jstor.org/stable/j.ctvh4zj6k.27>

<sup>9</sup> Jordan, K. (2016). Introduction., *Job Creation and income support in remote indigenous Australia: moving forward with a better system* (CAEPR Topical Issue No. 2/2016, pp. 1-2). Centre for Aboriginal Policy Research, ANU College of Arts & Social Sciences. In K. JORDAN and FOWKES, L. [https://caepr.cass.anu.edu.au/sites/default/files/docs/CAEPR\\_Topical\\_Issues\\_2\\_2016\\_0.pdf](https://caepr.cass.anu.edu.au/sites/default/files/docs/CAEPR_Topical_Issues_2_2016_0.pdf)

In addition to these structural limitations, there are challenges directly related to the data collection requirements outlined in the draft Bill. The RIR noted in its Final Report the “limited and poor-quality data [which] prevent[s] comprehensive analysis of Aboriginal and Torres Strait Islander people’s retirement outcomes”<sup>10</sup>. There are already challenges that, as we highlight later in this submission, relate to data collection for the broader population – challenges which deepen when considering Aboriginal and Torres Strait Islander peoples.

The Australian retirement system is not designed for Aboriginal and Torres Strait Islander peoples. This includes limitations to access to financial services in remote and very remote areas; identification challenges; and an explicit lack of recognition of Indigenous kinship structures in superannuation law<sup>11</sup>.

AIST calls on the Government to use the introduction of the retirement income covenant as an opportunity to structurally consider how the superannuation system, both accumulation and post-accumulation phases, can be adjusted to improve outcomes for Aboriginal and Torres Strait Islander people. Whilst we remain supportive of the covenant, we consider it crucial that these issues be addressed in tandem. The legislation should explicitly state that trustees will have regard to the needs of Aboriginal and Torres Strait Islanders in their retirement income strategies and development of cohorts.

### Specific Comments

AIST consulted extensively with its member funds in relation to the Exposure Draft. While the introduction of the covenant is strongly supported, there are elements of the Exposure Draft and the Explanatory Memorandum that are unclear. We outline key concerns that we believe require further clarity to assist superannuation trustees meet their obligations under the proposed covenant.

### Requirements under the covenant

The Exposure Draft outlines under subsection 52(8)(A)(d) several requirements relating to the recording of determinations made by trustees and the gathering of information. Subsection 52(8)(A)(e) also outlines a requirement for trustees to make a summary of the strategy publicly available on the website of the entity.

AIST has concerns with regards to the wording of the draft Bill and the requirements set out in the subsections mentioned. It is understood from the draft Bill and the Explanatory Material that trustees will be required to make public every determination made in respect of the strategy,

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<sup>10</sup> Retirement Income Review (2020), *Final Report*, 337. <https://treasury.gov.au/sites/default/files/2021-02/p2020-100554-udcomplete-report.pdf>.

<sup>11</sup> Ibid.

including the reasons for **each** decision. The rationale behind this requirement is unclear and is not outlined in the Explanatory Material. Furthermore, the requirement to make determinations public, including steps taken to gather information and decisions considered by trustees as part of the process, is not a requirement found in any of the other covenants under *section 52* of the *Superannuation Industry (Supervision) Act 1993*<sup>12</sup> (**'SIS Act'**). We reiterate our support for the covenant, but consider these requirements, which are **additional** to those found in the other covenants, to be onerous and without any clear public benefit.

We highlight our support for the requirement to publish a summary of the strategy. However, it is not clear from the Explanatory Material what the expectation is as to what the summary should include. We recommend guidance be provided given that failure to comply with this requirement will be considered a contravention of a covenant.

### Liability concerns

In our previous submission we recommended that safe harbour protections be provided in limited circumstances<sup>13</sup> in line with the *Retirement Income Covenant Position Paper* of May 2018<sup>14</sup>. Our review of the draft Bill and Explanatory Material reinforces our view that a safe harbour provision should apply in limited circumstances with the introduction of the covenant.

AIST highlights some elements of the draft Bill that are unclear and, without additional guidance, leave trustees at risk of breaching their obligations. For example, it is unclear what is meant by **assist** or **assisting**; we question how a trustee would determine if it has met its obligation to assist members in the context of a retirement income strategy. We seek clarity on this term having regard to our earlier points about the limits of intra-fund advice and general advice rules, and the punctuated intersection between general advice and the need for comprehensive advice in some instances.

Given that a breach of *section 52* covenants may incur a civil penalty, guidance would be beneficial to understand the liability risks for trustees in developing, giving effect to, and reviewing a strategy if the Government is not in a position to consider introducing a safe harbour in limited circumstances.

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<sup>12</sup> *Superannuation Industry (Supervision) Act 1993* (Cth), s58.  
[http://www5.austlii.edu.au/au/legis/cth/consol\\_act/sia1993473/s52.html](http://www5.austlii.edu.au/au/legis/cth/consol_act/sia1993473/s52.html)

<sup>13</sup> AIST (2021), *Retirement Income Covenant Position Paper – AIST Submission to Treasury*, 6.  
[https://www.aist.asn.au/getattachment/Media-and-News/News/2021/AIST-Submission-to-Treasury-Retirement-Income-Cove/AIST-Submission-to-Treasury-Retirement-Income-Covenant\\_FINAL.pdf.aspx](https://www.aist.asn.au/getattachment/Media-and-News/News/2021/AIST-Submission-to-Treasury-Retirement-Income-Cove/AIST-Submission-to-Treasury-Retirement-Income-Covenant_FINAL.pdf.aspx)

<sup>14</sup> Treasury (2018). *Retirement Income Covenant Position Paper: Stage one of the Retirement Income Framework*, 11. <https://treasury.gov.au/sites/default/files/2019-03/c2018-t285219-position-paper-1.pdf>

### Defined benefit exemption

AIST is supportive of the exemption provided to trustees to develop a retirement income strategy for certain defined benefit members. We understand from *paragraph 1.20* of the Explanatory Material that the exemption applies for a beneficiary that exclusively holds a defined benefit interest **and** the benefit can't be commuted. AIST seeks further clarification from Treasury about the operation of this exemption.

### Data collection

We have consulted extensively with our members funds and received feedback pertaining the collection of data. These concerns were also raised in our previous submission, where we outlined the challenges of collecting accurate and comprehensive data in a short time frame for the purposes of a retirement income strategy that is appropriate for a class of members or sub-class.

For example, outside of personal advice superannuation funds do not receive, and are unable to easily collect, much of the information that is outlined as being required for a strategy. Aggregated, de-identified data for the Age Pension is not available to trustees, and HILDA data, for example, while useful, has “significant gaps [...] which would improve the understanding of retirees’ income needs”<sup>15</sup>.

We consider that establishing a robust data-sharing framework for bodies like the Australian Taxation Office (ATO) to release de-identified data would assist trustees with their obligations. Having access to other de-identified data sets, including those from Services Australia (e.g., Centrelink payment statistics, Child Support statistics, etc.) would provide a clearer stream of information that will assist trustees determine their membership and any sub-classes within it.

This would be in addition to the proposed expansion to superannuation of the Consumer Data Right (CDR). AIST supports this expansion but notes the benefit would likely be limited to members who are actively engaged with their finances over more disengaged members, or members who are vulnerable and may not be able to engage with CDR.

AIST reiterates its call for the removal of legislative constraints on the collection of data at least 12 months prior to the requirement of a retirement income strategy. This recommendation leads to us to our next proposition, which relates to the implementation date of the retirement income covenant.

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<sup>15</sup> AIST and ACFS (2016), *Expenditure patterns in retirement*. [https://www.aist.asn.au/getattachment/Mediaand-News/News/2016/Expenditure-patterns-inretirement/aist\\_expendpatternsretirement\\_aug16\\_web.pdf.aspx](https://www.aist.asn.au/getattachment/Mediaand-News/News/2016/Expenditure-patterns-inretirement/aist_expendpatternsretirement_aug16_web.pdf.aspx)

## Implementation date

Noting the uncertainty relating to the liability flow on effects arising from the draft Bill, the challenges identified in this submission in relation to data collection and advice, and the impending Quality of Advice Review, AIST calls for a consideration of the implementation date of the covenant of 1 July 2022. These factors impact the ability of trustees to appropriately develop a retirement income strategy for its membership or sub-classes by 1 July 2022.

AIST has previously suggested a flexible implementation period, where the requirement for a retirement income strategy would be voluntary for the first 12 months from 1 July 2022. This would address the liability concerns raised in this submission, allow time for trustees to gather appropriate data (including through surveys), and allow for any adjustments that may be required arising from the findings of the Quality of Advice Review.

Finally, we also raise a technical query in relation to the application of the covenant arising from the draft Bill. It is unclear whether there is an expectation that trustees will have to **give effect to** and **review a strategy** by 1 July 2022. We think it is unlikely to be the intent of the draft Bill, given that these two obligations must, by definition, occur **after** a strategy has been developed, which under the draft Bill is not until 1 July 2022. Clarification on this sequencing matter would be of assistance.

## Clearly defined product labels and standardised disclosures

While a principles-based approach is supported, it has the potential to lead to a range of different solutions and outcomes. This is good for consumers, but there should be additional safeguards to ensure they are not confused or misled. Funds may offer a range of solutions and products that can be hard to compare, or which appear to be similar but are actually very different.

For example, there is no standard definition for a longevity product, and the underlying structures of two longevity products may be quite different and deliver different outcomes. For example, one product may be an index-linked pension that delivers annual increases linked to inflation, while another may be market linked and provide benefits linked the market value of the product.

Offering a longevity product is also likely to involve a contractually guaranteed income for life. This is a very significant promise being made to a consumer, and the management of systemic longevity risk is a very important consideration for product manufacturers. A longevity guarantee needs to be credible, reliable and have a clear meaning, otherwise this will be a strong disincentive to providing lifetime retirement products.

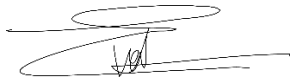
In principle, a solution may be to seek clearly defined and consistent retirement income product labels, and standardised disclosures. The experience of the industry is that achieving standardisation and consistency is complicated and difficult. The experience of RG 97 Fee and Cost Disclosure is evidence of this.

The personalised nature of retirement and the variety of product options that can meet these needs means this would make the application of prescribed labels and disclosures similarly difficult, and could be a constraint to product innovation. Nevertheless, AIST believes that consistency assists member comprehension and calls on the Government to explore opportunities for consistency and possible standardisation with industry.

AIST reiterates its support for the principles behind the draft Bill and welcomes further discussions with Treasury in relation to the matters raised in this submission.

For further information regarding our submission, please contact Carlos Lopez, Policy and Regulatory Analyst, at [clopez@aist.asn.au](mailto:clopez@aist.asn.au).

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Eva Scheerlinck', written over a horizontal line.

Eva Scheerlinck  
**Chief Executive Officer**

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## Appendix A – AIST Recommendations to Position Paper

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**Recommendation 1:** The development of the covenant and retirement income strategies should include greater consideration of the majority of members who will be retiring on a full or part pension over the next couple of decades.

**Recommendation 2:** The introduction of a covenant should be progressed in tandem with (but not delayed by):

- a legislated objective of the retirement income system, including the role of superannuation; and
- consideration of the full breadth of regulatory and practical issues impacting on the quality and affordability of financial advice, particularly that related to advice for retirement.

**Recommendation 3:** The Government should provide an objective basis for assessing if ‘better retirement products’ meet members’ best interest.

**Recommendation 4:** A supplementary requirement should be introduced to measure whether the cost of delivering a longevity solution meets the best financial interest test.

**Recommendation 5:** The Government should consider and amend if necessary, the anti-hawking laws and retirement income strategy requirements so that super funds can proactively contact existing members to provide guidance on their retirement options.

**Recommendation 6:** The Government should implement the Consumer Data Right for superannuation in line with the Productivity Commission’s recommendations.

**Recommendation 7:** The Government should explore measures to support the collection and use of data needed by trustees to formulate a retirement income strategy, including to address privacy, confidentiality, and the provision of a safe harbour. Legislative constraints on the collection of this data should be removed at least 12 months prior to the requirement to have a strategy in place.

**Recommendation 8:** The flexible implementation of the requirements for retirement income strategies should be permitted to allow for maturation. The requirement for a retirement income strategy should be voluntary for the first 12 months.

**Recommendation 9:** Previously proposed safe harbour protections, in limited circumstances, should be introduced.