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Treasury back-flip on the permissibility of SMSFs offering defined pensions - to be welcomed by retirees

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Treasury announced earlier today that Self Managed Superannuation Funds (SMSFs) will be offered a transition period to allow members of a SMSF at 11 May 2004 who retire the ability to commence a complying lifetime or life expectancy pension until at least 30 June 2005. The amendments will be tabled in Parliament as soon as possible.

This means that people who were SMSF members on May 11 2004 and who retire will now have until 30 June 2005 to access lifetime and life expectancy pensions from their SMSFs. This issue was initially referred to a Legislative Committee, which was to report back to the Government by 3 August 2004 - thus leaving members of SMSFs who wished to commence a complying pension as of 1 July without options other than an allocated pension. It is expected that this backdown will be welcomed by retirees. It was announced by Senator Helen Coonan on the night of the Federal Budget that the use of these pensions and other planning strategies by SMSFs was to seek to maximise the concessionality of superannuation far beyond what was ever intended by Parliament and to provide opportunities for estate planning, allow significant assets to be shielded from creditors in the event of bankruptcy and even enable the wealthy to gain access to Social Security benefits. The measures in relation to the permissibility of SMSFs offering defined income streams were widely criticised at the time for a number of reasons, not least of which was that the measures created a statutory bias in favour of Life Companies. A defined pension offered through a SMSF is no more favourably treated for Social Security or RBL planning purposes than one offered by a public offer fund. The rationale behind disallowing only SMSFs to offer such pensions was questioned on the basis that, if such pensions were deemed so offensive to the Government, why was a blanket ban not implemented.

The measures unnecessarily upset financial advisers who were planning for their clients on the basis of the Treasurer's announcement of 25 February this year and were left without the opportunity to consider any pensions in a SMSF other than an allocated pension in the period leading up to 20 September. This was further complicated for advisers in that regulations for so called 'growth pensions' have not yet been made publicly available. The measures were also considered to be contrary to the stated intent of Treasury's February policy announcement, being to provide more choice in financing retirement income.

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