Actuaries Institute.

2 November 2023

Retirement, Advice and Investment Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: paydaysuper@treasury.gov.au

Dear Sir/Madam,

Consultation paper: Securing Australians' Superannuation Budget 2023-2024 – October 2023

The Actuaries Institute ('the Institute') welcomes the opportunity to provide feedback on Treasury's consultation paper *Securing Australians' Superannuation Budget 2023-24* dated October 2023.

The Institute is the peak professional body for actuaries in Australia. Our members have had significant involvement in the development and management of superannuation in Australia, and work across APRA regulated funds, SMSFs and public sector funds.

We strongly support the principles that have led the Government to propose mandating payday super as part of the Securing Australians' Superannuation package. This will help ensure individuals receive the Superannuation Guarantee (SG) to which they are entitled.

The focus of our submission is limited to question 45 - the specific consultation question raised for defined benefit members.

Q45) Are there any other changes that will be required for defined benefit members?

SG benefit certificates

Page 25 of the consultation paper discusses defined benefit contributions. As recognised in this discussion, the SG benefit certificate outlines a notional employer contribution rate (NECR) for the purposes of satisfying SG obligations for defined benefit plan members under the Superannuation Guarantee (Administration) Act 1992 (SG Act). However, the SG benefit certificate simply specifies the period for which the NECR applies. **The physical payment of contributions by an employer may not impact on the NECR applicable for the defined benefit plan member under the certificate.**

As a result, while the increase in SG payment frequency will need to be recognised in SG benefit certificates for consistency, the actual change in the certificate to move from quarterly to more frequent periods may be more form than substance. Indeed, where this is the case, there is an argument that to avoid unnecessary additional cost, the SG benefit certificate should only be updated to reflect the increased SG payment frequency when next due for renewal.

SG treatment of accumulation members of defined benefit plans

The payday superannuation reforms including the consequential changes to the SG compliance framework discussed in the consultation paper do not specifically consider accumulation members of defined benefit plans. Given employers make superannuation contributions for these members on an equivalent basis as for accumulation members in defined contribution plans (and in Retirement Savings Accounts), it is therefore important to ensure the SG compliance framework operates in a consistent manner.

A historical anomaly under the SG Act is that the SG compliance test for accumulation members of a defined benefit plan is not designed to reflect actual practice. Given the definition of a defined benefit scheme under section 6A of the SG Act, the employer's SG compliance for an accumulation member of a defined benefit plan is determined in the same manner as for a defined benefit member of that plan. That is, by reference to the NECR applicable to the member specified in the SG benefit certificate. Instead, the SG compliance test for these accumulation members should be aligned to accumulation members in defined contribution plans so that it is based on the employer contributions actually paid (or credited from reserves/surplus in the case of reserves or defined benefit assets being used to finance accumulation member contributions).

Accumulation members of defined benefit plans are a significant cohort that are important to consider – our understanding is that the current cohort size would be in the hundreds of thousands of individuals given most defined benefit plans have been closed to new defined benefit entrants for many years, with all new entrants joining accumulation categories of the plan instead. As a result, there are often many more accumulation members in each defined benefit plan than there are "true" defined benefit members.

While we are not aware of any evidence of member detriment arising from the current SG treatment of accumulation members of defined benefit plans, this change to align the SG compliance test would be consistent with the current Government initiatives to strengthen the integrity of the SG compliance framework by reducing the risk of SG non-compliance for accumulation members of defined benefit plans.

The Institute therefore proposes that the SG Act be changed to treat accumulation members of defined benefit plans the same as accumulation fund members for SG purposes, in the manner set out above**.** We believe this change would be relatively straightforward to effect as part of the broader reforms envisaged under this consultation. We further note that if this change were made, non-standard SG rules would only apply to the shrinking number of "true" defined benefit members.

SG treatment of salary sacrifice contributions in DB funds – pending amendments

The risk of member detriment arising from the current SG treatment of accumulation members of defined benefit plans is highlighted by the 2019 amendments to the SG Act to ensure that an individual's salary sacrifice contributions cannot be used to reduce an employer's SG contributions. As subsequently raised by the Institute in 2020, these amendments only addressed employer SG obligations met by contributions made to accumulation funds and did not amend the SG requirements for employees in defined benefit plans. As a result, hundreds of thousands of employees who are accumulation members of defined benefit plans are not covered by the 2019 salary sacrifice amendments to the SG Act and therefore could be disadvantaged.

As noted previously, we are unaware of such disadvantage occurring in practice. Nevertheless, we strongly support amendments to close off this possibility as per earlier Government undertakings and recent correspondence with Treasury. **We would not support action to address the salary sacrifice anomaly being delayed until 2026**.

Conclusion

The Institute would be pleased to discuss how best to implement our proposal to align the SG treatment of accumulation members of defined benefit plans with that for accumulation fund members, including issues such as catering for SG contributions met from reserves or surplus. We recommend the arrangements for SG contributions met from reserves in accumulation plans be reviewed at the same time.

If you would like further information or to arrange a meeting, please contact me on (02) 9239 6100 or executive@actuaries.asn.au.

Yours sincerely

(Signed) Elayne Grace

CEO