



Advice through Superannuation

Additional consultation to support the ‘Advice Through Superannuation’ exposure draft legislation.

Purpose of consultation

The ‘Advice Through Superannuation’ exposure draft legislation (exposure draft) amends the *Superannuation Industry (Supervision) Act 1993* (SIS Act) to clarify the scope of the prohibition on trustees collectively charging their members for personal advice. Specifically, the exposure draft allows for the creation of regulations which clarify the range of advice that can be collectively charged to members, as long as they don’t fall within the circumstances covered by any of s.99F(1)(c)(i), (c)(iii) or (c)(iv) of the SIS Act.

The intent of the amendments is to allow superannuation funds greater flexibility to provide their members with simple and cost-effective advice about retirement, in addition to the collectively charged advice they already provide.

To support consultation on the exposure draft, the Government is releasing draft lists for stakeholder feedback that will be used to inform the drafting of new provisions in the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations).

Structure of the regulations

The three lists that will be included in the regulations will cover:

- advice taken to relate to a financial product that is a beneficial interest (“the allowed topics list”);
- kinds of circumstances that may be considered when providing advice on the allowed topics list (the “allowed circumstances list”); and
- advice taken to relate to financial product that is not a beneficial interest (the “disallowed topics list”).

The lists have been designed to provide greater clarity and surety to trustees regarding the types of personal advice for which they can collectively charge. However, the lists are not intended to be exhaustive. Where a topic or circumstance is not specified in the regulations, trustees are expected to exercise their judgement in relation to their existing legislative obligations, such as the Sole Purpose Test.

For clarity, the lists do not supersede the existing requirements trustees must abide by when collectively charging for personal advice, including:

- existing restrictions on collective charging in section 99F of the SIS Act;
- the Best Financial Interests Duty;

- the Sole Purpose Test; and
- the requirement to share costs in a fair and reasonable manner across members of the fund, as set out in regulation 5.02 of the SIS Regulations.

Requested feedback

In addition to feedback on the exposure draft legislation, Treasury is seeking feedback on:

- whether the lists as drafted will provide sufficient clarity to collectively charge advice for simple advice about retirement; and
- whether there are items that should be included, removed, or rephrased.

Your feedback will inform drafting of the regulations noting there will also be a further opportunity to consult formally, when the regulations are drafted.

Proposed lists

Allowed topics list

The list below covers specific topics that relate to a member's interest in the fund for the purpose of providing collectively charged advice.

Specifically, section 99F(1A) of the exposure draft amendments to the SIS Act would provide that advice is taken to relate to a financial product that is a beneficial interest of a kind mentioned in that subparagraph if the advice is given in circumstances prescribed by the regulations for the purposes of this subsection.

Topic	Examples of intended coverage
Superannuation contributions	Advice about making concessional/non-concessional contributions, spousal contribution or splitting and other relevant contribution options such as work test, downsizer, salary sacrifice.
Investment options	Advice regarding changing investment options within the fund based on characteristics or goals of the member.
Insurance held through superannuation	Advice on the extent of cover provided and different types of cover available through the member's superannuation fund.
Retirement income	Advice about planning for retirement through superannuation; transition to retirement products; retirement income solutions including products, drawdown strategies, lump sum withdrawals, and longevity protection.

Allowed circumstances list

The list below covers the broader personal circumstances that a trustee may consider when providing members with collectively charged advice.

Circumstances may be information required or relevant to understanding the member's objectives, financial situation and needs within superannuation. However, the circumstances considered cannot be the primary subject of personal advice that is collectively charged.

Specifically, proposed section 99F(1C) of the exposure draft amendments to the SIS Act explains that regulations can prescribe circumstances relating to the topic of the advice; the person to whom the advice is provided; or personal circumstances of that person that can be taken into account in providing the advice.

Circumstances which can be considered	Examples of intended coverage
Cashflow and income of the member's household	Collecting cashflow and income information to inform advice on the adequacy of superannuation income in retirement or to assist in product choice.
Assets and interests held outside of super by the member's household	Property; cash; insurance; securities.
Financial position of the member's spouse	Spouse income; spouse superannuation; spouse eligibility for government services; spouse assets and debts.
Debts and liabilities of the member's household	Mortgage; loans.
Eligibility for government services	Eligibility for Age Pension, Carers Allowance or other government support payments or support services.

Disallowed topics list

The list below covers specific topics that do not relate to a member's interest in the fund for the purpose of providing collectively charged advice. Trustees would not be able to collectively charge for advice on these topics.

Specifically, proposed section 99F(1B) of the exposure draft amendments to the SIS Act would provide that advice is taken to relate to a financial product that is not a beneficial interest of a kind mentioned in that subparagraph if the advice is given in circumstances prescribed by the regulations for the purposes of this subsection.

Topic	Examples
Purchase or disposal of assets held outside of superannuation	Advice on property, businesses, or other personal assets held by the member's household.

Purchase or disposal of financial products held outside of superannuation.	Insurance held outside of superannuation; Managed Investment Schemes; interest in a self-managed super fund; banking products; personal loans; commodities; derivatives; securities; foreign exchange.
Holistic financial planning	Advice about wealth creation outside of superannuation; cash-flow management; debt repayment.
Estate and tax planning	<p>Advice concerning minimising tax liabilities on non-superannuation assets such as the use of family trusts or company structures; tax deductions and offsets.</p> <p>Note: Information on superannuation beneficiary nominations is not financial advice.</p>