



Institute of Actuaries of Australia

# 2004 Financial Services Forum ...The New Environment

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Financial Services Forum

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# Current issues in Superannuation

**Nick Callil**

**Susan Antcliff**

**Mike Murphy**

# Concurrent Session: Current Issues in Superannuation

- Family Law Update
- Choice of Fund
- Abolition of SG Notional Earnings Base

# Agenda

- Family law update – Susan
- Choice of fund – Nick
- Abolition of SG Notional Earnings Base - Mike
- About 10 - 15 minutes for each
- Interactive - questions & discussion during/after each topic
- Focus: can the Institute take any action to achieve a better outcome?

# Superannuation and Family Law

- Susan Antcliff

# Background

- Government decision to allow super to be part of the negotiations in property splits
- Super is “to be treated as property”
- Strong desire to prevent arguments between experts over the value of super
  - emphasis on a prescriptive valuation regime
- Recognition of desirability of “clean break”

# The valuation regime

- Default methods specified in the regulations
  - accumulation schemes, including partially vested arrangements
  - defined benefit schemes in growth phase
  - pensions in payment
- Provisions for schemes to apply for scheme specific methods

# Allowing a clean break

- Reg 14G allows splits to be brought to an end where a new interest is created for the NMS or the entitlement is rolled out
- The adjustment to the MS interest in these circumstances is completely up to Trustees



# Actuarial involvement

- Decision on whether the default valuation methods give a reasonable answer
- Development of scheme specific methods if default method is not considered suitable
- Advice on desirability of using r.14G provisions
- Appropriate method of adjustment of MS benefits if r.14G is used

# Scheme specific methods

- My letter of 12 August 2002 to the Attorney-General's Department set out some broad guidance
- Concept of family law best estimate value
  - comparison of proposed method is against this value not the value under the default method
- 36 applications received, 19 approved

# Adjustment of MS benefits

- Only restriction from FL perspective is that no other member's benefits are reduced
- Issues about what to do when FL value and scheme value are different
  - who benefits / bears the cost
- Transparency and member communication

# Current Issues

- Outstanding applications for scheme specific methods
- Amendment Regulations to cover market linked pensions and deferred benefits
  - hope they will be in place before 20/9
- Implementation issues as reforms are bedded down
  - feedback is welcome

# Choice of Fund

- Nick Callil

# A brief history of choice...

## 1996

- Coalition: “Choice good”
- Labour: “Choice bad”
- Democrats: “Choice good, but must include same-sex rights”

*No deal*

## 2004

- Coalition: “Choice still good”
- Labour: “Choice OK but only *safe* choice”
- Democrats: “Choice good but still need same-sex rights (and other things)”

*Coalition/Democrats deal*

# Background

- Commences 1 July 2005
- Enforced via Superannuation Guarantee (SG) mechanism; hence:
  - applies to future SG contributions only
  - DC focused
- Some broad exemptions (e.g. public servants, state awards, AWAs)
- Some specific exemptions:
  - defined benefit funds in surplus
  - maximum accrued benefit
  - defined benefit fund – no variation in benefits

# Mechanics of Choice

- Employer to provide “standard Choice form” within 28 days to:
  - each employee on 1 July 2005
  - each new employee after 1 July 2005
  - any employee who requests (but no more than annually)
- Choice to take effect within 2 months of valid employee selection
- If no fund chosen, and contributions not otherwise in line with choice, pay to “default fund”



# Issue - DB member exemption

- To qualify for exemption, ***at all times from 1 July 2005*** (tested on a quarterly basis):
  - Member must be a DB member (i.e. no new members exempt)
  - employer must be on a contribution holiday as certified by an actuary
  - Actuary to certify that, up to end of the quarter, assets “are, and will be”  $\geq 110\%$  of greater of (a) vested benefits and (b) accrued actuarial liabilities
- New IAAust guidance may be needed for assumptions used to determine (b)

*How many funds likely to satisfy this requirement? Is the exemption of any practical use? How do we interpret “are and will be”?*

# Issue – Default Fund Insurance

- Employers' default fund to comply with regulations regarding “insurance in respect of death”
- Intended to ensure interim coverage during decision time
- Will self-insured funds comply?
- What about existing insurance restrictions:
  - High risk occupations (e.g. miners, pilots)
  - Casual or part-time employees
  - Expatriates (long assignments, high risk locations)
- How long will default insurance apply (can it be temporary?)
- How should amount of insurance be specified (e.g. flat or age-based, premium or Sum Insured?)
- How will insurers react to the “chop and change” permitted by choice?

*Will choice mean the end of AALs, simplified underwriting, group premium rates, low admin fees?*

# Defined benefit funds - exemption

- *“A fund cannot become a chosen fund for an employee if, even if the selected fund were to become a chosen fund for the employee, the employee would be entitled, on the employee’s retirement, resignation or retrenchment, to the same amount of benefit from the defined benefit fund as the employee would be entitled if the selected fund were not a chosen fund for the employee”*
- Unclear when this would apply – may depend on deed
- Mechanism requires choice to be offered, then rejected

# Defined benefit funds - exemption

- Example 1:
  - Pure defined benefit (no accumulation element)
  - No “benefit offset” power in deed
  - Choice exemption probably applies
- Example 2:
  - Defined benefit with accumulation add-on
  - Accumulation account contributions not prescribed in deed
  - Assume no “benefit offset” power in deed
  - Whether exemption applies could depend on which benefit (i.e. DB or accumulation part) would be reduced if SG conts were directed elsewhere (who decides?)

# Defined benefit funds - exemption

- Does common “variation of benefits” power apply?
  - *“If any employer terminates, reduces or suspends its contributions to the Plan in respect of some or all of the Members for whom it has been contributing...*

*...the Trustee shall reduce or modify the benefits in respect of those Members on such basis as the Trustee (on the advice of the Actuary) considers fair and equitable...”*

*If SG contributions were directed elsewhere, Trustee (and Actuary) would be likely to reduce DB benefits.*

*→ Does Choice apply?*

# Defined benefit funds – other issues

- Allow/require choice on whole or only part of benefit?
- May be regulation regarding:
  - retained benefit
  - unvested components
  - level of contributions to chosen fund
  - re-entry options
- Return sensitive decrement rates?
- Impact on cost of administration
- Should DB members simply be exempted?

# Costs to Employers and Funds

- Government Explanatory Memorandum:
  - Initial costs to employers \$27 million  
(500,000 employers × \$540)
  - Ongoing costs to employers \$18 million pa  
(500,000 employers × \$36 pa)
- Industry expects costs to be much higher
- Government has allocated \$14m to an education campaign, plus \$2m to a consumer info centre

# Liaison with Government

- Regulations to be issued
- Treasury has commenced consultations
- Will conduct these privately with IAAust on actuarial issues (mainly DB issues)
  - DB funds in surplus
  - Maximum accrual exemptions
  - Standard choice forms for DB funds
- May be scope to influence legislative changes
- \$14 million education campaign
  - 5 person advisory committee to be formed



# Possible Changes under a Labour Government

- Labour claims choice remains “unsafe”
- Link choice to fee structure
- Likely to ban exit fees
- Likely to restrict commission-based selling
- May push for cap on overall fees
- May push to streamline disclosure
- May extend choice to state awards, AWAs