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2023–2024

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TREASURY LAWS AMENDMENT (2024 MEASURES NO. 1) BILL 2024

EXPOSURE DRAFT EXPLANATORY MATERIALS

## Feedback

My feedback for the draft proposals relate to Part 1. As a practising financial adviser, unless I am misreading it, it is hard to see how this proposal improves this process from the perspective of the adviser or client/member.

If the intention, as seems to be from the wording highlighted below, is to still limit the level of fees a member can have deducted from their super account to be based on the value of that super account compared to their total financial position, then it is no simpler than the current practice (where funds allow fees to be paid from accounts).

**To genuinely simplify the process for clients/members, funds and advisers, the client should be able to nominate for a full advice fee to be paid from a nominated account, regardless of their broader position.**

The situation otherwise, is that multiple fee nominations may need to be completed, for example for a client and their spouse, and, if one or both of them have more than one account (which is still a common practice and often for good reason) then there are multiple requests required and justifications for the proportion to be debited from each fund, for no benefit of the member. Wherever the money is coming from, they are, collectively, in the same financial position.

To me, this wording continues to result in additional administration oversight by the fund as well as additional work and risk to the adviser (and compliance teams) and more forms and confusion for the client.

I believe this could be simplified by stating that a client can nominate for an advice fee to be paid from their superannuation account. Regardless of how many accounts they may have or whether the advice solely relates to superannuation, or not.

Ultimately, all financial advice is retirement advice.

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## Part 1 – Deduction of adviser fees from superannuation

Subsection 99FA(1) sets out requirements to be satisfied before the trustee can charge the cost of advice against the member's interest in the fund, which will be explored in more detail below:

- the financial product advice is personal advice and is wholly or partly about the member's interest in the fund;
- the fee is only paid to the extent the advice relates to the member's interest;

### Advice requirements

- 1.1 The words "wholly or partly" are intended to clarify that the advice to the member need not only concern their superannuation interest, and may deal with other matters.
- 1.2 The second requirement is that the amount charged against the member's interest does not exceed the cost of providing financial product advice about the member's interest in the fund. This requirement complements the first to ensure that, where advice is about multiple matters, the trustee only pays the portion of the cost of the advice that is about the member's interest.  
*[Schedule 1, item 1, paragraph 99FA(1)(b) of the SIS Act]*

### Written consent requirements

- 1.3 The third requirement is that the trustee charges the cost in accordance with the terms of a written request or written consent of the member. This reflects the current requirement in paragraph 99FA(1)(b), with two changes:
- The concept of "passing the cost on" is replaced with "charging the cost", reflecting concerns about this language described above in paragraph 1.18 above; and
  - "Written request" of the member is included in addition to written consent to better reflect the policy intent that the payment should only be made from a member's superannuation interest on their initiation (except in relation to intra-fund advice fees – see paragraph 1.11 above).

**Commented [JM1]:** Still onerous where multiple members of advice couple and or multiple accounts – calculations, multiple forms, multiple funds, etc

Should be able to pay from one super and not be pro rata based on the proportion of that account as part of the whole position.

**Commented [JM2]:** Wording here, "advice to the member need not only concern their superannuation interest, and may deal with other matters" seems to contradict the wording in the next point...

**Commented [JM3]:** Reference here to the member's interest in the fund

**Commented [JM4]:** Apologies if defined elsewhere, but should we limit to 'written'? Why not allow the fund to determine, e.g. recorded phone request, online process or, yes, a simple form.