The Senate

Economics Legislation Committee

Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 [Provisions]

February 2022

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Introduction

Referral of the inquiry

1.1 The Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 was introduced in the House of Representatives and read a first time on 25 November 2021.[1]

1.2 On 2 December 2021, the Senate referred the provisions of the Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 (the bill) to the Senate Economics Legislation Committee (the committee) for inquiry and report by 3 February 2022.[2]

Purpose of the Bill

1.3 The primary purpose of the bill is to establish a new type of corporate structure under Australian law, to be known as the Corporate Collective Investment Vehicle (CCIV). Amendments to Australian corporations, financial services and taxation law are included in the bill to give effect to the CCIV framework.

1.4 The key policy objective of developing the CCIV framework is to increase the competitiveness of Australia's managed fund industry through the introduction of internationally recognisable investment products.[3] The Hon. Michael Sukkar MP, Assistant Treasurer, stated in the bill's second reading speech that the introduction of the CCIV regime aims 'to enhance the international competitiveness of the Australian managed funds industry and attract greater levels of foreign investment into Australia's financial markets'.[4]

1.5 In addition to the CCIV framework, the bill also contains several other measures addressing a range of taxation and superannuation matters, through amendments to various pieces of legislation. These include:

- the extension of temporary loss carry back provisions for corporate tax entities;
- additions to the statutory list of organisations with Deductible Gift Recipient status;
- the introduction of a retirement income covenant; and

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1 *House of Representatives Votes and Proceedings*, No. 156—25 November 2021, p. 2356.

2 *Journals of the Senate*, No. 133—2 December 2021, p. 4424.

3 Explanatory Memorandum to the Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 (Explanatory Memorandum), p. 366.

4 The Hon. Michael Sukkar MP, Assistant Treasurer, *House of Representatives Hansard*, 25 November 2021, p. 10.

- changes to employee share scheme arrangements.

Overview of the bill

1.6 The substantive provisions of the bill comprise ten schedules, with Schedules 1–5 dealing with amendments to establish the CCIV framework, and schedules 6–10 dealing with other matters:

- Schedules 1–4 seek to amend corporate and financial services law to establish a CCIV as a new type of a company limited by shares that is used for funds management;
- Schedule 5 seeks to amend taxation law to specify the tax treatment for CCIVs;
- Schedule 6 seeks to amend income tax law to extend the loss carry back rules by 12 months, allowing eligible corporate tax entities to claim a loss carry back tax offset in the 2022-23 income year;
- Schedule 7 seeks to amend the *Income Tax Assessment Act 1997* (ITAA) to add and update a number of Deductible Gift Recipient (DGR) listings under that Act;
- Schedule 8, titled 'Minor and technical amendments Spring 2021', seeks to make a number of miscellaneous and technical amendments to various laws in the Treasury portfolio;
- Schedule 9 seeks to amend *the Superannuation Industry (Supervision) Act 1993* to insert a new retirement income covenant, which would require trustees of Registrable superannuation entity (RSEs) to develop a retirement income strategy for beneficiaries who are retired or are approaching retirement; and
- Schedule 10 seeks to amend the ITAA to remove cessation of employment as a taxing point for Employee Share Scheme interests which are subject to deferred taxation.

Commencement of the bill

1.7 Commencement dates for the various schedules of the bill are set out in proposed section 2 of the bill.[5]

1.8 Provisions relating to the CCIV framework in Schedules 1–5 of the bill are intended to commence on 1 July 2022.

1.9 The loss carry back provisions in Schedule 6 would come into effect on 'the first 1 January, 1 April, 1 July or 1 October to occur' after the bill receives Royal Assent. The same commencement dates also apply to the DGR measures in Schedule 7 of the bill, and the Employee Share Scheme provisions in Schedule 10 of the bill.

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[5] Proposed section 2, Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021.

1.10 The miscellaneous measures and technical amendments in Schedule 8 of the bill have various commencement dates.

1.11 The Retirement income covenant provisions in Schedule 9 of the bill are due to commence the day after the bill receives Royal Assent.

Provisions of the bill

1.12 This section provides an outline of the various schedules in the bill, including any relevant background and the stated financial and regulatory impact of these schedules.

CCIV regulatory and tax framework (Schedules 1–5)

Background to the development of a CCIV regime

1.13 The idea of introducing a CCIV structure in Australia has been proposed for over a decade. It was suggested by the Australian Financial Centre Forum in its report *Australia as a Financial Centre: Building on Our Strengths* (the Johnson Report) in 2009, as one of several recommendations aimed at increasing Australia's cross-border trade in financial services and improving the competitiveness and efficiency of the financial sector.[6]

1.14 The Johnson Report found that Australia's managed funds sector could become more competitive if it offered a funds management vehicle that is commonly used overseas.[7] It argued that Australia needed a collective investment vehicle with a corporate structure that provides flow-through tax treatment, maintains investor protection, and is more internationally recognisable than the Managed Investment Scheme (MIS), which is Australia's current trust-based investment vehicle.[8] The report recommended that the Board of Taxation review the scope for providing a broader range of collective investment vehicles that would be subject to flow-through taxation.

1.15 This Board of Taxation Review reported in December 2011, and recommended the creation of new collective investment vehicles that provide tax neutral outcomes for investors.[9]

1.16 The Johnson report also recommended the introduction of an Asia Region Funds Passport (ARFP) regime, which was implemented in Australian legislation in

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6 Explanatory Memorandum, p. 10.

7 Explanatory Memorandum, p. 371.

8 Explanatory Memorandum, pp. 10-11. In this context, 'flow-through tax treatment' means that investors (such as investors in a trust) will generally be taxed as if they had invested directly in the underlying assets held by an investment vehicle, rather than the investment vehicle being taxed directly as an entity. This means that the income of the investment entity is generally only taxed in the hands of the ultimate beneficiary, at the investor's tax rate.

9 Explanatory Memorandum, p. 11.

2018. The CCIV regime proposed in the bill would work in concert with the ARFP.[10]

1.17 The Australia Government's intention to create a CCIV regime was first announced in the 2016-17 Budget as part of the Ten Year Enterprise Tax Plan.[11] Treasury released several tranches of draft legislation from late 2017 to early 2019 for public consultation, covering different dimensions of the CCIV proposal.[12] The project was then paused 'due to competing priorities including the government's response to the Financial Services Royal Commission, and emergency measures for bushfire relief and the COVID-19 pandemic'.[13]

1.18 The Senate Select Committee on Financial Technology and Regulatory Technology considered issues relating to collective investment vehicles in its September 2020 interim report. The report found that Australia's current set of collective investment vehicles were not structured in a globally recognisable way and recommended that the government 'implement a Limited Partnership Collective Investment Vehicle and a Corporate Collective Investment Vehicle regime to drive inbound capital investment for Australian start-ups'.[14]

1.19 In the May 2021 Budget, the Australia Government announced its intention to finalise the implementation of a CCIV regime with a start date of 1 July 2022.[15]

1.20 On 27 August 2021, the Australian Government released exposure draft legislation for the implementation of the tax and regulatory components of the proposed CCIV regime, with the public consultation period on the exposure draft legislation closing on 24 September 2021.[16] Treasury received

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[10] Explanatory Memorandum, pp. 10-11. The ARFP provides a multilateral framework that allows eligible funds to be marketed across participating economies. The ARFP allows certain funds from other participating economies (notified foreign passport funds) to sell their products in Australia. Funds that qualify as Australian passport funds may also offer interests outside of Australia in other participating economies. The ARFP is intended to support the development of an Asia-wide managed funds industry through improved market access and regulatory harmonisation. Current ARFP members are Australia, Japan, New Zealand, the Republic of Korea and Thailand. See: About ARFP | Asia Region Funds Passport (apec.org) (accessed 22 December 2021).

[11] Explanatory Memorandum, p. 1.

[12] Australian Taxation Office, 'Corporate tax – corporate collective investment vehicle revised start date', https://www.ato.gov.au/General/New-legislation/In-detail/Direct-taxes/Income-tax-for-businesses/Corporate-Collective-Investment-Vehicle/ (accessed 22 December 2021).

[13] Explanatory Memorandum, p. 367.

[14] Senate Select Committee on Financial Technology and Regulatory Technology, *Interim Report*, September 2020, Recommendation 25, p. 222.

[15] Explanatory Memorandum, p. 1.

[16] Treasury, 'Corporate Collective Investment Vehicles - Regulatory and Tax Frameworks', Corporate Collective Investment Vehicles - Regulatory and Tax Frameworks | Treasury.gov.au (accessed 20 December 2021).

11 submissions in response to the consultation, including four confidential submissions.

1.21 Schedules 1 to 5 to the bill 'fully implement the measure included in the 2021-22 Budget' relating to the establishment of a CCIV structure.[17]

Schedules 1 to 4 of the bill – CCIV regulatory arrangements

1.22 Schedules 1 to 4 to the bill seek to establish the regulatory framework for the Corporate Collective Investment Vehicle (CCIV) regime.

1.23 A CCIV will be a new type of corporate structure for funds management, featuring an umbrella company operated by a single corporate director with all its assets and liabilities segregated into one or more 'sub-funds'. It is designed to be an alternative to the commonly used trust based Managed Investment Scheme.[18]

1.24 The CCIV structure will be constituted as a company limited by shares, 'so that it is recognisable to offshore investors and fund managers'.[19] The corporate director of a CCIV must be a public company that holds an Australian Financial Services License (AFSL) authorising it to operate the business and conduct the affairs of the CCIV.[20]

1.25 A CCIV is an umbrella vehicle that is comprised of one or more sub-funds, with each sub-fund able to offer investors a different investment strategy.

1.26 The Explanatory Memorandum (EM) states that a CCIV will generally be subject to the ordinary company rules under the *Corporations Act 2001* (Corporations Act) unless otherwise specified. Features of the MIS regime have also been incorporated into the design of CCIVs 'to the extent that they are consistent with the policy objective':

> In doing so, regulatory parity is maintained (to the extent possible) between the existing MIS framework and the CCIV framework. This will ensure efficient operation of the domestic funds management industry and ease of adoption for fund managers wishing to establish a CCIV.[21]

1.27 The EM provides a diagram outlining the components of the proposed regulatory framework for a CCIV, shown at Figure 1.1.

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17 Explanatory Memorandum, p. 1.

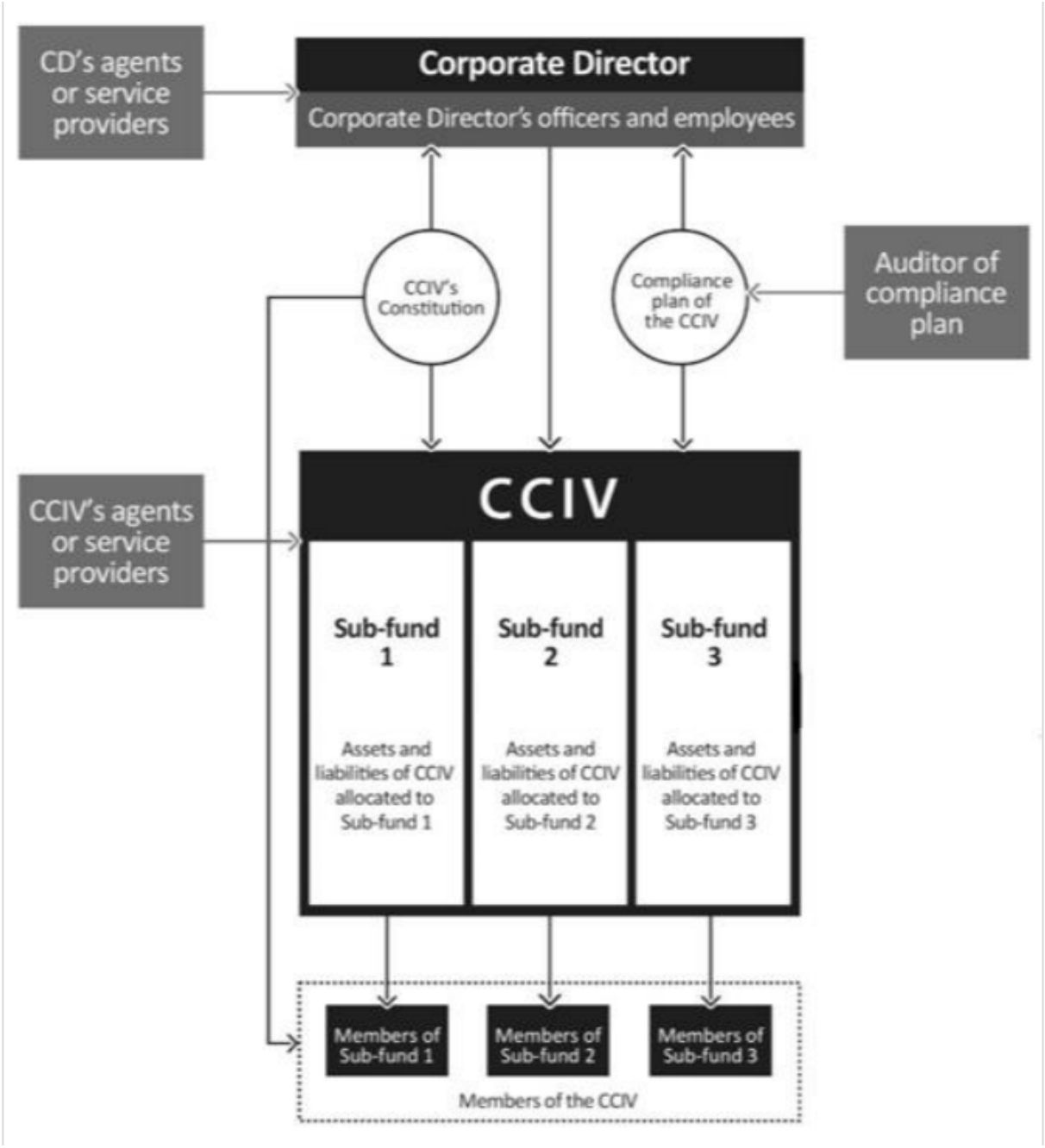
18 Explanatory Memorandum, p. 1; the Hon. Michael Sukkar MP, Assistant Treasurer, House of Representatives Hansard, 25 November 2021, p. 10.

19 Explanatory Memorandum, p. 278.

20 Explanatory Memorandum, p. 29.

21 Explanatory Memorandum, p. 12.

Figure 1.1 Proposed regulatory framework for a CCIV



Source: Explanatory Memorandum, p. 23.[22]

1.28 The Australian Securities and Investments Commission (ASIC) would be responsible for administering the regulatory framework for CCIVs.

1.29 Schedule 1 of the bill contains the main amendments to the Corporations Act needed to establish the CCIV regulatory framework. This includes the insertion of a new proposed chapter, Chapter 8B—Corporate collective investment

[22] The Explanatory Memorandum notes that the above diagram is representative of the regulatory framework as it applies to a retail CCIV. A wholesale CCIV is not required to have a compliance plan.

vehicles, into the Corporations Act. This proposed chapter in the Corporations Act includes:

- Rules for registration of CCIVs (proposed new Part 8B.2), including requirements for registering the sub-funds of a CCIV;
- Corporate governance rules for CCIVs (proposed new Part 8B.3);
- Corporate finance and financial reporting for CCIVs (proposed new Part 8B.4), including rules governing the issuance of shares and debentures in CCIVs, and rules income and capital distribution;
- Arrangements for operating a CCIV (proposed new Part 8B.5), covering rules relating to the operation of sub-funds within a CCIV;
- Rules relating to external administration and deregistration (proposed new Part 8B.6), which provides powers for a CCIV sub-fund to be wound up in certain circumstances and procedures for CCIV sub-funds to be deregistered;
- provisions that relate to obligations regarding takeovers, compulsory acquisitions and buy-outs, as well as rules assigning responsibility for conduct, financial services licensing and disclosure for financial products (proposed new Part 8B.7); and
- provisions enabling ASIC to make exemption and modification orders relating to CCIVs via subordinate legislation, and a broad power to modify the operation of the chapter by regulations (proposed new Part 8B.9).

1.30 In relation to the subordinate legislation, the EM states:

> Certain matters may be prescribed in regulations where provided for in Chapter 8B. Regulations may also modify the operation of Chapter 8B, or the Corporations Act, for its application to CCIVs. In addition, ASIC may make exemption orders and modification declarations in relation to specified parts of Chapter 8B.[23]

1.31 Schedule 2 of the bill contains a range of proposed amendments to other areas of the Corporations Act, including: updating relevant definitions throughout the Act; enabling CCIVs to be covered under the ARFP scheme; and updates to a series of miscellaneous sections in Chapter 9 of the Corporations Act, including relating to registers, auditors, penalties and offences, 'to ensure that these administrative provisions work appropriately in relation to CCIVs and corporate directors'.[24]

1.32 Schedule 3 of the bill consists of proposed amendments to the *Australian Securities and Investments Commission Act 2001* (ASIC Act), designed to 'ensure that the definition of financial services in the ASIC Act applies correctly, and that ASIC can exercise its powers and functions effectively in

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[23] Explanatory Memorandum, p. 22. As noted below, an initial set of draft regulations proposed to be made under the bill have already been released for public consultation by Treasury.

[24] Explanatory Memorandum, pp. 21-22.

relation to CCIVs'.[25] The schedule also includes an amendment to the *Personal Property Securities Act 2009* to bring into effect winding up provisions relating to CCIVs.

1.33 Schedule 4 of the bill contains several proposed contingent amendments to the Corporations Act. These amendments will commence on 1 July 2022 only if the Corporations Amendment (Meetings and Documents) Bill 2021 has received Royal Assent and commenced prior to that date, otherwise they will not commence.[26] The Explanatory Memorandum explains:

> The Corporations Amendment (Meetings and Documents) Act 2021 facilitates the electronic execution of documents by a CCIV. These rules will apply to companies under the Corporations Act, including CCIVs. Schedule 4 to the Bill makes related contingent amendments to ensure the rules technology neutral signing and electronic provision of documents extends to CCIVs.[27]

Schedule 5 of the bill – CCIV taxation arrangements

1.34 Schedule 5 to the bill will establish the tax framework for the Corporate Collective Investment Vehicle regime.

1.35 The general objective for taxation of the CCIV regime is that 'the tax outcomes for an investor in a sub-fund of a CCIV align with the existing tax treatment for an investor in an attribution managed investment trust' (AMIT).[28]

1.36 A managed investment trust (MIT) is a type of trust in which members of the public collectively invest in passive income activities, such as shares, property or fixed interest assets. Eligible MIT's can elect to into the new attribution regime for the taxation of MITs. Those who elect into this regime are known as AMIT's.[29]

1.37 The EM states that rather than creating a new tax framework for CCIV's, schedule 5 will leverage the existing trust taxation framework and the existing attribution flow-through regimes (i.e., MIT's and AMIT's).[30]

1.38 The Explanatory Memorandum states that this objective will be achieved by:

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25 Explanatory Memorandum, p. 22.

26 Explanatory Memorandum, p. 1. The Corporations Amendment (Meetings and Documents) Bill 2021 passed the House of Representatives on 29 November 2021 and is currently before the Senate.

27 Explanatory Memorandum, p. 66.

28 The Hon. Michael Sukkar MP, Assistant Treasurer, *House of Representatives Hansard*, 25 November 2021, p. 10.

29 Australian Taxation Office, *Attribution managed investment trusts*, 26 October 2021, https://www.ato.gov.au/general/trusts/in-detail/managed-investment-trusts/managed-investment-trusts---overview/?page=7 (accessed 5 January 2022).

30 Explanatory Memorandum, pp. 23-24.

> Where a CCIV meets the AMIT eligibility criteria in respect of a sub-fund (which is a part of the CCIV), then the CCIV will be able to attribute amounts of assessable income, exempt income, non-assessable non-exempt income, and tax offsets derived or received by the CCIV to the relevant class of members of the CCIV. Those amounts will retain that character and be recognised (and taxed) in the hands of each member.
>
> Where a CCIV does not satisfy the AMIT eligibility criteria in respect of a sub-fund for a particular income year, then the CCIV tax treatment will generally default to the general trust taxation framework for that year.[31]

1.39 The Australian Taxation Office (ATO) would be responsible for administering the tax framework applying to CCIVs.

Draft CCIV regulations and rules

1.40 On 21 December 2021, the Australian Government released draft Corporate Collective Investment Vehicle (CCIV) regime regulations and rules for public consultation.[32] The draft regulations and rules aim to support the framework established by the bill, by introducing details such as:

- requirements for financial reporting, record-keeping and custody of CCIV assets; and
- arrangements for cross-investment within CCIVs (including voting processes and restrictions on circular investment) and other rules for managing a CCIV's share capital.[33]

1.41 The draft regulations and rules 'also include a suite of technical amendments to facilitate the broader CCIV regime, including the passporting of sub-funds of retail CCIVs under the Asian Regions Funds Passport regime'.[34]

1.42 Treasury's public consultation process on the draft regulations and rules closes on 21 January 2022.[35]

Financial and regulatory impact of the proposed CCIV regime

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31 Explanatory Memorandum, pp. 23-24.

32 The Hon Michael Sukkar MP, Assistant Treasurer, 'Implementing Corporate Collective Investment Vehicles – public consultation on regulations and rules', *Media Release*, 21 December 2021, Implementing Corporate Collective Investment Vehicles – public consultation on regulations and rules | Treasury Ministers (accessed 21 December 2021).

33 The Hon Michael Sukkar MP, Assistant Treasurer, 'Implementing Corporate Collective Investment Vehicles – public consultation on regulations and rules', *Media Release*, 21 December 2021.

34 The Hon Michael Sukkar MP, Assistant Treasurer, 'Implementing Corporate Collective Investment Vehicles – public consultation on regulations and rules', *Media Release*, 21 December 2021.

35 Treasury, 'Consultations: Corporate Collective Investment Vehicles – Regulations', https://treasury.gov.au/consultation/c2021-225100 (accessed 21 December 2021).

1.43 The EM states that the creation of a statutory CCIV regime 'is estimated to result in an unquantifiable impact on receipts over the forward estimates period'.[36]

1.44 The Regulation Impact Statement (RIS) for the CCIV measures in the bill states:

> In relation to the quantifying the monetary value of what CCIVs will bring into the economy, this is difficult to estimate due to the number of variables involved, including the number of new entrants to the market, those that are converting from another investment product into a CCIV, and the investment strategies chosen. Assets vary in terms of investment strategy, such as long term and short term holds and performance outcomes. The global funds management industry also needs to be taken into consideration, such as performance in other jurisdictions and the products available. This makes it challenging to pinpoint the monetary value and net benefits.[37]

1.45 The Regulation Impact Statement (RIS) for the bill estimates that these measures in Schedules 1 to 5 of the bill 'are estimated to result in a total average annual regulatory cost of $1.2 million',[38] which is the estimated cost that would be borne by businesses in registering new CCIVs and converting existing investment vehicles into the CCIV structure.[39]

Extension of loss carry back rules (Schedule 6)

1.46 Schedule 6 of the bill seeks to amend the *Income Tax Assessment Act 1997* and the *Taxation Administration Act 1953*. The bills intention is to laws to extend the loss carry back rules by 12 months, allowing eligible corporate tax entities to claim a loss carry back tax offset in the 2022-23 income year.[40]

1.47 The Minister's second reading speech provides an overview of the intended purpose of schedule 6 of the bill, as follows:

> The government implemented temporary loss carry-back in 2020 to promote economic activity by providing enhanced cash-flow support to previously profitable companies that fell into a tax loss position as a result of COVID-19.
>
> The law currently allows eligible companies to carry back tax losses from the 2019-20, 2020-21 or 2021-22 income years to offset previously taxed profits in the 2018-19 income year or later income years. Passage of these amendments will allow eligible companies to carry back tax losses from the 2022-23 income year. Tax refunds are limited to earlier taxed profits and the carry-back of losses cannot generate a franking account deficit.

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36 Explanatory Memorandum, p. 1.

37 Explanatory Memorandum, p. 386.

38 Explanatory Memorandum, p. 2.

39 Explanatory Memorandum, p. 386.

40 Explanatory Memorandum, p. 295.

> Companies with aggregated annual turnover of less than $5 billion are eligible for temporary loss carry-back on election when they lodge their 2020-21 and 2021-22 income tax returns and, with the passage of this bill, their 2022-23 income tax return.
>
> Companies that do not elect to carry back losses under this temporary measure can still carry losses forward as normal.
>
> Extending temporary loss carry back is estimated to deliver $2.8 billion in tax relief to companies over the forward estimates.[41]

1.48 The loss on carry backs measure interacts with the JobMaker Plan—the temporary full expensing to support investment measure. This aims to allow new investment to generate significant tax losses which can then be carried back to generate cash refunds for eligible businesses.[42]

Financial and regulatory impact of extending the loss carry back rules

1.49 The EM states that the compliance cost impact for Schedule 6 is 'low'.[43] Additionally, it states the estimated to have the following receipts impact over the forward estimates period ($m):

Table 1.1 Financial impact

2021-22	*2022-23*	*2023-24*	*2024-25*
Nil	Nil	-3,200.0	410.0

Source: Explanatory Memorandum, p. 3.

1.50 The EM does not have a regulatory impact statement for schedule 6.

Deductible Gift Recipient listings (Schedule 7)

1.51 Schedule 7 of the bill proposes to amend the *Income Tax Assessment Act 1997* (ITTA Act) to:

- specifically list the Greek Orthodox Community of New South Wales Ltd, Australian Associated Press Ltd, Virtual War Memorial Limited and SU Australia Ministries Limited as deductible gift recipients;
- extend the deductible gift recipient specific listings of Cambridge Australia Scholarships Limited and Foundation 1901 Limited; and

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41 The Hon. Michael Sukkar MP, Assistant Treasurer, *House of Representatives Hansard*, 25 November 2021, pp. 10–11.

42 Australian Taxation Office, *JobMaker Plan - temporary loss carry back to support cashflow*, 8 December 2021, https://www.ato.gov.au/General/New-legislation/In-detail/Direct-taxes/Income-tax-for-businesses/Loss-carry-back/ (accessed 5 January 2022).

43 Explanatory Memorandum, p. 3.

- remove the deductible gift recipient specific listing of the East African Fund Limited (with the fund remaining endorsed as a deductible gift recipient under another category).[44]

1.52 Under the ITTA Act, income tax deductions are allowed for taxpayers who make donations of $2 or more to deductible gift recipients. The be a deductible gift recipient, an organisation must fall within a general category set out in division 30 of the ITAA Act or be specifically listed in that division. The Explanatory Memorandum states that becoming a deductible gift recipient helps organisations to attract public financial support.[45]

Financial and regulatory impact of changes to the DGR listings

1.53 The EM states that specifically listing of the Greek Orthodox Community of New South Wales Ltd is estimated to have a total cost to revenue of $0.7 million from 2018-19 to 2022-23.[46]

1.54 In addition, the EM states that specifically listing SU Australia Ministries Limited, Australian Associated Press Ltd, Virtual War Memorial Limited, and extending the specific listings of Cambridge Australia Scholarships Limited and Foundation 1901 Limited, and removing the specific listing of the East African Fund Limited is estimated to decrease receipts by $7.5 million from 2020-21 to 2024-25.[47]

1.55 The EM does not have a regulatory impact statement for schedule 7.

Minor and technical amendments (Schedule 8)

1.56 As part of a usual periodic process to maintain and improve quality of tax law changes, Schedule 8 makes a number of miscellaneous and technical amendments to various laws within the Treasury portfolio.[48]

1.57 The EM states that the nature and purpose of these technical and minor amendments are to correct typographical and numbering errors, repeal inoperative provisions, remove administrative insufficiencies, address unintended outcomes and ensure the law delivers on the policy intent.[49]

1.58 The amendments apply to the following Acts and regulations:

- *Australian Prudential Regulation Authority Supervisory Levies Determination 2021;*

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44 Explanatory Memorandum, p. 299.

45 Explanatory Memorandum, p. 300.

46 Explanatory Memorandum, p. 4.

47 Explanatory Memorandum, p. 4.

48 Explanatory Memorandum, p. 305.

49 Explanatory Memorandum, p. 305.

- *Corporations Act 2001;*
- *National Consumer Credit Protection Act 2009;*
- *Foreign Acquisitions and Takeovers Act 1975;*
- *Income Tax Rates Act 1986;*
- *Payment Times Reporting Act 2020;*
- *Taxation Administration Act 1953;*
- *Income Tax Assessment Act 1997;*
- *Taxation Administration Act 1953;*
- *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009;*
- *Income Tax Assessment Act 1936; and*
- *Taxation Administration Act 1953.*

Financial and regulatory impact of minor and technical amendments

1.59 The EM states that the amendments within schedule 8 are estimated to have small but unquantifiable impact on receipts over the forward estimates period and unlikely to have more than a minor impact on compliance costs.[50]

1.60 The EM does not have a regulatory impact statement for schedule 8.

Retirement income covenant (Schedule 9)

Background to the introduction of a retirement income covenant

1.61 The Australian Government committed to introducing a retirement income covenant in the 2018—19 Budget following the government's response to the 2014 Financial System Inquiry, in which the government committed to develop legislation to allow funds to provide pre-selected products at retirement and guide members at retirement.[51]

1.62 The idea of a retirement income covenant was highlighted and explored in the Australian Government's release of its Retirement Income Review (the Review) in November 2020. The Review used a consultative approach with key stakeholders, to present evidence on the retirement income system—specifically how it operates, and the outcomes it delivers. One of the observations made by the Review is that the retirement phase of superannuation is underdeveloped and that higher retirement incomes could be achieved through using superannuation assets more efficiently.[52]

1.63 The Review noted that most people do not seek advice about retirement income planning due to high cost and unclear benefits, and their distrust of the financial

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50 Explanatory Memorandum, p. 5.

51 Treasury, Governments Response to the Financial System Inquiry, 20 October 2015, p. 5.

52 Treasury, Retirement Income Review: Final Report, July 2020, pp. 17-20.

advice industry.[53] The Review highlighted the importance of a retirement income covenant in improving retirement outcomes.[54]

1.64 The EM echoes the findings of the Review and states that the rationale for the implementation of such a covenant is that existing legal obligations on superannuation trustees focus primarily on the accumulation phase rather than the needs of beneficiaries in retirement. The retirement income covenant seeks to address this gap.[55]

1.65 The Department of Treasury (Treasury) released for consultation, a Position Paper in July 2021 and an Exposure Draft Legislation in September 2021.[56] Within the consultation period of exposure draft, a number of key stakeholders made submissions to Treasury. Of the 32 public submissions received by Treasury, the overwhelming consensus was broad support for a principles-based covenant.

1.66 Schedule 9 of the bill is a replica of the exposure draft, with the exception of including proposed subsection 52(8B). The EM states that this subsection provides that trustees of registrable superannuation entities (RSE) that exclusively provide members with benefits relating to death, permanent or temporary incapacity are not required to develop a retirement strategy as they do not provide retirement benefits.[57]

Schedule 9 - retirement income covenant

1.67 Schedule 9 of the bill seeks to insert a covenant in the Superannuation Industry (Supervision) Act 1993 (SIS Act) that would require trustees of registrable superannuation entities (RSEs) to develop a retirement income strategy for beneficiaries who are retired or approaching retirement.

1.68 The EM states that the retirement income covenant requires trustees to have a strategy to assist beneficiaries to achieve and balance the following three objectives:

- maximising their expected retirement income;
- managing expected risks to the sustainability and stability of their expected retirement income; and

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53 Retirement Income Review: Final Report, p. 417.

54 Retirement Income Review: Final Report, p. 19.

55 Explanatory Memorandum, p. 318.

56 Treasury, 'Consultations: Retirement Income Covenant', https://treasury.gov.au/consultation/c2021-188347 (Position paper), (accessed 23 December, 2021); Treasury, 'Consultations: Retirement Income Covenant - September 2021', https://treasury.gov.au/consultation/c2021-209553 (Exposure draft legislation), (accessed 23 December, 2021).

57 Explanatory Memorandum, p. 322.

- having flexible access to expected funds during retirement.[58]

1.69 To meet these three objectives, the bill outlines that trustees will be required:

- to take reasonable steps to gather the information necessary to inform the formulation and review of the strategy;
- as part of the strategy, record in writing the following:
  - each determination made by the trustee for the purposes of the strategy;
  - the steps taken to gather information;
  - each decision the trustee considers to be significant in the process of formulating, reviewing, or giving effect to the strategy; and
  - the reasons for those determinations, steps and decisions; and
- Make a summary of the strategy publicly available on the RSE's website. [59]

1.70 The amendments to the SIS Act apply the day after this Act receives Royal Assent, in relation to all retestable superannuation entities (inclusive of those in existence prior to the commencement).[60]

1.71 The bill stipulates that despite the commencement date of the bill, a trustee of an entity is not required to have formulated a retirement income strategy or published a summary before 1 July 2022.[61]

Financial and regulatory impact of establishing the retirement income covenant

1.72 The EM states that Schedule 9 of the bill was estimated to have nil impact on receipts over the forward estimates at the time of the 2020—21 Budget.[62]

1.73 The EM states that the average annual regulatory cost of the amendments in Schedule 9 of the bill is estimated at $20.2 million.[63] The EM states that this regulatory burden is small in comparison to the existing administrative costs of the Australian superannuation system.[64]The estimated $20.2 million burden will be on Businesses such as superannuation funds, rather than individuals and community organisations and that this will be mostly in the formative years whilst setting up the RIS.[65]

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58 Explanatory Memorandum, p. 317.

59 Proposed section 52(8)(A), Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021.

60 Subitem 3(1) of Schedule 9, Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021.

61 Subitem 3(2) of Schedule 9, Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021.

62 Explanatory Memorandum, p. 6.

63 Explanatory Memorandum, p. 6.

64 Explanatory Memorandum, p. 410.

65 Explanatory Memorandum, p. 412.

1.74 The EM states:

> The quantification of costs is based upon the assumption that the development of a retirement income strategy would require the following steps:
>
> - Data collection and analysis of a fund's membership
> - Formulating a retirement income strategy
> - Publication of the strategy
> - Implementation of the retirement income strategy across a fund's operations
> - An annual and three yearly review of the fund's retirement income strategy.[66]

1.75 Despite this estimated burden, the EM assures that through the Treasury consultation process, stakeholders did not express significant concern on these costs on their business or the costs that would be passed on to their members.[67]

Employee share scheme taxation (Schedule 10)

Background of the Employee Share Schemes: Removing Cessation of Employment as a Taxing Point

1.76 Issues surrounding Employee Share Schemes were thoroughly canvassed in the House of Representatives Standing Committee on Tax and Revenue's report *Owning a Share of Your Work: Tax Treatment of Employee Share Schemes*, published in August 2021.

1.77 Schedule 10 of the bill is implementing recommendation 9 of the Tax and Revenue Committee's report, which is specific to the cessation of employment as a taxation point:

> The Committee recommends that the Government remove the taxation point on the cessation of employment by removing sections 83A-115(5) and 83A-120(5) of the *Income Tax Assessment Act 1997*.[68]

1.78 The Tax and Revenue Committee made this recommendation due to the evidence that they received that Australian firms were being disadvantaged when competing for global talent, as the point at which ESS interests are taxed were 'no longer best practice' and less favourable than arrangements overseas.[69]

Schedule 10 - Employee share scheme taxation

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66 Explanatory Memorandum, p. 411.

67 Explanatory Memorandum, p. 410.

68 House of Representatives Standing Committee on Tax and Revenue, *Owning a Share of Your Work: Tax Treatment of Employee Share Schemes*, August 2021, p. 33.

69 House of Representatives Standing Committee on Tax and Revenue, *Owning a Share of Your Work: Tax Treatment of Employee Share Schemes*, August 2021, p. 27.

1.79 Schedule 10 of the bill seeks to amend the *Income Tax Assessment Act 1997* (ITTA Act) to remove cessation of employment as a taxing point for Employee Share Schemes (ESS) interest which are subject to deferred taxation.

1.80 An ESS provides employees (as broadly defined in the ESS rules) with a financial interest (ESS interest) in the company they work for through the granting of shares or rights to shares in that company. Employers use ESS to attract, retain and motivate staff by issuing ESS interests to employees, usually at a discount.

1.81 Generally, any discount to the market value of ESS interests in shares or rights are taxed up-front, and the market value of the discount must be included in the employee's assessable income for that income year.

1.82 However, an employee can access deferred taxation on a discount if the ESS is under the following conditions:

- at a real risk of forfeiture or loss (other than by disposal) under the conditions of the scheme; or
- obtained under a salary sacrifice arrangement, and the ESS interest acquired does not exceed $5,000 in an income year; or
- in the case of a beneficial interest in a right, the ESS genuinely restricts the immediate disposal of the right and the ESS rules expressly provide that Subdivision 83A-C applies to the scheme.[70]

1.83 The EM states that the removal of the cessation of employment taxing point for tax-deferred ESS will support Australian businesses to attract and retain the talent they need to compete on a global stage.[71]

Financial and regulatory impact of changes to ESS taxation

1.84 The EM states that Schedule 10 of the bill has 'low' compliance cost and is estimated to have the following impact on the underlying cash balance over the forward estimates period($m):

Table 1.2 Financial impact

2020-21	*2021-22*	*2022-23*	*2023-24*	*2024-25*
0.0	0.0	0.0	-345.0	-205.0

Source: Explanatory Memorandum, p. 8.

1.85 The EM does not have a regulatory impact statement for schedule 8.

Legislative scrutiny

1.86 The Parliamentary Joint Committee on Human Rights stated in its *Report 15 of 2021*, that it did not have any comments on the bill as it either did not engage or

[70] Explanatory Memorandum, p. 334.

[71] Explanatory Memorandum, p. 335.

only marginally engaged in human rights; promote human rights; and/or permissibly limit human rights.[72]

[72] Parliamentary Joint Committee on Human Rights, *Human rights scrutiny report: Report 15 of 2021*, 8 December 2021, p. 35.

Conduct of the inquiry

1.87 The committee advertised the inquiry on its website and wrote to relevant stakeholders and interested parties inviting written submissions by 7 January 2022.

1.88 The committee received 18 submissions as well as answers to questions on notice, which are listed at Appendix 1.

1.89 The committee held one public hearing for the inquiry, on 17 January 2022 in Canberra. The names of witnesses who appeared at the hearing can be found at Appendix 2.

Acknowledgements

1.90 The committee thanks all individuals and organisations who assisted with the inquiry, especially those who made written submissions and participated in the public hearing.

Notes on references

1.91 In this report, references to the Committee Hansard are to the Proof Hansard and page numbers may vary between Proof and Official Hansard transcripts.

Structure of report

1.92 Chapter 1 of this report has provided relevant background and an overview of the bill.

1.93 Chapter 2 discusses the views on the bill raised in evidence to the committee.

Chapter 2
Views on the bill

Introduction

2.1 This chapter considers the views held by stakeholders on the provisions of the Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 (the bill).

2.2 As noted in Chapter 1 of this report, the committee received 18 submissions and held a public hearing in Canberra on 17 January 2022.

2.3 Submissions received by the committee either commented on the Corporate Collective Investment Vehicle (CCIV) regime (schedules 1-5) or on the retirement income covenant (schedule 9). As such, this chapter considers the evidence received by stakeholders on the CCIV regime, followed by evidence received on the retirement income covenant. It concludes with the committee view and recommendation.

The CCIV regime

Support for the CCIV regime

2.4 Evidence received by the committee supported the establishment of the regulatory framework for the CCIV regime.[1] Submitters were supportive of the aim of the regime to enhance the international competitiveness of the Australian managed funds industry and attract greater levels of foreign investment into Australia's financial markets.

2.5 King & Wood Mallesons submitted that investment funds in Australia are almost exclusively structured as trusts. They noted that this is 'primarily because trusts have "flow through" tax treatment and are not taxed at source as is the case for a trading company'.[2]

2.6 Financial Services Council (FSC) stated that managed investment trusts (MITs) are the only flowthrough investment vehicles available to Australian fund managers to manage collective investment pools.[3]

2.7 Submitters explained that Australian MIT structures are not well understood by foreign investors, and this unfamiliarity of Australia's trust structure

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1 See Australian Services Roundtable, *Submission 7*, [p. 1]; Financial Services Council, *Submission 9*, p. 3; King & Wood Mallesons, *Submission 12*, p. 3; Property Council of Australia, *Submission 17*, p. 1; and Pitcher Partners, *Submission 18*, p. 1.

2 King & Wood Mallesons, *Submission 12*, p. 2.

3 Financial Services Council, *Submission 9*, p. 5.

significantly impacts investor confidence and makes it more difficult for Australian fund managers to attract foreign capital.[4]

2.8 FSC explained that the proposed CCIV is a collective investment vehicle subject to the same tax treatment as a MIT but with some of the features of a company. They highlighted that corporate investment vehicles are structures used around the world, and take many different forms depending on the legal structures available in each country.[5]

2.9 Australian Services Roundtable (ASR) stated that as collective investment vehicles are recognised internationally, the proposed CCIV would create a more internationally familiar, simpler, and more certain structure for collective investment into Australian funds.[6]

2.10 FSC submitted that Australia's proposed new CCIV would increase the ability for local fund managers to compete globally. As a result, 'the CCIV should help increase exports of Australian investment products, as foreign investors will have Australian investment products that are more familiar and more internationally acceptable'.[7]

2.11 The Property Council of Australia highlighted the benefits that international investment brings to Australia, including 'tangible benefits to different sectors and industries, including new infrastructure, higher productivity, greater employment opportunities and higher tax revenues for government'.[8]

2.12 The Property Council of Australia noted as that Australia relies on significant amounts of international investment to build and grow the economy, the proposed CCIV would be particularly important as Australia looks for 'opportunities to manage our way through the latest COVID-19 impacts and continue our economic recovery'.[9]

Views relating to the CCIV regime

2.13 While supportive of the passage of the bill, submitters made suggestions to enhance the operation of the CCIV, as discussed below.

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4 See Australian Services Roundtable, *Submission 7*, [p. 2]; Financial Services Council, *Submission 9*, p. 5; King & Wood Mallesons, *Submission 12*, p. 2; and Property Council of Australia, *Submission 17*, p. 1.

5 Financial Services Council, *Submission 9*, p. 5

6 Australian Services Roundtable, *Submission 7*, [p. 2].

7 Financial Services Council, *Submission 9*, p. 5.

8 Property Council of Australia, *Submission 17*, p. 4.

9 Property Council of Australia, *Submission 17*, p. 5.

CCIV taxation framework

Taxation of sub-funds that fail widely held conditions

2.14 Submitters commented that an aspect of the bill that could be improved is the specific provisions that deal with the taxation of a CCIV sub-fund in the event widely held conditions are not satisfied.[10]

2.15 King & Wood Mallesons noted that the policy aim of these provisions is to produce an equivalent tax outcome to the current trust regime, but stated that the 'current drafting does not achieve this policy objective'.[11]

2.16 Mr David Hawkins, Acting Assistant Director, Special Tax Regimes Unit, Corporate and International Tax Division, Treasury, explained that for the CCIV tax framework to provide equivalent tax outcomes, sub-funds of a CCIV would be taxed like an Attribution Managed Investment Trust (AMIT).[12]

2.17 Mr D Hawkins noted that Treasury's understanding of market practice 'is that it's very, very rare for a fund that wants to operate as an AMIT to ever fall out of those tax rules'.[13] He further outlined that a safe harbour exists in the law currently for temporary circumstances that are outside the influence of the trustee.[14]

2.18 Noting that it is anticipated that the vast bulk of CCIV sub-funds would be taxed like an AMIT, Mr D Hawkins explained that for the cohort of funds that are described as non-AMIT, or in the event a sub-fund fails the requirements, the CCIV sub-funds would fall into existing division 6 tax principles, which currently occurs in the law.[15]

2.19 Therefore, Mr D Hawkins stated that 'enforcing the widely held rule for funds that aren't widely held does not take away from the policy intent of the CCIV'.[16]

2.20 Mr Andrew Werbik, Assistant Commissioner, Policy Analysis and Legislation, Australian Taxation Office (ATO) told the committee that the ATO has not

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[10] Financial Services Council, *Submission 9*, p. 3.; King & Wood Mallesons, *Submission 12*, p. 2; and Pitcher Partners, *Submission 18*, p. 1.

[11] King & Wood Mallesons, *Submission 12*, p. 3.

[12] Mr David Hawkins, Acting Assistant Director, Special Tax Regimes Unit, Corporate and International Tax Division, Treasury, *Committee Hansard*, 17 January 2022, p. 11.

[13] Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 13.

[14] Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 13.

[15] Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 11.

[16] Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 13.

identified any specific issues should a CCIV fail and division 6 principles apply.[17]

Accounting profits

2.21 FSC submitted that in the case of a MIT, the trust deed will determine the income to which relevant beneficiaries must be presently entitled. FSC explained that by contrast:

> … the CCIV legislation introduces a requirement that the amount to which beneficiaries must be presently entitled is based on accounting profits. This is different from the way managed funds normally operate.[18]

2.22 FSC argued that the reliance on accounting profits would introduce issues for CCIV members, and in some cases, would result in extra tax being imposed on the sub-fund.[19]

2.23 FSC and King & Wood Mallesons believed that a solution to the problem would be to 'remove reliance on a concept of accounting profits and rely on the definition of trust income as contained in the deed'.[20]

2.24 Pitcher Partners submitted that a key concern was the use of 'profits' as a proxy for the 'income of a trust estate' for a non-AMIT sub-fund.[21]

2.25 Pitcher Partners believed that the difference between this term and taxable income would likely result in many cases where a CCIV sub-fund would be taxed at 47 per cent. Pitcher Partners explained that this would mean that ATO resources would be diverted to resolving these issues, and would create a risk on uptake of the CCIV regime, as compared to the current use of unit trusts as the vehicle of choice for fund managers.[22]

2.26 Pitcher Partners provided that in order for the CCIV regime to be a vehicle that meets its objectives of successfully attracting foreign investment, the bill could be amended by:

- allowing a CCIV sub-fund the ability to make an irrevocable election to treat income of the trust estate as being its taxable income (with certain adjustments); or

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17 Mr Andrew Werbik, Assistant Commissioner, Policy Analysis and Legislation, Australian Taxation Office (ATO), *Committee Hansard*, 17 January 2022, p. 7.

18 Financial Services Council, *Submission 9*, p. 4.

19 Financial Services Council, *Submission 9*, p. 5.

20 Financial Services Council, *Submission 9*, p. 5; and King & Wood Mallesons, *Submission 12*, p. 3.

21 Pitcher Partners, *Submission 18*, p. 2.

22 Pitcher Partners, *Submission 18*, pp. 1–2.

- allowing a CCIV sub-fund to be taxed on an attribution basis (rather than present entitlement basis).[23]

2.27 Mr D Hawkins, Treasury, explained to the committee that the proposed CCIV structure would be a corporate entity and would have a regulatory framework that provides for that. Mr D Hawkins acknowledged that the reference to accounting profits is a different concept to what stakeholders would have to deal with currently.[24] However, Mr D Hawkins told the committee 'we have to look at that in the context of what we're dealing with; we're talking about a CCIV, which is a corporate entity'.[25]

2.28 In response to concern about the prospect of a 47 per cent tax rate and whether a CCIV sub-fund would be worse off, Mr D Hawkins explained that Treasury does not think the CCIV 'is doing anything different to give rise to that different tax outcome'.[26]

2.29 Mr D Hawkins said '[o]ur deeming principle is seeking to make certain that the outcomes that funds can currently access carry over to the CCIV. We think the bill does that'.[27]

2.30 Mr Werbik explained that as part of implementing the new measures of the CCIV, the ATO is actively working through what sort of public advice and guidance might be needed to set out more detail on how these provisions of the CCIV might work.[28] The ATO has also established a CCIV Working Group to canvass industry perspectives around what support would be needed to implement the new CCIV.[29]

Tax rules relying on concepts of dividend

2.31 FSC noted that tax rules for CCIVs do not apply based on entitlement to distributions, but instead rely on the tax definition of a 'dividend'. FSC argued that the use of this expression would add complexity to the administration of a CCIV, and in in some instances could prevent distributions to investors.[30]

2.32 FSC recommended that the reliance on dividend 'should be replaced by reliance on entitlement'.[31]

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23 Pitcher Partners, *Submission 18*, p. 3.

24 Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 14.

25 Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 14.

26 Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 14.

27 Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 14.

28 Mr Werbik, ATO, *Committee Hansard*, 17 January 2022, p. 7.

29 ATO, answer to question on notice, 17 January 2022 (received 25 January 2022).

30 Financial Services Council, *Submission 9*, p. 5.

31 Financial Services Council, *Submission 9*, p. 5.

2.33 Mr D Hawkins, Treasury, reiterated that the CCIV would be a corporate entity, and as such would have a regulatory framework that includes corporate law concepts like dividends and solvency.[32] Mr D Hawkins explained that '[a] high-level example is the CCIV will pay out a dividend; a trust will never need to do that. So there's already a difference there'.[33]

2.34 Mr Werbik, ATO, further clarified that as the legislation takes the approach that it is a legal form company, the tax definition of a dividend would not be a particular issue for the ATO.[34] However, Mr Werbik stated that to 'the extent that there are things that need to be clarified: we [would] certainly take that on board in our public advice and guidance, subject to prioritisation'.[35]

2.35 In relation to terms being clarified, Ms Kate Metz, Senior Executive Leader, Investment Managers, Australian Securities and Investments Commission (ASIC) also highlighted that ASIC would also 'publish relevant regulatory guides before 1 July to ensure corporate directors understand their obligations and duties under the regime and can become appropriately licensed and operationally competent'.[36] Ms Metz noted that ASIC plans to publicly consult on these regulatory guides before they are published.

A transitional regime

2.36 FSC noted that a key aspect to the success of the CCIV regime would be the introduction of transitional relief to allow existing funds to convert into CCIVs. FSC submitted that:

> This relief will allow Australian fund managers to rationalise fund offerings through mergers and other structural changes without investors facing additional costs particularly relating to tax, stamp duty and investor meetings. A rationalisation of existing structures helps to remove unnecessary costs associated with maintaining outdated products and will likely help bring down the price of managed funds for consumers, and in the domestic market particularly.[37]

2.37 FSC and King & Wood Mallesons noted that there is no transitional regime in the bill that would allow MISs to change their legal form into a CCIV without creating a tax event or requiring a members' meeting.[38]

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32 Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 14.

33 Mr D Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 14.

34 Mr Werbik, ATO, *Committee Hansard*, 17 January 2022, p. 8.

35 Mr Werbik, ATO, *Committee Hansard*, 17 January 2022, p. 8.

36 Ms Kate Metz, Senior Executive Leader, Investment Managers, Australian Securities and Investments Commission (ASIC), *Committee Hansard*, 17 January 2022, p. 1.

37 Financial Services Council, *Submission 9*, p. 4.

38 King & Wood Mallesons, *Submission 12*, p. 3.

2.38 However, Mr Tom Dickson, Assistant Secretary and Branch Head, Corporations Branch, Treasury, noted that appropriate forms of transitional relief are being looked at by the department.[39]

The retirement income covenant

Support for the retirement income covenant

2.39 Most submitters were supportive of the introduction of the retirement income covenant into the *Superannuation Industry (Supervision) Act 1993* (SIS Act) and were supportive of the intent of the covenant to better develop the retirement phase of superannuation.[40]

2.40 FSC considered that the requirement for funds to develop, implement and regularly review a retirement income strategy for members 'is an appropriate addition to the existing legislated covenants'.[41] FSC highlighted that:

> The three areas to be considered by trustees (income, risk, and access to savings) are also appropriate to reflect the key considerations when determining the best approach to retirement income for fund members.[42]

2.41 The Australian Prudential Regulation Authority (APRA) submitted that the introduction of the retirement income covenant would be an important step in broadening industry focus beyond the accumulation phase to advance the retirement phase of superannuation.[43]

2.42 Similarly, Challenger noted that it is essential that Australia's superannuation system works as well for members in the retirement phase as it does for those in accumulation phase.[44] Challenger submitted that the retirement income covenant is 'supported across the superannuation industry, reflecting broad recognition of the importance of this legislation'.[45]

Commencement

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39 Mr Tom Dickson, Assistant Secretary and Branch Head, Corporations Branch, Treasury, *Committee Hansard*, 17 January 2021, p. 15.

40 See Financial Planning Association of Australia, *Submission 1*, [p. 1]; Mercer, *Submission 2*, p. 1; Industry Super Australia, *Submission 3*, [p. 1]; Australian Prudential Regulation Authority, *Submission 4*, p. 1; Aware Super, *Submission 5*, p. 1; Challenger, *Submission 8*, p. 2; Financial Services Council, *Submission 9*, p. 7; Association of Superannuation Funds Australia, *Submission 10*, p. 1; HESTA, *Submission 11*, [p. 2]; Australian Institute of Superannuation Trustees, *Submission 13*, p. 3; Super Consumers Australia, *Submission 14*, [p. 2]; MLC Life Insurance, *Submission 15*, p. 1; Cbus, *Submission 16*, p.1.

41 Financial Services Council, *Submission 9*, p. 7.

42 Financial Services Council, *Submission 9*, p. 7.

43 Australian Prudential Regulation Authority, *Submission 4*, p. 1.

44 Challenger, *Submission 8*, p. 3.

45 Challenger, *Submission 8*, p. 3.

2.43 MLC Life Insurance submitted that as the proposed commencement of the retirement income covenant is 1 July 2022, it is critical for the bill to be passed quickly to provide 'certainty for the industry and Australian's preparing for and in retirement as they consider the retirement options available, and enable the industry to implement the necessary changes'.[46]

2.44 HESTA welcomed that trustees would not be required to give effect to all components of their strategy by 1 July 2022 as implementation of the strategy would be an ongoing process.[47]

2.45 However, Australian Institute of Superannuation Trustees (AIST) submitted that the bill should be amended to provide a flexible implementation period, where the requirement for a retirement income strategy would be voluntary for the first 12 months from 1 July 2022 and become mandatory on 1 July 2023.[48]

Views relating to the retirement income covenant

2.46 While many submitters supported the passage of the bill as soon as possible, the committee received evidence suggesting improvements to the retirement income covenant, as outlined below.

Relationship with financial advice and other laws

Boundaries between factual information and general advice

2.47 AIST submitted that establishing a principles-based covenant requires consideration of the interaction with, and role of, financial advice. AIST noted that there are practical concerns that relate to the overlap between what is expected from superannuation trustees regarding guidance and assistance and what is considered advice.[49]

2.48 The Financial Planning Association of Australia (FPA) acknowledged the changes made to the Explanatory Memorandum (EM) of the bill to strengthen and make it clearer that superannuation trustees must comply with the financial advice laws in the *Corporations Act 2001*.[50] The FPA highlighted the importance of this, stating:

> It is essential that the Covenant includes a clear and ongoing legal obligation that the laws that govern the provision of financial advice must be adhered to by the trustee regarding the formulation, review and giving effect to the retirement income strategy, including in relation to the assistance the trustee

46 MLC Life Insurance, *Submission 15*, p. 1.

47 HESTA, *Submission 11*, [p. 2].

48 Australian Institute of Superannuation Trustees, *Submission 13*, p. 3.

49 Australian Institute of Superannuation Trustees, *Submission 13*, p. 7.

50 Financial Planning Association of Australia, *Submission 1*, [p. 1].

> will provide beneficiaries to achieve and balance the objectives of the strategy, as required under s52AA(2) of the Bill.[51]

2.49 The FPA submitted that superannuation trustees have access to personal information about beneficiaries, which creates a very fine line between the provision of factual information and the provision of general or personal advice as the beneficiary may assume the trustee has considered the individual's circumstances when 'assisting' them with their retirement income needs.[52]

2.50 AIST noted that despite extensive guidance from ASIC, 'there remains some confusion about the boundary between general and personal advice'.[53] AIST submitted that 'this lack of clarity needs to be addressed in order for advice to play an appropriate role in retirement income strategies.'[54] AIST stated that:

> ASIC should update their guidance about the boundaries between the provision of factual information and general advice, including in relation to the Retirement Income Covenant, and the Explanatory Memorandum foreshadows this.[55]

2.51 Ms Jane Eccleston, Senior Executive Leader, Superannuation, ASIC, noted the Treasury's consultation process on the *Review of the quality of financial advice* will examine the regulatory framework for financial advice and have regard to the retirement income covenant. Ms Eccleston stated that ASIC will 'support and engage with this review'.[56]

Intra-fund advice

2.52 The committee heard from some submitters that intra-fund advice should be expanded to include advice about retirement products. Industry Super Australia (ISA) outlined that intra-fund advice is 'advice that a superannuation trustee can provide to members where the cost of the advice is borne by all members of the fund'.[57] ISA explained that the objective of intra-fund advice is to 'allow super funds to give members simple, non-ongoing personal advice on the member's interest in the fund. This advice can be collectively charged across the fund's membership'.

2.53 ISA noted that ASIC has given guidance on the types of non-ongoing advice for which a superannuation trustee is likely to be allowed to collectively charge. ISA

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51 Financial Planning Association of Australia, *Submission 1*, [p. 1].

52 Financial Planning Association of Australia, *Submission 1*, [p. 1].

53 Australian Institute of Superannuation Trustees, *Submission 13*, p. 7.

54 Australian Institute of Superannuation Trustees, *Submission 13*, p. 7.

55 Australian Institute of Superannuation Trustees, *Submission 13*, p. 7.

56 Ms Jane Eccleston, Senior Executive Leader, Superannuation, ASIC, *Committee Hansard*, 17 January 2022, p. 2.

57 Industry Super Australia, *Submission 3*, [p. 7].

highlighted that the topics 'are narrow and do not take account of a members wider financial and household situation, or access to Centrelink payments'.[58]

2.54 In their submission to the Treasury consultation in July 2021, ISA recommended that intra-fund advice be expanded to include advice about retirement income products:

- which takes into account Age Pension eligibility, Centrelink payments, non-super assets and non-super income, and
- which covers the members household, i.e., spouse/partner of the member and, if applicable, dependant/s of the member.[59]

2.55 AIST also submitted that the value of intra-fund advice has not been fully or consistently utilised and should be expanded to cover household retirement planning.[60] AIST noted that people commonly seek pre-retirement advice as couples/household, and that 'this (including consideration of a spouse's super) should be allowable within an intra-fund advice topic on retirement and paid for via existing intra-fund advice models'.[61] AIST stated that this is particularly pertinent given that other relevant retirement income such as the Age Pension is assessed based on whether someone is in a relationship.[62]

2.56 AIST explained that AIST members report that one of the main advice strategies for members in the accumulation phase leading up to retirement is increasing contributions and managing contributions for a couple's best interests, and therefore, intra-fund advice should be extended to include a household's retirement adequacy, Age Pension eligibility, non-superannuation assets, and income.[63]

2.57 Cbus noted the vital role intra-fund advice plays in providing advice to their members but submitted that it is 'unrealistic to expect that a superannuation fund can deliver comprehensive financial advice to each member efficiently or cost effectively'.[64] Cbus stated:

> The ability to provide intra-fund advice is vital in providing cost efficient, limited advice to more members about their retirement at scale. Given the compulsory nature of superannuation, and the cost of holistic personal

58 Industry Super Australia, *Submission 3*, [p. 7].

59 Industry Super Australia, *Submission 3*, [p. 8].

60 Australian Institute of Superannuation Trustees, *Submission 13*, p. 9.

61 Australian Institute of Superannuation Trustees, *Submission 13*, p. 9.

62 Australian Institute of Superannuation Trustees, *Submission 13*, p. 9.

63 Australian Institute of Superannuation Trustees, *Submission 13*, pp. 9–10.

64 Cbus, *Submission 16*, p. 3.

> advice, intra-fund advice provides significant benefit to members who otherwise would not get advice.[65]

2.58 However, Super Consumers Australia encouraged caution to broaden the scope of intra-fund advice. Super Consumers Australia argued that 'there is an inherent conflict in allowing funds to provide guidance on their own products'.[66] Super Consumers Australia highlighted this through the below example.

> By way of a simple example, a fund in which the average member has a very low retirement balance may justify only providing an account based pension in the retirement phase on the grounds that this is the best solution for its members. This fund has no incentive to inform its customers about other types of products that may help them achieve their retirement goals. This would be a disservice to members in cohorts which the fund has decided aren't significant enough to develop specific strategies. Without independent guidance these groups of consumers may not look beyond the products their fund has on offer, which may be totally inappropriate for their needs.[67]

2.59 Ms Eccleston, ASIC, agreed that intra-fund advice is limited in scope and outlined that the *Review of the quality of financial advice* is likely to receive comment on whether expanding intra-fund advice with regard to the retirement income covenant is an appropriate decision to make.[68]

Anti-hawking laws

2.60 In 2021 the Australia Government introduced reforms to the anti-hawking regime to prevent high pressure sales of financial products that are poor quality or inappropriate for the consumer.[69] The EM states that the covenant obligations are consistent with anti-hawking laws:

> … which permits a trustee to contact a beneficiary who is approaching retirement with information about different retirement income products offered by the fund, provided that the trustee does not make an offer, or request an invitation to a beneficiary during an unsolicited telephone call, face-to-face meeting or other real time interaction that creates an expectation of an immediate response.[70]

2.61 AIST submitted that while the EM states that the covenant obligations are consistent with anti-hawking legislation, permitting super funds to contact their existing members with retirement product information is 'a grey area that

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65 Cbus, *Submission 16*, p. 3.

66 Super Consumers Australia, *Submission 14*, [p. 4].

67 Super Consumers Australia, *Submission 14*, [p. 4].

68 Ms Eccleston, ASIC, *Committee Hansard*, 17 January 2022, p. 4.

69 Cbus, *Submission 16*, p. 5.

70 Explanatory Memorandum, p. 328.

should be specifically addressed in the explanatory memorandum to the legislation'.[71]

2.62 Cbus argued that the anti-hawking reforms 'hamper Cbus' ability to implement a retirement income strategy because it constrains our ability to communicate with existing members about our award winning pension product'.[72] Cbus stated that refinements to the anti-hawking regime are required 'to enable Cbus to communicate with existing members who are approaching retirement to help them to make well informed decisions that will maximise their retirement income'.[73]

2.63 ISA also stated that the Australian Government should expand the exemption from the anti-hawking prohibition to 'allow superannuation trustees to make offers to members about moving to the retirement phase to facilitate the take up of retirement income products'.[74]

2.64 Ms Eccleston, ASIC, stated that trustees can fulfil the requirements of the covenant and create effective retirement income strategies without providing financial advice or breaching the anti-hawking laws.[75] Ms Eccleston explained that the anti-hawking provisions in the retirement income covenant are designed to 'stop people making a decision when they [are] under pressure in a real-time interaction'.[76]

2.65 Ms Eccleston outlined to the committee that there are other ways trustees can bring products to people's attention without breaching the anti-hawking provisions:

> For instance, you can communicate with them about the product in a way which isn't a real-time interaction by doing a mail-out. You can give them information rather than an offer or invitation in some sort of real-time setting. And you can also get their consent to be approached to have this discussion in a real-time communication.[77]

Self-managed superannuation funds

2.66 As stated in the EM, the retirement income covenant would not apply to trustees of self-managed superannuation funds.[78] Some submitters commented that the exclusion of self-managed super funds would undermine the objective of the

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71 Australian Institute of Superannuation Trustees, *Submission 13*, p. 8.

72 Cbus, *Submission 16*, p. 5.

73 Cbus, *Submission 16*, p. 5.

74 Industry Super Australia, *Submission 3*, [p. 3].

75 Ms Eccleston, ASIC, *Committee Hansard*, 17 January 2022, p. 2.

76 Ms Eccleston, ASIC, *Committee Hansard*, 17 January 2022, p. 4.

77 Ms Eccleston, ASIC, *Committee Hansard*, 17 January 2022, pp. 4–5.

78 Explanatory Memorandum, p. 318.

covenant and that the bill should be amended to include self-managed super funds.

2.67 Super Consumers Australia explained that self-managed super funds have a significant portion of the funds under management in the retirement phase, totalling $334 billion of the $750 billion retirement pool. They noted that the self-managed super fund sector is also responsible for $35 billion in benefit payments per year.[79]

2.68 Super Consumers Australia argued that with such a high percentage of self-managed super funds in the retirement phase, the proposal to exclude self-managed super funds from the covenant 'would see a large number of people in and close to retirement miss out on important planning and assistance'.[80]

2.69 Super Consumers Australia submitted that 'if the intention of the retirement income covenant is to ensure all people are maximizing their savings, it must not leave behind the one million members in [self-managed super funds]'.[81]

2.70 Industry Super Australia (ISA) submitted that given self-managed super funds are often used for wealth preservation and estate planning, 'their exclusion from the covenant undermines the broader objective of the covenant, which is to improve retirement outcomes by focusing on increasing the use of super assets in retirement'.[82]

2.71 ISA noted that the flexible principles-based approach to the covenant outlined in the bill could be broadly applied to self-managed super funds 'as it allows each fund to comply with the obligations in a way that appropriately takes into account the nature, scale and complexity of the fund'.[83]

2.72 Super Consumers Australia recommended that the principles of the retirement income covenant apply to self-managed super funds, as well as self-managed super funds to consider relevant retirement strategies, such as cognitive decline, exit strategies and death nominations.[84] ISA reiterated 'that the legislation should be amended so that self-managed super funds are subject to the covenant'.[85]

2.73 Mr Adam Hawkins, Assistant Secretary, Tax and Transfers Branch, Treasury, outlined that the decision to not cover self-managed superannuation funds with

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79 Super Consumers Australia, *Submission 14*, [p. 1].

80 Super Consumers Australia, *Submission 14*, [p. 1].

81 Super Consumers Australia, *Submission 14*, [p. 1].

82 Industry Super Australia, *Submission 3*, [p. 1].

83 Industry Super Australia, *Submission 3*, [p. 1].

84 Super Consumers Australia, *Submission 14*, [p. 2].

85 Industry Super Australia, *Submission 3*, [p. 1].

a covenant was because the circumstances of a self-managed superannuation fund and an APRA regulated fund are 'quite different'.[86] Mr Hawkins said:

> An APRA regulated fund has a very large membership, potentially millions of members, and will need to gather information in order to formulate their strategy; whereas a self-managed superannuation fund will intimately know their members, so the need to gather information and then develop a strategy on types of services or products that might be appropriate to them isn't as involved as it would be for an APRA regulated fund.[87]

2.74 Mr A Hawkins, Treasury, therefore stated that as a self-managed superannuation fund and an APRA regulated fund can be thought of quite differently in terms of what set of regulations might apply, the retirement income covenant does not cover self-managed superannuation funds.[88]

De-identified data

2.75 The committee heard that access to de-identified data, in addition to existing publicly available data, would assist trustees understand members and their needs to implement their strategy, and would help inform their cohort analysis.[89]

2.76 HESTA outlined that under the proposed retirement income covenant, superannuation funds 'will be expected to take reasonable steps to gather information about their members to inform the formulation and review of their strategy'.[90]

2.77 In their submission to the Treasury Exposure Draft Legislation, Aware Super supported the use of data such as member surveys and publicly available data. However, Aware Super submitted that 'it is unlikely that existing data sources will provide trustees with the desired level of appropriate, timely and cost-effective data to support their [s]trategies'.[91]

2.78 HESTA noted that superannuation-related data on membership can be limited or outdated 'given the voluntary nature of information provision from members

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86 Mr Adam Hawkins, Assistant Secretary, Tax and Transfers Branch, Treasury, *Committee Hansard*, 17 January 2022, p. 12.

87 Mr A Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 12.

88 Mr A Hawkins, Treasury, *Committee Hansard*, 17 January 2022, p. 12.

89 See for example: Industry Super Australia, *Submission 3*, [p. 1]; Aware Super, *Submission 5*, p. 10; Association of Superannuation Funds of Australia, *Submission 10*, p. 1; HESTA, *Submission 11*, [p. 3]; Australian Institute of Superannuation Trustees, *Submission 13*, p. 14; and Cbus, *Submission 16*, p. 3.

90 HESTA, *Submission 11*, [p. 3].

91 Aware Super, *Submission 5*, p. 9.

and the limited information required to be provided by employers'.[92] HESTA argued that:

> Super funds do not automatically receive enough information to develop a retirement income strategy for beneficiaries who are retired or who are approaching retirement, to the extent that this includes non-superannuation income, e.g. information related to externally held investments or Centrelink eligibility.[93]

2.79 AIST submitted that the Australian Government should establish a robust data-sharing framework for bodies like the ATO to release de-identified data that would assist trustees with their obligations.[94] AIST argued that:

> Having access to other de-deidentified data sets, including those from Services Australia (e.g., Centrelink payment statistics, Child Support statistics, etc.) would provide a clearer stream of information that will assist trustees determine their membership and any sub-classes within it.[95]

2.80 Both Cbus and ISA highlighted that aggregate de-identified member data provided by government agencies to superannuation funds would assist funds to divide their members into appropriate subclasses for the purposes of the strategy (if the fund chooses to do so) and formulate a suitable strategy for each subclass.[96]

2.81 APRA submitted that it would 'consider expanding its data collection for retirement income products and the development of further tools that would give a sharper focus on the performance of these products'.[97]

Other comments on the bill

Creation of the retirement income covenant is unnecessary

2.82 CPA Australia submitted that it does not support the proposed new retirement income covenant. CPA Australia stated that:

> … the creation of a retirement income covenant for superannuation funds at this time is unnecessary, as this new covenant will add to the costs of running superannuation funds and will be of little or no practical benefit to fund members, trustees, regulators or the government.[98]

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92 HESTA, *Submission 11*, [p. 3].

93 HESTA, *Submission 11*, [p. 3].

94 Australian Institute of Superannuation Trustees, *Submission 13*, p. 14.

95 Australian Institute of Superannuation Trustees, *Submission 13*, p. 14.

96 Industry Super Australia, *Submission 3*, [p. 1]; Cbus, *Submission 16*, p. 3.

97 Australian Prudential Regulation Authority, *Submission 4*, p. 2.

98 CPA Australia, *Submission 6*, [p. 2].

2.83 CPA Australia noted that the 'complexity of retirement planning results in a process which is convoluted and difficult for many to navigate'[99], and believed that it would 'be more efficient for this process to be streamlined and simplified prior to subjecting trustees to increased compliance costs'.[100] CPA Australia further explained that 'the recommendations of the retirement income covenant requiring trustees to provide appropriate guidance to their members is likely to create a substantial additional compliance cost burden'.[101]

2.84 CPA Australia also disagreed with the EM where it states that existing legal obligations of superannuation trustees focus primarily on the accumulation phase with no specific obligations to consider the needs of beneficiaries in retirement. CPA Australia argued that:

> The proposed RIC requirements are already contained in obligations with which trustees must comply, including but not limited to, general trust law obligations, the best financial interests duty, the sole purpose test, requirements regarding the formulation and maintenance of investment strategies and the new Design and Distribution Obligations (DDO). We are concerned that requirements for trustees to consider their members' non-superannuation investments is beyond their remit.[102]

Employee Share Schemes

2.85 As outlined in the EM, schedule 10 of the bill removes cessation of employment as a taxing point for Employee Share Schemes (ESS) interests which are subject to deferred taxation. The EM states that where an employee ceases the relevant employment, their deferred taxation arrangement will continue and the earlier of the remaining deferred taxation points will apply.[103]

2.86 The committee heard that in respect to shares or options that are issued to employees, the relevant taxing points after cessation of employment falls away would be 'when a real risk of forfeiture of the share or right to acquire the share no longer exists. That would be the key alternative taxing point that will most commonly occur'.[104]

2.87 The committee noted that in a situation where an employee leaves employment but have shares that are still subject to forfeiture because they are outstanding key performance indicators, the proposed reform in the bill would mean the

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99 CPA Australia, *Submission 6*, [p. 1].

100 CPA Australia, *Submission 6*, [p. 1].

101 CPA Australia, *Submission 6*, [p. 1].

102 CPA Australia, *Submission 6*, [p. 1].

103 Explanatory Memorandum, p. 335.

104 Mr Chris Ryan, Acting Assistant Commissioner, Private Wealth, ATO, *Committee Hansard*, 17 January 2022, p. 9.

employee does not get taxed at the point they leave employment but at the latter time, when the risk of forfeiture falls away.[105]

2.88 While the committee asked questions related to the ESS, no comments were received in submissions.

Committee view

2.89 The committee acknowledges that there is overwhelming support for the CCIV regime. The committee believes that the intent of the bill, to increase the international competitiveness of Australia's managed fund industry, would be met as CCIVs share the characteristics of other internationally recognised investment structures.

2.90 In response to submitters proposed enhancements relating to the CCIV taxation framework, the committee understands that the CCIV would be a corporate entity and would have a regulatory and tax framework to provide for that. It is the committee's view that the proposed bill would provide equivalent tax outcomes with what happens currently in tax law.

2.91 The committee commends Treasury, ASIC and the ATO for their work on this complex bill.

2.92 The committee also recognises the strong support from submitters to insert the retirement income covenant into the SIS Act. The committee is supportive of the intent of the covenant to better develop the retirement phase of superannuation and the principles based requirements of the covenant for superannuation trustees to formulate, review regularly and give effect to a retirement income strategy for beneficiaries approaching or who are in retirement.

2.93 Regarding issues raised by submitters when formulating and giving effect to their strategy, the committee is confident that trustees can fulfil the requirements of the covenant and create effective retirement income strategies without providing financial advice or breaching anti-hawking laws.

2.94 Further, the committee understands that Treasury's *Review of the quality of financial advice* consultation process will explore the issue of whether financial advice concepts could be simplified.

2.95 The committee notes calls from submitters, supporting both the CCIV and the retirement income covenant, that the bill should be passed as soon possible and that the enhancements proposed by submitters should not slow or stop the passage of the bill.

2.96 The committee understands that there would be ongoing conversations about proposed improvements and enhancements if the bill were to pass to ensure the

[105] Mr Ryan, ATO, *Committee Hansard*, 17 January 2022, p. 9–10.

CCIV remains a competitive corporate structure and the retirement income covenant provides flexibility for trustees assisting their members.

2.97 The committee recommends that the bill be passed as soon as practicable in order to provide certainty to stakeholders working towards the 1 July 2022 deadline for implementation of the CCIV and the retirement income covenant.

Recommendation 1

2.98 The committee recommends that the bill be passed.

Senator Paul Scarr
Chair
Liberal Senator for Queensland

Appendix 1
Submissions and additional information

1 Financial Planning Association of Australia
2 Mercer
3 Industry Super Australia
4 Australian Prudential Regulation Authority
5 Aware Super
6 CPA Australia
7 Australian Services Roundtable
8 Challenger Limited
9 Financial Services Council
10 Association of Superannuation Funds of Australia
11 HESTA Super Fund
12 King & Wood Mallesons
13 Australian Institute of Superannuation Trustees
14 Super Consumers Australia
15 MLC Life Insurance
16 Cbus Super
17 Property Council of Australia
18 Pitcher Partners

Answer to Question on Notice

1 Australian Taxation Office: Answers to Questions on Notice from Hearing in Canberra on 17 January 2022, Appendix A - issues identified by Pitcher Partners submission (received 27 January 2022).
2 Australian Taxation Office: Answers to Questions on Notice from Hearing in Canberra on 17 January 2022, Employee share schemes (received 27 January 2022).
3 Australian Taxation Office: Answers to Questions on Notice from Hearing in Canberra on 17 January 2022, Estimated tax gaps (received 27 January 2022).
4 Australian Taxation Office: Answers to Questions on Notice from Hearing in Canberra on 17 January 2022, Managed Investment Funds and Schemes (received 27 January 2022).
5 Australian Taxation Office: Answers to Questions on Notice from Hearing in Canberra on 17 January 2022, Modernising Business Registers Program (received 27 January 2022).
6 Department of the Treasury: Answers to Questions on Notice from Hearing in Canberra on 17 January 2022, ESS Schedule - behavioural change (received 27 January 2022).

7 Department of the Treasury: Answers to Questions on Notice from Hearing in Canberra on 17 January 2022, ESS schedule - distribution of revenue impact (received 27 January 2022).

8 Department of the Treasury: Answers to Questions on Notice from Hearing in Canberra on 17 January 2022, Statutory Review - Treasury Laws Amendment Self-Managed Superannuation Funds Bill 2020 (received 27 January 2022).

9 Department of the Treasury: Answers to Questions on Notice from Hearing in Canberra on 17 January 2022, Retirement Income Review - self-managed super funds (received 27 January 2022).

Appendix 2
Public hearing

Monday, 17 January 2022
Committee Room 2S1
Parliament House
Canberra

Australian Securities and Investments Commission (ASIC)

- Ms Kate Metz, Senior Executive Leader, Investment Managers
- Ms Jane Eccleston, Senior Executive Leader, Superannuation

Australian Taxation Office (ATO)

- Mrs Amy James-Velagic, Assistant Commissioner, Private Wealth
- Mr Andrew Werbik, Assistant Commissioner, Policy Analysis and Legislation
- Mr David Kasmarik, A/g Assistant Commissioner, Public Groups and International
- Mr Chris Ryan, A/g Assistant Commissioner, Private Health

The Treasury

- Mr Adam Hawkins, Assistant Secretary, Tax and Transfers Branch
- Dr Andre Moore, Assistant Secretary, Legislation Policy and Delivery Branch
- Mr Tom Dickson, Assistant Secretary, Corporations Branch
- Ms Susan Butltitude, A/g Assistant Secretary, Corporate Tax Branch
- Mr Jordan George, Director, Tax and Transfers Branch
- Mr Lachlan Alvey, Director, Corporate Collective Investment Vehicle Unit
- Ms Rebecca Waldron, Director, CCIVs Regulatory Legislation Unit
- Mr David Hawkins, A/g Director, Special Tax Regimes Unit