Actuaries Institute.

22 May 2026

Retirement Income and Superannuation Division
The Treasury
Langton Crescent
Parkes ACT 2600

Via Treasury Consultation Hub

Dear Sir/Madam,

Consultation: Enhancing Member Protections in the Superannuation System

The Actuaries Institute (**Institute**) welcomes the opportunity to provide feedback on the Treasury Consultation paper '*Enhancing member protections in the superannuation system*' (**Consultation**).

The Institute is the peak professional body for actuaries in Australia. Our members work in a wide range of fields, including insurance, superannuation and retirement incomes, banking, enterprise risk management, data science and AI, climate change impacts and government services. The Institute has a longstanding commitment to contribute to public policy discussions where our members have relevant expertise.

The comments made in this submission are guided by the Institute's Public Policy Principles that any policy measures or changes should promote public wellbeing, consider potential impacts on equity, be evidenced-based and support effectively regulated systems.

Overall Feedback

The Institute supports a simpler and more integrated retirement income system and advocates for the efficient use of superannuation savings for retirement. These principles, drawn from the Institute's *Public Policy Statement on Australia's Retirement Income System* (October 2025), inform our response to each proposal in this Consultation.

We strongly support the objective of enhancing member protections. The collapses of Shield and First Guardian have demonstrated that real harm can occur when governance and oversight fall short, and the Institute welcomes Government's focus on addressing the gaps these events have exposed. Our submission focuses on how protecting members' retirement savings could be achieved most effectively.

In our view, the most impactful reforms will be those that strengthen governance, accountability, and enforcement of existing trustee obligations. Trustees already bear fiduciary and statutory duties to act in members' best financial interests — duties that provide a powerful framework for member protection. Ensuring these obligations are consistently met in practice, particularly in platform environments, will do more to protect members than layering additional prescriptive requirements that risk increasing complexity and cost without proportionately improving outcomes.

Actuaries Institute
Level 34, Australia Square, 264 George Street
Sydney NSW 2000, Australia
P +61 (0) 2 9239 6100 | actuaries.asn.au

Our comments on some of the key proposals are offered in this spirit: we support reform that is purposeful, proportionate, and focused on outcomes — strengthening the frameworks most likely to protect members, while preserving the system's efficiency and the benefits of member choice.

Comments on Key Proposals

Proposal 1 — Investment Holding Limits and Due Diligence

The Institute does not support blanket mandatory holding limits (Option 1.1). Investment diversification is inherently context-dependent — a 100% allocation to a well-diversified balanced fund can be entirely appropriate for many members, while a prescriptive ceiling could be arbitrary and counterproductive. Imposing legislated maximum exposure limits would be practically difficult to calibrate and risks being either too restrictive or too lenient depending on the investment option's underlying characteristics. Diversification requirements are already embedded in the SIS Act investment covenants and APRA's Prudential Standard SPS 530 on Investment Governance. Rather than introducing blanket legislative holding limits, the Institute considers that strengthening governance and oversight through existing frameworks — including the Design and Distribution Obligations (DDO) regime and APRA's prudential supervision — would be a more effective and proportionate approach to address the issue.

The Institute supports codified due diligence requirements (Option 1.2), provided they build on and are consistent with existing industry standards, such as those established by the Financial Services Council (FSC). Codification should not create a parallel or conflicting framework but rather raise standards of practice in line with what better-performing trustees already do.

Proposal 3 — Waiting Period for Superannuation Switching

The Institute questions whether a mandatory waiting period would achieve its intended outcome. Where a member has made a purposeful and informed decision to switch, a short delay adds additional friction that may not address the underlying conduct. Conversely, where a member has been misled — often through sustained pressure from advisers or lead generators over weeks or months — a brief cooling-off period is equally unlikely to reverse a decision that has already been shaped by that conduct. The most direct regulatory analogue is direct life insurance: despite a statutory cooling-off period, three in five policies sold via cold-call channels were cancelled within three years, and ASIC's response was not to extend cooling-off protections but to ban unsolicited telephone sales of the product.[1] Cooling-off may catch only a minority of unsuitable switches and risks not meaningfully protecting members from the conduct that gives rise to harm.

We recommend Government consider alternatives that are more targeted and effective at the point of decision-making, such as:

- Questionnaires or checklists to clarify member intent and understanding before a transfer is initiated;
- Tailored warnings and disclosures at the point of requesting the transfer, clearly communicating the loss of specific protections (e.g., APRA oversight, insurance coverage, access to AFCA) and that members should not feel pressured into immediate decisions.

The above could be applied for any inter-fund transfer. In addition, where members make intra-fund switching between investment options with materially different risk profiles, the Institute notes the value of improved risk communication. The Institute's work on the Long-term Adequacy Risk Measure — designed to complement the Standard Risk Measure (SRM) — provides a framework for helping members, particularly aged 50 and younger in the accumulation phase who are focused on building

[1] ASIC, Report 587: The Sale of Direct Life Insurance (August 2018); ASIC 19-335MR (25 October 2019); ASIC Corporations (Hawking—Life Risk Insurance and Consumer Credit Insurance) Instrument 2019/839.

adequate retirement savings, understand the long-term consequences of investment choices, particularly the risk that low-volatility superannuation investments do not generate sufficient returns above inflation to be able to maintain the member's lifestyle in retirement. Better risk communication, rather than mandatory delays, would more effectively support informed decision-making.

Proposal 4 — Advice Fee Deductions

The Institute cautions against an outright prohibition on advice fee deductions for switching-related advice (Option 4.1). While we acknowledge the role that fee deductions played in facilitating inappropriate advice in the Shield and First Guardian cases, prohibiting deductions would reduce accessibility to advice — and would not, in itself, prevent bad advice. Members who cannot pay out-of-pocket may forgo advice altogether or may be pushed towards SMSFs where similar fee deduction restrictions would not apply.

This proposal should be considered in conjunction with the Delivering Better Financial Outcomes (DBFO) reforms. As the Institute noted in our September 2025 submission on the Guidance on Best Practice Principles for Superannuation Retirement Income Solutions, a key barrier to effective member engagement remains the lack of clarity around the boundaries between information, prompts, guidance and personal advice. We recommended that DBFO clearly define these boundaries before adjacent policy settings are finalised. Any changes to advice fee deduction arrangements should be coherent with the broader DBFO framework to avoid fragmented policy outcomes that inadvertently reduce members' access to appropriate help and guidance.

Proposal 5 — Compensation for Members

The Institute recognises the need for clearer compensation pathways for members affected by investment product failures involving fraud or theft.

Compensation methodology: Each of the proposed methodologies — capital loss, counterfactual market benchmark, and capped/proportional — has legitimate merits and trade-offs. Rather than supporting a specific methodology, the Institute encourages Government to first settle a foundational principle: compensation must be clearly anchored to "eligible losses" attributable to fraud and theft, not to the recovery of investment risk.

With help from their advisers, members who invest through platforms may legitimately accept a degree of investment risk in exchange for the potential of higher returns. That risk is an inherent feature of the system. Compensation should not operate as a mechanism to insulate members from the consequences of investment decisions. What members should reasonably expect is that the products on a platform have been subject to robust trustee governance — as required under the SIS Act and SPS 530 — and that where fraudulent or criminal conduct defeats those safeguards, a clear pathway to redress exists.

Anchoring compensation to fraud and theft — rather than investment outcomes — narrows the scope of compensable loss, preserves incentives for members and their advisers to invest appropriately, limits the cost cross-subsidised by unaffected members of the fund, and reinforces trustee accountability by keeping the focus on whether governance obligations have been met. Once there is clarity on the purpose and boundaries of the framework, the appropriate methodology and any caps or limits will follow with greater policy coherence.

Pre-funded reserves: The Institute notes that any requirement for Platform Trustees to hold pre-funded capital reserves would introduce an ongoing cost ultimately borne by members through higher fees — irrespective of whether an eligible loss event ever occurs. While pre-funding offers the benefit of faster, more certain compensation, Government should weigh this against the efficiency implications of requiring capital across the platform sector. Given that eligible loss events linked to fraud and theft are, by their nature, infrequent, the cost of maintaining standing reserves may be disproportionate to the risk being addressed. A more balanced approach may be to require trustees to demonstrate they have the

capacity to raise capital within a defined timeframe following an eligible loss event, rather than holding dedicated reserves on an ongoing basis.

If you would like to discuss any aspect of this submission, please contact the Institute via (02) 9239 6100 or public_policy@actuaries.asn.au.

Yours sincerely

(Signed) Elayne Grace
Chief Executive Officer