18 February 2018

Mr Robert Jeremenko
Division Head
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: superannuation@treasury.gov.au

Dear Mr Jeremenko

RE: Early Release of Super Benefits

Thank you for the opportunity to contribute to the above review. This submission outlines our comments and where appropriate, provides recommendations in relation to certain conditions of release.

By way of background, Dixon Advisory provides administration and advice services to 8,000 self managed superannuation fund (SMSF) trustees with a combined asset base in excess of $5 billion. As a specialist in personal finances and retirement planning, formulated from our 30-year experience in assisting more than 20,000 families with their superannuation decisions, Dixon Advisory has unique knowledge and first-hand experience in the common issues people face over their working life and into retirement; particularly financial issues.

Superannuation is best designed to assist with providing financial support to individuals and families in retirement. However, in our experience of helping numerous people with their financial arrangements we know that significant events occur that can have an immediate and severe impact on a person's immediate financial situation, and can also lead to a worsened financial situation in retirement. Having access to modest amounts from super - as a last resort safety net - can mean the difference between financial distress and financial recovery.

For these reasons, when considering early release of super for compassionate and financial hardship reasons, we support the overarching principles of preservation, genuine hardship, and fair and effective as set out in the discussion paper. However, we suggest placing slightly more weight placed on how the principle of last resort is applied is appropriate.

Specifically, this could occur by providing more objective standards and introducing a data driven process of verification for assessing the financial capacity of the applicant to meet the expense. Compared to some of the other adjustments proposed in this paper, making an adjustment to the assessment of financial capacity is likely to create the least impact on people who have genuine need for funds under compassionate grounds.

Currently, individuals can obtain assistance with accessing super via a financial advisor or a financial counsellor – both of which are governed by license standards that include strict disclosure and fiduciary duties. These same licensing requirements should cover any organisations that assist consumers with accessing funds from super, particularly so that disclosure of all fees, related party payments and long term consequences are provided in writing to consumers before acting.

If you have any questions regarding Dixon Advisory's submission, please do not hesitate to contact me on 02 8662 9747

Kind regards

Nerida Cole
Managing Director – Head of Advice

Financial Capacity

The current standard for release of funds from super for compassionate reasons, requires the applicant to satisfy the regulator that they do not have the financial capacity to meet the relevant expenses.

In principle we support this, however we have concerns that the definition of 'not having financial capacity' is not clear and based on anecdotal evidence, that the interpretation may be applied in a way that does not align with community expectations. For example, individuals may not have the financial capacity at this present moment, but based on their income levels and reasonable standard of living costs, they may be able to cover the expense from income or saving over a short period of time. To be clear, income levels alone can not be used as a measure but must be balanced against what are reasonable costs for that individual given their personal situation, medical treatment needs and the possibility that the individual or family have consumed substantial financial reserves to treat the medical condition.

We recommend:

To increase the consistency with which the assessment of financial capacity is applied, we suggest a set of objective standards are outlined. This does not necessarily mean standards should be harsher, but that consistent standards will be applied when making a claim. Compared to some of the other adjustments proposed in this paper, making an adjustment to the assessment of financial capacity is likely to create the least impact on people who genuinely have no other means available to fund the compassionate expense.

Further, applicants should be prepared to provide evidence of their financial situation and means. We note that this would require more resourcing by the Government to assess claims, however given the significant level of data held across Centrelink and the ATO, we suggest the government would be able to process and review significant sections of such an assessment workflow on line.

Although not all standards or tests would be appropriate to use, the following sources may provide some guidance in developing these objective standards:

- *ASICs Regulatory Guide 209 - Credit licensing: Responsible lending conduct* lenders use to assess financial capacity to service a loan
- *KiwiSaver Significant Financial hardship best practice processing guide* [1]used to guide release of funds from New Zealand's KiwiSaver under significant financial hardship provisions.

[1] Workplace Savings NZ "SFH Processing Guidelines" cited February 2018 at http://www.workplacesavings.org.nz/assets/Best-Practice-Papers/WSNZ-SFH-Processing-Guidelines-April-2015.pdf

Medical Treatment Grounds

We hope that medical and health professionals contribute significantly to this review and emphasise their input is imperative, particularly to sections 1.5-1.13. We provide some comments below, but have focused on financial and general aspects.

Generally, we have noticed increasing enquiries about the provisions to access super under compassionate grounds. This could be due to several reasons including an increase in awareness of and accessibility of certain medical treatments, an increasing awareness of the breadth of release provisions due to media reports, blogs and organisations promoting early release as a funding option. Increased financial pressure on households could also be contributing. However, we note that with borrowing rates at very low levels, households who have held mortgages prior to 2015 (approximately) may have experienced a reduction in minimum home loan repayments. Adding to this, in eastern seaboard regions of Australia growth in property prices has produced a wealth effect for households. We acknowledge that this is not a uniform effect, non-home owners only benefit indirectly and property owners in regions that have suffered a downturn, such as areas affected by the mining downturn may have lost wealth in addition to having worsened employment prospects.

We recommend:

Companies and organisations that assist people to make early release claims as a means of funding medical treatments (such as SuperCare) must be governed by consumer protection standards. Currently, it appears that they are largely able to assist consumers – including vulnerable consumers - yet do not bear the same obligations that apply to legal advisers, financial advisers or financial counsellors in terms of their disclosure and transparency reporting.

In comparing the area of work, it would seem they are most comparable to financial counsellors and financial advisors and therefore we recommend they are required to hold an Australian Financial Services License (AFSL) and are governed by the AFSL requirements. This would require disclosure of fees, charges, referral arrangements (including kickbacks) and conflicts of interests. Amongst other things this would also require benefits, consequences and risks to be disclosed in writing to consumers before acting.

We recommend:

The grounds for medical treatment should be based on the individual's situation and the assessment of their medical condition by their treating doctor. In certain circumstances particular treatments may dramatically increase the chance that person is able to recover and contribute to the workforce and society in a way that increases their quality of life as well as increasing their contribution in economic terms.

- The patient must obtain the advice of a practitioner who is a specialist in the condition being treated.
    - It would seem appropriate that the medical practitioners and the medical specialist have consulted with the patient on more than one occasion and as part of an overall medical treatment case plan. It may be advisable to introduce a requirement for the applicant to undertake a health management/treatment plan prior to, or in conjunction with a claim.

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  - For example, an individual seeking treatment to alleviate acute or chronic mental illness, may benefit from a mental health treatment plan being put in place prior to undertaking a separate treatment. This requirement could be waived when the condition is urgent or potentially life-threatening.

- The regulator should be able to assess that a particular amount or treatment is reasonable – but only in special circumstances.

- The regulator should be able to obtain a second opinion but it must also be from a specialist in the relevant field – and only in special circumstances.

  - The regulator should only step in for special circumstances. Applying such a power to all applications would greatly slow the approval process to the detriment of people with genuine claims. Special circumstances could include; unusual medical condition or treatment, significantly higher than average cost for treatment type, or previous claim.

- With regard to understanding what are reasonable cost levels, we would imagine the government has access to significant levels of data about the costs of medical treatment via Medicare and hospital treatment charges.

Amount and frequency of access

In striking a pragmatic balance, we support the current limits around amounts and frequency of access under both financial hardship and compassionate release provisions.

Although we acknowledge a once-per-year option to withdraw up to $10,000 may mean some people are withdrawing more than they need at that moment in time, we feel that risk is acceptable given the overall limit is relatively low, the individual has to meet the provisions at the time of withdrawal and allowing smaller but more frequent withdrawals would be costly on not just superannuation funds, but to the individual themselves who may need assistance to make such a claim, as well financial advisors and counsellors who may be assisting individuals to put in claims.

In the instances of compassionate release, noting our comments in above Medical Treatment Grounds section, we feel that if the individual has met all the relevant provisions at the time of withdrawal they should have funds released, even if a request has previously been granted.

Owning your own home provides a critical level of economic security in retirement. Given the transaction costs of buying and selling a home, and the risk of negative equity from a foreclosure situation, forced sales should be avoided where it is possible. Therefore, accessing super to protect a home from foreclosure is an important safety net provision.

We recommend:

On balance, 26 weeks on income support seems about the right time frame. Although we acknowledge that because a "continuous" period of income support is required, some people may be excluded from accessing this provision due to a small amount of work. This is not desirable and we would be open to a slight modification such as "23 out of the last 26 weeks on income support".

We also suggest an additional clause could be adopted to recognise that people who are not on Commonwealth income support may suffer from significant financial hardship. It may be possible to use some of the standards outlined in the KiwiSaver Scheme guidelines for processing Significant Financial Hardship provisions to identify some tests that could apply

Other

Other additional considerations to allow access for hardship reasons could include commencing an income stream from the accumulated super to access between 4 to 10% per annum in annual income to continue servicing a mortgage loan.

Further, allowing people to choose their own 'mortgage offset account' as an investment choice within their super fund could provide relief in times of hardship such that an individual is able to protect their home from forced sale. This provision would allow any home owners with an outstanding home loan to immediately benefit via reduced interest charges. Therefore, their same minimum repayments would get rid of their loan more quickly as a greater proportion of the repayment is going towards the principal of the loan.