13 July 2018

Ms Karen Chester
Deputy Chair
Level 12, 530 Collins Street
Melbourne VIC 3000

Email: super@pc.gov.au

Dear Ms Chester

RE: Inquiry into Superannuation: Assessing efficiency and competitiveness - Draft Report

The Financial Planning Association of Australia (FPA) welcomes the opportunity to provide feedback to the Productivity Commission on its Draft Report of its Inquiry into Superannuation: Assessing efficiency and competitiveness.

The FPA believe the Commission's work demonstrates the need for significant reform in some areas of the superannuation system where the current regulatory environment is causing consumer detriment, most notably the default area.

While in an ideal world consumers would be engaged with the superannuation system and make informed decisions, we note this is not currently the case for a large majority of consumers, especially younger Australians, and public policy should serve to assist and protect such consumers.

The FPA would welcome the opportunity to discuss our submission with you in more detail.

Yours sincerely

Heather McEvoy
Policy Manager
Financial Planning Association of Australia[1]

[1] The Financial Planning Association (FPA) has more than 14,000 members and affiliates of whom 11,000 are practising financial planners and 5,720 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and superannuation for our members – years ahead of FOFA.
- We have an independent conduct review panel, Chaired by Graham McDonald, dealing with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 26 member countries and the more than 175,570 CFP practitioners that make up the FPSB globally.
- We have built a curriculum with 18 Australian Universities for degrees in financial planning. Since 1st July 2013 all new members of the FPA have been required to hold, or be working towards, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional bodies, eg CPA Australia.
- We are recognised as a professional body by the Tax Practitioners Board.

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INQUIRY INTO SUPERANNUATION: ASSESSING EFFICIENCY AND COMPETITIVENESS

DRAFT REPORT

FPA submission to

Productivity Commission

13 July 2018

INTRODUCTION

The FPA supports measures that will improve the efficiency and competitiveness of the superannuation system to deliver benefits and enhanced consumer protections for Australians.

Our submission is limited to the areas of financial advice, consumer engagement, the default system, and insurance.

DRAFT FINDINGS

Draft Finding 4.3

The inclusion in MySuper of life-cycle products is questionable given the foregone returns they pose for many members' balances (with some foregoing higher returns by adjusting asset allocation as early as 30 years of age). Life-cycle products comprise around 30per cent of all MySuper accounts, but are mostly suited to members who want to 'lock in' a lump sum for some immediate purchase after retirement. For other members, maintaining a balanced portfolio before and after retirement would maximise retirement and lifetime income. Life-cycle products are better suited to the choice segment.

The FPA agree with the Commission's draft finding that life-cycle products are better suited to the choice segment.

Draft Finding 4.4

A 'MyRetirement' default is not warranted. The diversity in household preferences, incomes, and other assets when approaching, and in, retirement means there is no single retirement product that can meet members' needs. The most important task remaining is to improve the quality of financial advice to guide members among the various complex products, especially where members may decide to make the mostly irreversible decision to take up a longevity (risk pooled) income product.

The FPA supports the Commission's draft finding that a 'MyRetirement' default is not warranted.

The FPA opposes the introduction of such a regime as we believe it would be detrimental to consumers and would erode consumer protections, particularly in relation to the selling of financial products and the provision of financial advice. This will only serve to confuse consumers and blur the lines of advice and product sales. These are significant issues for consumers that the Government is working tirelessly to address in other areas.

We are particularly concerned about the potential for new categories of financial advice being created specifically to support Treasury's proposed Retirement Income Framework which mandates super funds to 'offer' CIPRs products to members. Any further fragmentation of the financial advice regime or the introduction of a safe harbour from the Corporations Act advice requirements, including in the area of intrafund advice, will only serve to confuse consumers and erode vital consumer protections.

There is also ongoing discussion, and cases by ASIC against financial product providers, where the area between General Advice and Personal Advice is blurred. There are a number of considerations a member needs to make prior to deciding whether a CIPRs is appropriate for them and their needs and before placing their funds in any retirement income stream product, including but not limited to the consideration of longevity risk.

The CIPRs proposal forces the creation of financial products, mandates such products be offered to consumers, overrides existing consumer protection mechanisms, and overlooks the significant risk this poses for consumers and the trillions of dollars of Australians' retirement savings. It also ignores the fact that if these products were viable, product providers would already be offering them to consumers. However, as detailed in our submissions to Treasury, product providers have not developed these type of products, or if they have they have failed and become legacy products to the detriment of providers and consumers.

The FPA opposes the introduction of a 'MyRetirement' framework as it is counter to increased regulation and consumer protections that the government is putting in place in relation to other financial products and advice under the Corporations Act. Such protections should not be watered down in relation to the trillions of dollars' worth of Australians retirement savings held in the superannuation system.

Draft Finding 5.2

Demand-side pressure in the superannuation system is relatively weak.

- *Most members in the accumulation phase let the default segment make decisions for them, at least when they enter the workforce.*
- *A significant minority of members (an estimated 1 million) are barred from exercising choice even if they wanted to.*
- *Fund and investment switching rates are modest, suggesting that active members (or their intermediaries) have not exerted material competitive pressure on funds.*

Proposed legislative changes to prohibit restrictive clauses in workplace agreements on members' choice of fund are much needed.

The FPA supports the Commission's draft finding that legislative changes are needed to prohibit restrictive clauses in workplace agreements on members' choice of fund.

Draft Finding 5.4

The quality of financial advice provided to some members — including those with SMSFs — is questionable. Knowledge of the guidance and supports available to pre-retirees is generally lacking. In future, as members retire with higher balances and the diversity of options available expands, the need for tailored advice will grow.

The FPA acknowledges and supports the Commission's statement in the Draft Report that: "*Policies to address poor quality and conflicted advice are discussed in the Commission's Competition in the Australian Financial System Inquiry*."[2]

Self Managed Super Funds (SMSFs)

We also note the Commission's reference to ASIC Report 575 - *SMSFs: Improving the quality of advice and member experiences.* The FPA acknowledges the findings of ASIC's report into SMSF member experiences and supports the practical tips contained in the Regulator's Report for financial planners to improve the quality of SMSF advice they give to clients.

The ASIC Report concludes that as a result of following the financial advice given, 10 per cent of the clients risked being significantly worse off in retirement. A further 19 per cent of the clients were at increased risk of suffering financial detriment, and in 62 per cent of client files, ASIC found that the advice provider did not demonstrate compliance with the 'best interests' duty and related obligations, although noting that there may not have been any client detriment.

While SMSFs can be an appropriate option for many Australians, they are not suitable for everyone. There is no doubt that the results of ASIC's independent review will focus the efforts of Code Monitoring Bodies, once approved, on the proactive supervision of SMSF advice. This is a growing sector and good advice is imperative to ensure the best outcomes for those who choose an SMSF as the vehicle to manage their retirement savings.

The ASIC report states that as at 30 June 2017 there were 590,000 SMSFs in Australia; and in 2017, 79% of SMSFs had used at least one 'adviser' in the previous 12 months.[3] It could therefore be assumed that approximately 466,100 SMSFs had used an adviser in the previous 12 months. While the findings of the Report provide the profession with vital insights for improvement, it should be noted that ASIC's findings were based on a relatively small sample size of just 250 client files[4] where personal advice to set up an SMSF was provided to clients by an advice provider.

The FPA supports the practical tips developed by ASIC, which include tips for improvement in areas such as the role and obligations of SMSF trustees, the suitability of an SMSF structure, risks of an SMSF structure, investment strategy, alternatives to an SMSF structure and record keeping.

Digital advice

We also note the Commission has stated that: *"...there is promise in digital advice as an alternative source of impartial and affordable advice*." Pg 241

The FPA is concerned with the risks associated with digital advice. In addition to the risks identified by ASIC and highlighted in Box 5.5 of the Draft Report, digital advice is technology based and therefore groups consumers based on sample circumstances and provides all consumers in the group with the same advice. This significantly increases the risk of the consumer receiving financial advice that may not be appropriate for their needs and circumstances.

[2] Page 241
[3] ASIC Report 575 - *SMSFs: Improving the quality of advice and member experiences*, Page 4
[4] ASIC Report 575 - *SMSFs: Improving the quality of advice and member experiences*,Page 8

Digital advice is reliant on thorough and effective data. However, as stated in Draft Finding 4.5, the Commission has found “*Superannuation funds make insufficient use of their own (or imputed) data to develop and price products (including insurance).”* It would be a concern if public policy provides carve outs from consumer protections in the Corporations Act to encourage superannuation funds to provide digital advice to consumers on the products they produce.

While digital advice can serve a purpose, it presents an inherently increased risk of inappropriate advice for consumers and should therefore be required to meet all the regulatory requirements for providing tier 1 personal financial advice to retail clients.

Switching and advice

The FPA notes the discussion in the Draft Report regarding advice in relation to super switching. The FPA is of the view that all financial advice should be provided in the best interest of the client; be appropriate for the client’s circumstances; and that any product recommendation must clearly compare the ‘to’ and ‘from’ fund, and demonstrate how acting on such advice would put the client in a better position. These are the legal requirements set out in the Corporations Act.

The banning of commissions on superannuation and investments introduced under the Future of Financial Advice (FoFA) reforms should have removed any conflicted remuneration practices associated with switching superannuation products.

Information requests

Information Request 8.1

What is the case for bundling life and total and permanent disability insurance together, as is done by some superannuation funds? Are there funds that offer these separately, and if so, do many members of these funds elect to have one type of cover but not the other?

Life and TPD insurance are often bundled together for simplicity. Some funds do offer separate TPD and life insurance cover, however the superannuation industry would be best place to provide the data on the type of insurance cover held within the superannuation accounts of members.

The product bundling does not always offer the best options for consumers. The levels of cover consumers require for life insurance and TPD are often different. If the products are bundled it restricts the ability for the member to obtain appropriate TPD and life cover at different levels to meet their needs.

There is also an issue about whether TPD (own occupation) can be held inside super, versus TPD (any occupation). Some superannuation and life risk companies offer the ability to have a policy that is held partly in super and partly outside of super, with the policies ‘linked’ and covered under the one underwriting process.

While consumers generally need both, TPD is more important than life insurance cover particularly for younger cohorts.

Unbundled insurance products inside super would provide greater flexibility for consumers to obtain life or TPD at different levels or as standalone products that are more likely to suit their needs.

Information request 8.2

What is the value for money case for income protection insurance being provided on an opt-out basis in MySuper products?

The FPA has concerns about the value of the current income protection cover offered in MySuper products. Many MySuper products only offer income protection insurance for 2 years, which presents limitations to the value of the cover due to long wait times and limited coverage periods. Greater flexibility in the income protection cover available inside superannuation so that it caters for the needs of different cohorts, would deliver improved consumer protection and value.

DRAFT RECOMMENDATIONS

Draft Recommendation 1 - Defaulting only once for new workforce entrants

Default superannuation accounts should only be created for members who are new to the workforce or do not already have a superannuation account (and do not nominate a fund of their own).

To facilitate this, the Australian Government and the ATO should continue work towards establishing a centralised online service for members, employers and the Government that builds on the existing functionality of myGov and Single Touch Payroll. The service should:

- *allow members to register online their choice to open, close or consolidate accounts when they are submitting their Tax File Number when starting a new job*
- *facilitate the carryover of existing member accounts when members change jobs*
- *collect information about member choices (including on whether they are electing to open a default account) for the Government.*

There should be universal participation in this process by employees and employers.

The FPA supports the concept of superannuation that is portable for consumers when changing jobs, no matter who they work for. In principle, the FPA supports the suggestion of a centralised online service for members, employers and the Government. The myGov portal has grown in its useability, connectivity across services, and use by Australians, and is worth considering in this capacity.

The centralised online service should include the ability to appoint authorised nominations to allow financial planners and other licensed professionals to assist their clients with their superannuation.

The ATO should be appropriately funded to ensure the delivery of a simple and efficient online process for new workforce entrants.

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Draft Recommendation 2 - 'Best in show' shortlist for new members

A single shortlist of up to 10 superannuation products should be presented to all members who are new to the workforce (or do not have a superannuation account), from which they can choose a product. Clear and comparable information on the key features of each shortlisted product should also be presented. Members should not be prevented from choosing any other fund (including an SMSF).

Any member who fails to make a choice within 60 days should be defaulted to one of the products on the shortlist, selected via sequential allocation.

The ATO should embed the shortlist and accompanying information into the centralised online service.

The FPA acknowledges that there is a large majority of young new workforce entrants who are disengaged from their superannuation system.

The Draft Report is clear in its findings of many disengaged members holding underperforming default superannuation accounts. One of the objectives of the introduction of the MySuper regime was to address this issue. However the findings of the Commission's Inquiry indicate that this objective has not been realised.

The FPA agrees that more could be done to support disengaged new workforce entrants in selecting a superannuation product.

The Draft Recommendation proposes the introduction of a 'best in show' shortlist of superannuation products.

In an ideal world each individual would undertake due process, seek professional financial advice, and actively choose a quality superannuation product that best suits their needs; and review this product as their circumstances change throughout their life. However this is not a realistic outcome.

The Commission's proposal would however provide some certainty for disengaged new workforce entrants that the superannuation products on the 'best in show' list have been examined and assessed as meeting certain criteria; and 'weed out' the more appropriate funds from the plethora of available products and information to, importantly, offer a better outcome than working it out alone.

However the FPA suggest there are some concerns to this draft recommendation that warrant consideration.

- Encouraging engagement - While we agree that the plethora of superannuation products to choose from is overwhelming and the information available makes the selection task daunting, public policy should encourage continuous active, rather than passive, engagement in the superannuation system to ensure members' retirement needs are met, and to reduce the strain on the social security system. The creation of a 'best in show' list risks encouraging disengagement and inertia in the decision making process from a consumer's very initial interaction with the superannuation system. It risks sending a message to consumers that it is acceptable to be disengaged from your financial affairs.

- Product variables - A 'best in show' list ignores the many variables that each consumer needs to consider when selecting a superannuation product to meet their needs and circumstances.

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- Performance - We are concerned about the longevity and validity of a list of 'best in show' products. Superannuation is essential a tax structure. It is also an investment based product, the performance of which is dependent on the performance of the underlying investments of the product. Investment performance can vary greatly and fluctuant over the short, medium and long term, and even on a daily basis. This is reflected in the fact that research houses publish quarterly reports on the performance of funds. We note however that investment performance should not be based on short-term outcomes and is best measured over an extended period under a sustainable investment policy and risk assessment. It should also be noted that 5 and 10 year returns will only capture returns from rising markets post the Global Financial Crisis.

  We are concerned that this recommendation will result in new young workforce entrants basing their superannuation product selection on the past performance of the fund. However there has been a noticeable trend over the years with many super funds slowly increasing their growth exposure for each risk profile. For example, many industry super funds dropped their 'growth fund' and their 'balanced funds' now look more like growth funds. This may result in a distorted representation of fund's performance on the 'best in show' list if selection is based on the fund that produced the highest historical return. Comparing past performance is problematic in the absence of clear labelling and criteria for different asset allocations.

  Not all funds do unit pricing the same way which results in a lack of transparency of and accuracy in fund performance reporting. For example, in periods of high market volatility some funds can appear and report to be performing better than what they actually are due to the way they do unit pricing.

- Market mergers - APRA statistics show a long term trend of changes in the superannuation market through product provider mergers and closures, and other non-traditional superannuation providers entering and leaving the market (such as banks). For example, in September 2004 there were 99 Industry funds[5] compared to 42 Industry funds just ten years later in December 2014[6]. This highlights how quickly the market can change.

- Regulatory action - There have been incidences of systemic breaches by some superannuation providers. There should be appropriate mechanisms in place to ensure that any 'best of show' funds that are subject to a Regulator investigation about a material systemic breach are reviewed.

- Consumer perception - It should be recognised that consumers will perceive the 'best in show' list, which it is proposed will be determined by an Australian Government established independent expert panel, as a list of government endorsed and promoted products. This presents a significant risk for government to ensure those on the list perform to consumer expectations; and a risk to consumers who may be complacent in monitoring the performance and appropriateness of the superannuation product, assuming that if a product is on the government's list it will perform well and meet their needs.

- Legacy policies – First there was Super Choice; then My Super; and now the proposal of a 'best in show' list. Continual regulatory changes are confusing for consumers. Consideration should be given as to how these government policies integrate with and/or replace one another, and the

[5] Statistics - Superannuation Trends September 2004, Australian Prudential Regulation Authority, issued 11 January 2005
[6] Statistics - Segmentation of superannuation entities, Australian Prudential Regulation Authority, issued 19 February 2015

FINANCIAL PLANNING ASSOCIATION of AUSTRALIA

language government and industry use when communicating with consumers and employers. We suggest one set of consistently used policy terms would be helpful.

- Purpose – The stated purpose of the proposed 'best in show' list is to assist disengaged new workforce entrants. The superannuation needs of this cohort would be quite specific and also vary to the superannuation needs of 'mid-career' or 'nearing retirement' cohorts. Therefore it is recommended that any 'best in show' list be fit for purpose and come with very clear disclaimers as to its intended audience and appropriate use by that cohort.

These issues bring into question the validity of a product being selected for a 'best in show' list and remaining there for potentially four years. The following suggestions may help to address these concerns:

- Funds on the 'best in show' list should have higher levels and frequency of reporting requirements, particularly in regard to (for example):
    - Risk management
    - Sustainability policy
    - Investment strategy
    - Responsible manager changes

- Thresholds should be developed in relation to:
    - fund performance
    - changes in fees
    - regulatory compliance, particularly in relation to material systemic breaches subject to Regulator investigation and action.

  Funds should be flagged for an 'out of cycle' review by the panel if these thresholds or the original selection criteria are breached. The outcome of the review should be published.

- Allowance should be given if a fund is merging so it is not penalised for the costs associated with the merger.

- Best in show funds should be required to educate members about the value of engagement with the superannuation system and of financial advice, particularly in relation to retirement income.

- Due to the significant variance in strategic asset allocations that can occur across the industry, consideration be given to introducing clear label definitions for investment options to be used by all superannuation funds.

Draft recommendation 3 - Independent expert panel for 'best in show' selection

The Australian Government should establish an independent expert panel to run a competitive process for listing superannuation products on the online shortlist. This panel should select from products submitted by funds that meet a clear set of criteria (established beforehand by the panel) and are judged to deliver the best outcomes for members, with a high weighting placed on investment strategy and performance.

FINANCIAL PLANNING ASSOCIATION of AUSTRALIA

The panel should have flexibility to select up to 10 products, with the exact number at the discretion of the panel based on the merit of each product and what is most tractable for members, while maintaining a competitive dynamic between funds for inclusion.

The panel should be comprised of independent experts who are appointed through a robust selection process and held accountable to Government through adequate reporting and oversight.

The process should be repeated, and the panel reconstituted, every four years.

Historically criteria for good superannuation products pushed by some stakeholders and media has been based on the premise that:

- The higher the fees, the poorer the product and the worse off a client will be, and
- The higher the performance, the better off a client will be.

These factors have led to the conclusion that clients should be directed to low cost superannuation products.

However if this approach were to be adopted in relation to the criteria for the proposed 'best in show' list, it would result in superannuation funds favouring passive index funds and active fund management would be seen as 'bad' and diminish. This would be to the detriment of consumers.

As detailed in a recent article by John Peterson, founder of the Peterson Research Institute*: "In reality, the actively managed Balanced option has consistently and substantially outperformed its indexed equivalent."* After examining a passive index product and actively managed product from a single superannuation fund, Peterson found that the additional cost in management fees produced a consistent and prolonged increase in members' returns, including a net increase once the higher fees had been taken into account.[7]

Peterson's research highlights the need to consider all the variables of a superannuation product when determining its appropriateness for new workforce entrants. It also shows the complexity of developing criteria for, and determining, a 'best in show' list, and the consumer detriment that could be caused by an over-emphasis on low cost products.

There has also been a propensity to rely on a fund's past performance which can be problematic as past performance does not guarantee the same results in the future, and it does not take into account the risks that may have been taken to achieve high returns. Past performance may also be based on publicly available data, which has varied over the years and resulted in a lack of transparency of information making it difficult to compare fund and product results. Criteria for selecting 'best in show' funds should include a methodology for assessing a fund over the long term.

Other variables that should be considered when selecting a superannuation product are the services that are included and whether these are appropriate for the needs of the cohort. Often these aspects are overlooked when comparing superannuation options, rather the focus is on costs alone.

[7] https://www.professionalplanner.com.au/investment-2/2018/07/10/proof-that-active-beats-passive-63020/?utm_medium=email&utm_campaign=PP00325&utm_content=PP00325%20CID_5859a2b7e75da1353ed6bd8762885215&utm_source=Campaign%20Monitor&utm_term=Proof%20that%20active%20beats%20passive

Any criteria and list that is developed may also have implications on product availability if superannuation funds focus their attention on designing products specifically to gain selection on the list to grow market share of disengaged members, rather than on the needs of consumers.

The concerns highlighted in our response to draft recommendation 2 and 3, demonstrate the need for sound and well considered criteria for determining the 'best in show' list. The criteria should be developed following a thorough public consultation process, and at a minimum align with the best interest duty requirements.

The independent expert panel should be appropriately resourced and automatically exclude individuals associated with any superannuation fund. If the panel is to be reconstituted every four years, it is suggested that this process is reflective of the Senate with only half of the panel to change each term to ensure there is continuity in the operation of the panel.

__Draft recommendation 8 - Cleaning up lost accounts__

The Australian Government should legislate to:

- *ensure that accounts are sent to the ATO once they meet a definition of 'lost'*
- *empower the ATO to auto-consolidate 'lost' accounts into a member's active account, unless a member actively rejects consolidation*
- *allow a fund to exempt a 'lost' account from this process only where the member has provided an explicit signal that they want to remain in that fund (prior to the account meeting the definition of 'lost')*
- *reduce the 'lost inactive' activity threshold from five to two years*
- *require that all accounts held by Eligible Rollover Funds, regardless of their lost status, are sent to the ATO*
- *prohibit further accounts being sent to Eligible Rollover Funds.*

The biggest barrier to consolidation of superannuation is the lack of portability of insurance. The older a person gets, the more difficult it is for them to get life, TPD, or income protection insurance cover. Such individuals may hold cover inside their superannuation account however this insurance cover is not portable. If the individual closes that account when consolidating their superannuation, or under auto-consolidation requirements, the insurance cover also closes. The cover cannot be transferred to the new or consolidated superannuation account, even though the insured is the same person.

Fixing the portability of insurance will significantly help reduce the number of multiple superannuation accounts.

There may also be scenarios where an individual has only one superannuation account. If this account meets the definition of 'a lost member or inactive account', we question what processes will be put in place to ensure this account is not closed and "auto-consolidated" to the ATO.

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Draft Recommendation 9 - A member-friendly dashboard for all products

The Australian Government should require funds to publish simple, single-page product dashboards for all superannuation products.

ASIC should:

- *prioritise the implementation of choice product dashboards to achieve full compliance by 1 July 2019*
- *revise the dashboards to simplify the content and provide more easily comprehensible metrics (drawing on robust consumer testing) by end 2019*
- *immediately publish all available MySuper and choice product dashboards on a single website, with the information clearly and readily accessible from the area of myGov that allows for consolidation of accounts.*

Financial products by their nature are complex and superannuation is no exception. There is also a 'bewildering' number of superannuation products to choose from in market, with information either being too legalistic and technical or created for marketing purposes, making the task of selecting the right product overwhelming for consumers. However there are a very large number of products partly because there are so many different types of consumers and consumer circumstances that product providers are trying to cater for.

There are a large number of variables that should be considered to determine which super product is appropriate for each particular consumer. These variables are both inside and outside the superannuation system. A financial planner must assess all these different variables when selecting an appropriate product for each client, in order to comply with the best interest obligations under the Corporations Act. Selecting the right superannuation product is not a simple process.

The FPA is concerned that an over-reliance on Dashboards may send the wrong message to consumers that selecting a superannuation product is a simple process and may result in an increase in disengaged consumers in unsuitable products.

The FPA suggest the following inclusions in superannuation Dashboards:

- Visible consumer warnings to encourage consumers to undertake and understand their risk tolerance, determine their investment horizon, and seek financial advice to help them select a superannuation product that best suits their needs, circumstances and goals, both in and outside of super.
- An explanation of the variables that can impact on fees, such as whether the fund is active or passive in its management of its superannuation products and how this can influence the performance of the product.
- Fees should be split clearly between (1) administration fees, including entry and exit fees, and (2) investment fees which could vary widely depending on whether the investment approach is active or index.
- The fund's insurance offering, clearly articulating the cover, exclusions, fees, conditions, the type of consumer the cover is most suitable for, and whether it is default or opt-in insurance.
- Returns should be over the longer term 5-10 years

- Investment options within the fund.
- Availability of financial advice, type of advice (eg intrafund or comprehensive) and associated fees.

Draft Recommendation 10 - Delivering dashboards to members

The Australian Government should require the ATO to present the relevant (single page) product dashboard on a member's existing account(s) on its centralised online service.

The Government should also require all superannuation funds to actively provide their members with superannuation product dashboards when a member requests to switch from a MySuper product to a choice product within the fund. This should include:

- *the dashboard for the MySuper product*
- *the dashboard for the choice product the member wants to switch to.*

The FPA supports this recommendation.

Draft Recommendation 11 - Guidance for pre-retirees

The Australian Government should require the ATO to guide all superannuation members when they reach age 55 to:

- *the 'Retirement and Superannuation' section of ASIC's MoneySmart website*
- *the Department of Human Services' Financial Information Service website.*

The FPA supports this recommendation.

Draft Recommendation 12 - Exit fees at cost-recovery levels

The Australian Government should legislate to extend MySuper regulations limiting exit and switching fees to cost-recovery levels to all new members and new accumulation and retirement products.

The FPA would support the introduction of a cap on exit fees on superannuation accumulation and retirement products.

Draft Recommendation 13 - Disclosure of trailing commissions

The Australian Government should require superannuation funds to clearly inform, on an annual basis, all members who are subject to trailing financial adviser commissions. This information should include the amount of commissions paid and a notice that trailing commissions are now illegal for new members.

All funds should publicly disclose the extent of trailing commissions and number of affected members in their annual reports and provide this information to ASIC.

As stated in our submission to the Royal Commission, the FPA supports the phasing out of grandfathered commissions. However this must be done in a manner that does not disadvantage consumers.

With the Future of Financial Advice (FoFA) reforms having commenced 5 years ago, it is time to review the appropriateness of grandfathered commissions and identify a suitable means of transitioning these payments either to an alternative remuneration model or out of existence.

Commissions are however built in to the fee structure of many older products. It is important to note that the removal of trail commissions through regulatory means may not directly benefit the client in any way. Consumers may be impacted by exit fees on the product or there may be capital gains or Centrelink implications.

Some legacy products only pay commissions. For commission based products, not paying commissions does not necessarily reduce the cost to the consumer. There are concerns about how grandfathered commissions can be switched off without generating other issues for the client (such as a CGT event or other income issues). For example, phasing out grandfathered commissions would mean clients would need to move a new product. This would mean clients would lose the grandfathering of income test treatment, which may result in a loss of social security benefits.

One solution worth investigation is that product fees could be required to be reduced by an amount equivalent to the commission so that the client continues to receive the same benefit as would occur if they were able to switch off the commission from going to an advisor or the product manufacturer. An alternative would be for the product provider to return the commission via the issue of new units (perhaps in a fund of the client's choice if they don't want to add to their legacy product).

We also suggest that Grandfathered Centrelink pensions be given an exemption from losing their special concessions if they have to be rolled-over as a result of the cancelling of the grandfathered commissions and any changes this may have to the product.

While consideration must be given to addressing the potential consumer impacts, the FPA supports the phasing out of grandfathered commissions on superannuation and investment advice, over a 3-year transition period.

Until grandfathered commissions are phased out, the FPA supports the Commission's recommendations regarding the disclosure of trail commissions, as it improves transparency of grandfathered commissions and adviser service fees which should be included in the advisers FDS.

Draft Recommendation 14 - Opt-in Insurance for members under 25

Insurance through superannuation should only be provided to members under the age of 25 on an opt-in basis. The Australian Government should legislate to require trustees to obtain the express permission of younger members before deducting insurance premiums from these members' accounts.

As discussed in the Draft Report, member disengagement can lead to the erosion of superannuation by insurance premiums. Young Australians often have small superannuation benefits and a long career ahead of them to accumulate super. Hence, benefits of compounding interest work best over the longest time periods as possible. For this reason, erosion of early super contribution can create the largest detriment to an Australian's retirement benefits.

The FPA supports opt-in insurance for members under 25 years for death and income protection cover.

However while young Australians may not have debt and dependence to the same level as older Australians, there are a number of important reasons some level of TPD insurance cover is beneficial for younger workers. In particular the FPA is concerned that the importance of TPD insurance cover would be discounted by this draft recommendation. TPD cover is particularly important for the following reasons:

- While younger people may not have dependents, if they have an accident or can't work, government allowances may not be sufficient to support them and provide the care they require for a decent quality of life
- Provide support for parents or carers
- May have some level of personal debt
- May have commenced a small business with liabilities

The FPA also notes that insurance cover gets more difficult to obtain as you become older, since people are more prone to exclusions, loadings, or not qualifying as they get older.

We acknowledge the intent of this draft recommendation is not to prevent insurance from being taken up by superannuants in these circumstances, rather to reduce the impact of erosion by insurance premiums. However we recommend that TPD insurance should be unbundled from life cover and remain as an opt-out policy to ensure TPD protection for younger superannuants from unforeseen consequences.

Draft Recommendation 15 - Cease insurance on accounts without contributions

The Australian Government should legislate to require trustees to cease all insurance cover on accounts where no contributions have been obtained for the past 13 months, unless they have obtained the express permission of the member to continue providing the insurance cover.

As previously discussed, the biggest barrier to consolidation of superannuation is the lack of portability of insurance. The older a person gets, the more difficult it is for them to get life, TPD, or income protection insurance cover. Such individuals may hold cover inside their superannuation account. However this insurance cover is not portable. If the individual closes that account when consolidating their superannuation or through auto-consolidation, the insurance cover also closes. It cannot be transferred to the new or consolidated superannuation account, even though the insured is the same person.

Fixing the portability of insurance will significantly help reduce the number of multiple superannuation accounts.

Draft Recommendation 16 - Insurance balance erosion trade-offs

APRA should immediately require the trustees of all APRA-regulated superannuation funds to articulate and quantify the balance erosion trade-off determination they have made for their members in relation to group insurance, and make it available on their website annually.

As part of this, trustees should clearly articulate in their annual report why the level of default insurance premiums and cover chosen are in members' best interests. Trustees should also be required to provide on their websites a simple calculator that members can use to estimate how insurance premiums impact their balances at retirement.

The FPA is not commenting on this draft recommendation but would like to remind the Commission of the implications and cost of consumers inappropriately discounting the value of insurance versus the cost of purchasing insurance cover.

Draft Recommendation 17 - Insurance Code to be a MySuper condition

Adoption of the Insurance in Superannuation Voluntary Code of Practice should be a mandatory requirement of funds to obtain or retain MySuper authorisation.

The FPA supports this recommendation in principle. However we have concerns about the effectiveness and appropriateness of the Insurance in Superannuation Voluntary Code of Practice that should be addressed as a matter of urgency, in order for the intent of mandating Code compliance to be realised. We would encourage consideration of:

- minimum-quality standards for group insurance, especially in relation to definitions that regulate when the insurer will pay
- restrictions on downgrading a member's cover once in force; and
- restrictions on underwriting at claims time.

Draft Recommendation 18 - Insurance Code Taskforce

The Australian Government should immediately establish a joint regulator taskforce to advance the Insurance in Superannuation Voluntary Code of Practice and maximise the benefits of the code in improving member outcomes. The taskforce should:

- *monitor and report on adoption and implementation of the code by funds*

- *provide guidance on and monitor enhancements to strengthen the code, particularly implementation of standard definitions and moving to a short-form annual insurance statement for members*
- *advise the industry what further steps need to be taken for the code to meet ASIC's definition of an enforceable code of conduct.*

The code owners should be given two years to strengthen the code and make it binding and enforceable on signatories before further regulatory intervention is considered.

The taskforce should annually report findings on industry progress on the code.

Both ASIC and APRA should be members of the taskforce, with ASIC taking the lead.

The FPA supports this recommendation.

Draft Recommendation 19 - Independent review of insurance in super

The Australian Government should commission a formal independent review of insurance in superannuation. This review should evaluate the effectiveness of initiatives to date, examine the costs and benefits of retaining current insurance arrangements on an opt-out (as opposed to an opt-in) basis, and consider if further regulatory intervention or policy change is required. The review should be initiated within four years from the completion of this inquiry report, or earlier if the strengthened code of practice is not made enforceable within two years.

The FPA questions the need for an additional investigation into insurance in superannuation. This matter has been the recent subject of inquiry undertaken by the Senate Economics Committee.

The Government has yet to respond to the recommendations of this inquiry.

Draft Recommendation 20 - Australian Prudential Regulation Authority

APRA should (in addition to draft recommendations 4 and 16):….

- *….embed product-level reporting within its reporting framework as soon as practicable (no later than 18 months) to enhance visibility of actual member outcomes across all APRA-regulated funds and to bring reporting for the choice segment into line with the MySuper segment. APRA should also expedite efforts to address inconsistencies in reporting practices.*

The FPA supports this recommendation as it will significantly improve transparency and consistency in superannuation reporting to enhance product comparability for consumers and advisers.

This recommendation would be enhanced by the introduction of clear labelling definitions for investment options to be used by all superannuation funds, to address the significant variance in strategic asset allocations that currently occurs across the industry.

Draft Recommendation 21 - Australian Securities and Investments Commission

ASIC should (in addition to draft recommendation 9):

- *proactively set and enforce standards for the meaningful disclosure of information to members on superannuation products and insurance policies (in addition to product dashboards). Information should be simple, comparable and easy for members to understand*
- *require all superannuation funds to publicly disclose to current and prospective members the proportion of costs paid to service providers that are associated with related-party outsourcing arrangements*
- *proactively investigate (questionable) cases where mergers between superannuation funds stalled or did not proceed*
- *review exit and switching fees faced by existing members, with a focus on whether these fees are related to the underlying performance of the product, and whether they unreasonably impede members moving to products that better meet their needs.*

The FPA this recommendation in principle.