

6 December 2023

Director
Retirement, Advice, and Investment Division
Treasury
Langton Cres
Parkes ACT 2600

Dear Director,

Delivering Better Financial Outcomes – reducing red tape and other measures

MLC Life Insurance welcomes the opportunity to respond to Treasury's consultation on draft legislation and explanatory materials relating to the first tranche of the Government's Delivering Better Financial Outcomes.

About MLC Life Insurance

MLC Life Insurance was founded in Australia in 1886, has nearly 1.1 million customers and continually seeks to fulfill its purpose of 'a promise for life'. In 2016, Nippon Life Insurance Company (**Nippon Life**) acquired an 80% interest in MLC Limited (**MLC Life Insurance**).

Nippon Life, founded in 1889 and based in Osaka, Japan, has 14 million customers worldwide and has a mission to help create a secure future for its customers.

Discussion

MLC Life Insurance supports the Government's proposed changes as part of the first tranche of legislation of its response to the Quality of Advice Review. Reducing onerous red tape is a good first step in addressing the accessibility and affordability of quality advice, and MLC Life Insurance supports further changes to achieve this goal.

Our submission addresses Part 1, Part 3 and Part 5 of the draft legislation and Explanatory Memorandum.

Part 1 – Superannuation

We support the Government's intention to clarify the legal basis on which superannuation funds can reimburse advice fees from a member's account, and consequential tax amendments.

In implementing Recommendation 7 of the Quality of Advice Review, a regulated superannuation fund can pay an advice fee to an adviser for personal advice where the member has provided consent, and provided the financial product advice is personal advice and is wholly or partly about the member's interest in the fund.

In clarifying the associated tax consequences about which part of the financial advice fee is deductible to the superannuation fund under the proposed amendments to 295-490(1) of the Income Tax Assessment Act 1997 ("ITAA 1997"), a member's interest is defined in s995-1 of the ITAA 1997 to mean "an interest in a superannuation fund".

As such, we seek clarity on the following:



1. Does an “insurance-only” member have “an interest in a superannuation fund”? Given that for these members, there would be an account balance of zero, no advice fee will be able to be deducted from the superannuation fund and no tax deduction is possible in this scenario.
2. Is it intended that the trustee of a superannuation fund can deduct a fee for financial advice concerning a member’s insurance benefits where the insurance coverage relates to death benefits and total and permanent disability benefits which would not be assessable income to the superannuation fund upon receipt from the insurance company?
3. How do these provisions apply for a partial interest in the fund when the cost relates to advice concerning insurance outside of superannuation?

If this is intended, further clarification of what “member’s interest” would be of assistance. Any examples of how this might be applied would be welcome.

Part 3 – FSG

Part 3 of the draft legislation allows providers of **personal** advice to make the FSG information publicly available on their website, rather than requiring them to provide the documents to clients during initial engagement. However, *Corporations Regulations 2001 – REG 7.7.02* (Part 4 & 5), Loyalty outlines requirements to:

1. Verbally provide elements of the FSG to customers when we provide general advice over the phone.
2. Send an electronic copy of the FSG when we sell Debt Protection products.

Given the specific reference to 'personal' advice in the draft legislation and explanatory materials, clarification on whether general advice is excluded from the proposed changes would assist.

Part 5 – Insurance commissions

Paragraph 1.197 of the explanatory materials refers to the informed consent for life risk, general and consumer credit insurance commissions. It specifically refers to consent requirements in relation to personal advice.

MLC Life Insurance seeks clarity on the intent behind the amendments in the Exposure Draft under *Part 5 – Insurance commissions*, as it is not immediately clear that the amendments are applicable to personal advice only, risking the potential for interpretation that general advice is captured.

The implications of this are a potential added layer of compliance processes to ensure that consent requirements are met for general advice processes that do not exist today. It is not clear that the intent of the amendment is to add red tape, so further clarification would assist.

Further clarity on the intent of Part 5 and consent requirements would assist in providing certainty for life insurers on not breaching conflicted remuneration. For example, where consent is revoked or not obtained by a financial adviser from a client, but the life insurer is not made aware and commissions continue, this would be in breach of the Corporations Act and a civil penalty.

A breach by a financial adviser of consent requirements should not equate to a breach by a life insurer for paying one when the failure arose from the financial adviser. Without this certainty, it is unclear how this risk could be mitigated without onerous additional compliance measures, an approach which does not align with the policy intent of the proposed changes.

CALI submission

MLC Life Insurance has had the opportunity to contribute to the submission by the Council of Australian Life Insurers (**CALI**). We support and endorse the recommendations raised in the CALI submission.

If you require further information, please contact Mark Powell, General Manager of Sustainability and Corporate Affairs, on [REDACTED] or by email at [REDACTED].

Yours sincerely

A large black rectangular redaction box covering the signature of Kent Griffin.

Kent Griffin
Chief Executive Officer and Managing Director