

Super Update

October 2020

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- phase two (the "Depth" phase) is intended to increase the granularity of the entire collection
- phase three (the "Quality" phase) will assess the quality and consistency of the additional data reported during phases one and two, and review and address any implementation issues.

The package released on 28 August covers:

- expense reporting – APRA proposes to collect data on all expenses incurred at both the trustee and fund level using a "look through" approach which will capture actual expense payments made to service providers. There will be new expense categories covering administration services, member services, marketing and distribution, trustee overheads and corporate overheads with further granularity in each of these categories. APRA intends to publish this data at the individual entity level
- asset allocation – the collection of asset allocation data will be expanded to cover choice products and options. The data will also be collected on a more granular basis, introducing a series of asset class subcategories that will seek to differentiate investments based on characteristics such as expected and realised volatility, expected returns, income and capital growth, capital stability, downside protection and liquidity. APRA has also advised that it may continue to collect liquidity data at the investment option level, as it is currently doing as part of its pandemic data collection
- insurance arrangements – considerably more data on insurance policies including premiums, claims payments and processing stages will be collected. APRA also proposes to collect up to 10 years of historical data on premiums paid to insurers and claims paid to members. In phase two of the data collection, APRA will consider the collection of individual member data on insurance arrangements

Major consultation on APRA's data collection released

On 28 August 2020, less than three weeks after announcing the resumption of its data transformation project, APRA released a major consultation package, the final one for phase one of the project. By way of background, APRA divided its consultation on the project, originally launched in November 2019, into three phases:

- phase one (APRA calls this the "Breadth" phase) addresses the most urgent gaps in APRA's data collection, particularly for choice products and investment options

- fees and costs –the collection of fee and cost disclosure data will be expanded to cover choice products and investment options, as well as information on fee discounts and rebates. The data collected will also be aligned with the updated version of ASIC *Regulatory Guide 97 Disclosing fees and costs in PDSs and periodic statements* as funds opt in to the new disclosure regime over the next two years.

As well as topic papers on each topic, the materials released included five new draft reporting standards and four pilot information data requests. The data to be collected under the pilot information requests is substantial, and while submission is voluntary APRA considers that the process of working through the data collection is an essential component of the consultation that will enable trustees to provide comprehensive feedback on the proposed changes.

There are staggered closing dates for consultation:

- expense reporting – 2 October 2020
- asset allocation – 16 October 2020
- insurance arrangements – 30 October 2020
- fees and costs – 13 November 2020.

APRA proposes that all of the data collected will be non-confidential, although individual member privacy will not be breached. APRA's media release stated that the regulator recognised that trustees were under pressure from the challenges associated with COVID-19 but that the extra data was essential to understanding the outcomes trustees are delivering to members. In this regard, APRA intends to adopt what it calls a flexible approach to consultation to help facilitate stakeholder feedback, including roundtable discussions and forums, webinars and bilateral meetings as well as consolidated feedback through industry bodies.

The timing of this consultation was disappointing, with funds in the midst of annual reporting season and the first consultation – on expense reporting – closing only two days after the due date for financial statements and audit reports.

Federal Budget 2020

The Federal Budget handed down on 6 October 2020 included a new package of superannuation measures entitled *Your future, your super*. The measures, most of which are intended to commence from 1 July 2021, included:

- employees who do not choose a fund when they start a new job will have their contributions paid to their existing super fund (or to the employer's default fund if they do not have an existing fund) – this means their account will be “stapled” to them unless they choose another fund
- a new online comparison tool administered by the ATO that will rank MySuper products on fees and investment returns (based on the data collected by APRA from funds) and link users who select a fund to the fund's website and to their existing super accounts – the stated intention is to enable users to “simply and safely pick a well-performing MySuper product”
- an annual performance test for super products, based solely on net returns to members – this will use the same methodology as APRA's MySuper Heatmap, with products that underperform their benchmark by 0.5 per cent per year over an eight-year period to be classified as underperforming. Such funds will have to advise members and if they fail two consecutive annual performance tests they will not be allowed to accept new members until their performance improves.

The Budget also included a list of information that trustees will have to provide to members in advance of annual member meetings, commencing from 1 July 2021. More information on the Budget changes to super can be found in our Budget edition of [Super Outcomes](#).

Law Reform Commission review of financial services laws

As part of its response to the Financial Services Royal Commission, the government has asked the Australian Law Reform Commission to inquire into the potential simplification of the financial services legislation. The review is to focus on the Corporations Act and Regulations and consider what changes could be made to simplify and rationalise the legislation, in particular in relation to:

- the use and appropriate design of legislative definitions and consistent use of terminology – an interim report on this topic is due 30 November 2021
- the coherence of the regulatory design and hierarchy of the legislation, including how legislative complexity can be appropriately managed over time and how best to maintain regulatory flexibility – the interim report on this topic is due 30 September 2022
- how the legislative framework for financial services licencing and regulation could be restructured so that it is clearer and more coherent, ensures that the intent of the law is met and provides an effective framework for conveying how the law applies to consumers and regulated entities – the interim report on this topic is due 25 August 2023.

A consolidated final report must be provided to the Attorney-General by 30 November 2023. The next federal election must be held no later than May 2022.

News in brief

New ASIC Regulatory Guide on dispute resolution

At the end of July ASIC issued a new Regulatory Guide *RG 271 Internal dispute resolution* which will apply to all AFS licensees and super fund trustees from 5 October 2021. The new Regulatory Guide will replace the existing guidance in Regulatory Guide 165 effective from that date.

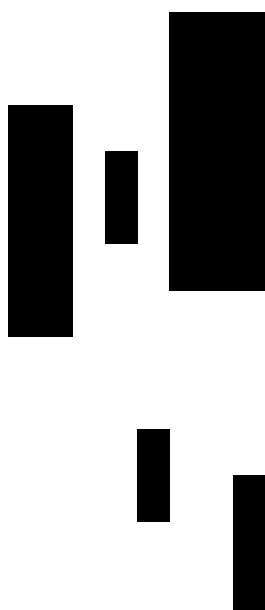
Among other things, there will be changes to the maximum time frames for super funds to respond to complaints, and these timings will be legally enforceable, although there will be some exceptions such as particularly complex complaints:

- 45 calendar days except for complaints about death benefit distributions
- 90 calendar days from the expiry of the 28 day period for objecting to a proposed death benefit distribution, in the case of complaints about death benefit distributions.

ASIC also expects that firms including super fund trustees will acknowledge receipt of complaints within 24 hours (or one business day) of receiving them, or as soon as practicable (this is an expectation and will not be legally enforceable). Acknowledgements can be verbally or in writing including by post, email or social media channels, subject to any specific means requested by the complainant.

There will also be prescribed contents for what ASIC calls “IDR responses”, again with some exceptions including where the complaint is resolved to the complainant’s satisfaction within five business days.

A new legislative instrument, *ASIC Corporations, Credit and Superannuation (Internal Dispute Resolution) Instrument 2020/98*, was registered on 30 July 2020 to ensure that the IDR standards will be legally enforceable.



APRA superannuation initiatives and priorities

After suspending the majority of its planned policy and supervision initiatives in March in response to COVID-19, on 10 August 2020 APRA announced that it would restart a number of initiatives and consultations, including several relating to superannuation:

- a cross-industry prudential standard for remuneration
- an update to *SPS 250 Insurance in Superannuation*
- updated guidance on the sole purpose test
- its data transformation project, as noted earlier in this *Super Update*.

Subsequently, at the end of August APRA released its Corporate Plan for 2020-2024. Under the heading of maintaining financial system resilience, APRA plans to assess the impact of the evolving external environment on super funds and their members by focussing on key areas of liquidity and investment risk, defined benefit funds, vulnerabilities arising from loss of member accounts and changing member activity and the operational resilience of key service providers including administrators. Under the heading of improving outcomes for super fund members, APRA intends to:

- strengthen a number of prudential standards including those relating to insurance, investment governance and operational risk
- sharpen its supervisory focus to address key issues relating to outsourcing and conflicts of interest, trustee board capabilities and governance, and unlisted asset valuations, including through the use of thematic reviews
- continue to enhance data and insights by transforming data collections and reporting to address gaps in the coverage of the reporting framework and the quality of information reported
- improve transparency and sustainability across the industry through the publication of heatmaps and benchmarking performance, as well as publishing outcomes in key areas including investment performance, fees, and insurance, to support stakeholders to make informed decisions
- continue to encourage the improvement or exit of persistently underperforming funds.

In October, APRA noted that there may be changes to their priorities and work plan in the light of the proposed changes to super announced in the Federal Budget on 6 October 2020 (as discussed earlier in this *Super Update*).

APRA Insight publication

On 27 May 2020 APRA issued the second edition of its *Insight* publication for 2020. The content included an article entitled “Myths and misconceptions should be no barrier to consolidation” about super fund consolidation, as well as information on how APRA prepared for and has responded to the COVID-19 pandemic and an “APRA explains” article on risk-weighted assets.

APRA quarterly superannuation statistical publications released

Highlights of APRA's June 2020 *Quarterly Superannuation Performance* publication, issued on 25 August 2020, included the following:

Table 1: Highlights of APRA's June 2020 *Quarterly Superannuation Performance* publication

	June 2019 (\$ billion)	June 2020 (\$ billion)	
Total superannuation assets	\$2,880.7	\$2,864.1	-0.6%
Total APRA-regulated assets	\$1,925.4	\$1,921.8	-0.2%
Of which: total assets in MySuper products	\$756.5	\$731.3	-3.3%
Total self-managed super fund assets	\$749.1	\$733.1	-2.1%

APRA noted that benefit payments were significantly higher than the March 2020 and the June 2019 comparison quarters due to payments made under the early release scheme. Quarterly net contribution flows (contributions plus net benefit transfers less benefit payments) to the industry were negative (-\$2.3 million) for the first time since compulsory superannuation was introduced.

APRA's MySuper statistical publication for the June 2020 quarter was issued on the same date. This report is issued on a product by product basis and APRA do not report overall summary statistics.

A guide to key changes

The dates that follow were correct as at the time of publication of this edition of *Super Update*. However, ASIC was considering the timing of the start date for the portfolio holdings disclosure measure given the absence of required regulations and conditions at that time.

Table 2: **A guide to key changes**

Date	Change
30 Sep 2020	New version of ASIC Regulatory Guide <i>RG 97 Disclosing fees and costs in PDSs and periodic statements</i> begins to apply to PDSs (on an opt-in basis).
31 Dec 2020	Current first reporting date for portfolio holdings disclosure (to be deferred by ASIC but a revised commencement date is not yet available).
1 Jan 2021	Proposed start date for revised <i>SPS 250 Insurance in Superannuation</i> .
30 Jun 2021	Proposed final date for ERFs to exit the superannuation industry (subject to passage of enabling legislation).
1 Jul 2021	Next scheduled increase in SG (to 10.0%).
1 Jul 2021	Proposed start date for performance tests for MySuper products.
5 Oct 2021	Design and distribution obligations for certain super products (excluding MySuper and defined benefit products) commence.
5 Oct 2021	Commencement date of <i>RG 271 Internal dispute resolution</i> .
1 Jul 2022	Start date for application of “shorter” PDS regime to multi-funds, platforms and hedge funds.
1 Jul 2022	Proposed start date for performance tests for certain Choice options.
30 Sep 2022	Final date for <i>RG 97 Disclosing fees and costs in PDSs and periodic statements</i> to apply to PDSs.
1 Jul 2023	Start date for publication of product dashboard for certain ‘choice’ products.
1 Jul 2023	MySuper product dashboards to be included in periodic statements.
1 Jan 2024	Commencement of section 29QC of the SIS Act.
1 Jul 2024	Start date for website disclosure of certain information relating to employer-sponsored sub-plans.

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