Super Update

August 2021

In this issue

Retirement income covenant position paper released

On 19 July the government released a new position paper on the proposed Retirement Income Covenant. The Covenant will legislate a fundamental obligation for each trustee to formulate, review regularly and give effect to a retirement income strategy. The strategy will set out the trustee's plan to assist its members to achieve and balance the following key objectives:

- maximise their retirement income (taking into account the age pension)
- manage risks (at a minimum, longevity and investment risks) to the sustainability and stability of their retirement income and
- have some flexible access to savings during retirement.

Where the objectives compete, the strategy will need to identify how the trustee intends to balance the competing objectives when assisting their members (including how their proposed approach would likely increase or decrease the retirement income of members in general), and how they will assist the members to balance the objectives. The strategy should be formulated for all members who are approaching retirement or who have retired. Maximising retirement income means maximising expected net income over members' retirement, subject to balancing the other objectives described above.

The strategy can either be for all members generally or for different cohorts of members, with larger funds more likely to consider different approaches for different cohorts. Trustees are expected to understand the demographics of their members based on the data they already hold, such as age, gender and account balance. The position paper states that the factors that are used to identify cohorts of members are at the trustee's discretion, but could include consideration of:

- account balance size
- whether the member is expected to receive a full, part or nil-rate age pension at retirement
- whether the member is partnered or single
- whether they own their own home outright, with a mortgage or are renting
- the age they retire and/or start to draw down from their superannuation.

As noted above, retirement income must include the age pension. The paper recognises that many of the factors that determine age pension eligibility will not be visible to trustees. However, the government considers it is reasonable to expect trustees to either collect information from their members or else make informed assumptions about their circumstances to estimate their potential age pension entitlement (and trustees should aim to transition to using actual data where available). Factors that could be used include:

- age
- assessable income and assets – in addition to members' superannuation benefits, the paper suggests data could be obtained from member surveys or from publicly available sources such as the ABS or the HILDA survey
- home ownership status
- coupled status – for both this and the previous factor, data could be sourced from member surveys or publicly available sources.

When considering members' needs for flexible access to savings, trustees should take into account what the paper describes as the significant financial and in-kind support provided by the government, but they are not to take into account the provision of bequests to non-dependants.

The paper notes that a number of strategies could be adopted to assist members meet and balance the three retirement income objectives. These include:

- developing or offering various retirement income products
- introducing default settings or "nudges" that encourage members to draw down faster on their retirement savings, where appropriate
- providing guidance such as income projections, retirement income calculators, budgeting tools and expenditure calculators
- providing members with factual information about key retirement income topics.

Trustees can also consider whether directing members to products or guidance materials produced by third party providers, including the government, would be appropriate for their members. Any assistance provided to members must comply with the SIS Act and Regulations (including the sole purpose test and the obligation to act in members' best financial interests) as well as the Design and Distribution Obligations in the Corporations Act and the financial product advice rules.

The fund's performance against the retirement income strategy will have to be reviewed at least annually by the trustee. This review will need to assess how the trustee has progressed in implementing the proposed methods of assisting members, whether the assistance has been effective in meeting the objectives outlined in the strategy and, where it has not been effective, whether changes are required. The appropriateness, effectiveness and adequacy of the retirement income strategy will also be subject to a comprehensive review (in the same way that trustees' risk management frameworks and investment governance frameworks, among others, are subject to comprehensive reviews) by operationally independent persons at least every three years.

The paper clarifies that there will be no requirement for trustees to offer a particular retirement income product, although they can do so if desired. Further, the formulation of a retirement income strategy will not of itself be considered financial product advice.

Trustees of defined benefit funds that offer a defined benefit pension will not need to cover those members – the position paper states that this is because such a scheme already reflects an implicit retirement income strategy. However, trustees of hybrid funds will need to have a strategy for their accumulation members (and presumably for defined benefit members whose retirement benefits are only in lump sum form).

Consultation on the position paper closed on 6 August 2021. Subject to the passage of the relevant legislation, trustees will need to have a retirement income strategy in place from 1 July 2022.

The long-awaited release of the position paper is a positive development, and we generally support the thrust of the proposals. The emphasis on the use of data to better understand members and develop cohorts continues the focus on leveraging data better in which many funds are already heavily investing. In finalising the legislation, a key challenge for the government will be ensuring trustees are able to assist members access suitable retirement solutions without breaching the financial advice rules and best financial interests obligations.

2021 Intergenerational Report released

The 2021 Intergenerational Report was released on 28 June 2021, having been delayed from its scheduled release in 2020 due to the COVID-19 pandemic.

The report notes that the outlook over the next 40 years has been profoundly affected by the pandemic, which it states has caused the most severe global economic shock since the Great Depression.

On superannuation, the report notes that the proportion of older Australians receiving the age pension is expected to decline even though the number of older Australians will increase. The total number of Australians of age pension age and over is expected to roughly double to over 8 million by 2060-61, yet the proportion of those people receiving the age pension is projected to decline by over 10 per cent by 2060-61 due to the compulsory superannuation system. The trend towards more people receiving a part pension, however, is expected to continue.

Treasury projections suggest that the median superannuation balance at retirement will increase from around $125,000 in 2020-21 to around $460,000 in 2060-61, as measured in 2020-21 dollars. In 2020-21 around two-thirds of Australians retiring will have a balance under $250,000. In 2060-61 as a result of the maturing superannuation system, it is projected that only a quarter of Australians will retire with a balance below this amount.

As at 31 March 2021 the superannuation system had assets under management valued around 157 per cent of Gross Domestic Product (GDP). It is projected that this will grow to around 244 per cent of GDP by 30 June 2061. Of this amount, it is estimated that almost three-quarters of funds under management will be held in the accumulation phase. The COVID-19 early release scheme is projected to result in only a modest reduction in total funds under management.

Overall, the superannuation tax concessions as a proportion of GDP are projected to increase from around 2.0 per cent in 2020-21 to 2.9 per cent in 2060-61. The increase is driven primarily by the earnings tax concessions rising from around 1.0 per cent of GDP in 2020-21 to 1.9 per cent of GDP in 2060-61, while contributions tax concessions are projected to remain largely unchanged at 1.0 per cent of GDP during the same period. The total projected cost of age pension expenditure and superannuation tax concessions together is expected to increase from around 4.5 per cent of GDP in 2020-21 to 5.0 per cent of GDP in 2060-61, but this is against a backdrop of the ageing population. The report also notes that the maturing superannuation system should generally result in future retirees being better off than current retirees, with more income available to support their living standards during retirement. The report concludes that the flexibility and responsiveness of the system helps protect it, and all Australians, against short-term and long-term shocks and changes that might affect their retirement incomes.

Proposed changes to proxy advice

On 30 April Treasury released a consultation paper on developing reform options to strengthen the transparency and accountability of proxy advice. The options aim to ensure independence between superannuation funds and proxy advice, facilitate engagement between companies and proxy advisers and require suitable licensing for the provision of proxy advice.

There are two options in the paper.

Option 1 would improve the disclosure of trustee voting. Under this option, super funds would be required to disclose more detailed information on their voting policies and actions each financial year. The details to be disclosed could include how votes were exercised, whether any advice was received from a proxy adviser and who provided the advice. If proxy advice is received, disclosure could include whether the voting actions taken were consistent with the advice.

Option 2 is described as demonstrating independence and appropriate governance. Under this option, proxy advisers would be required to be meaningfully independent from a superannuation fund they are advising to ensure that proxy advice is provided to and used by superannuation funds on an ‘arm’s length’ basis. Trustees could also be required to outline publicly how they implement their existing obligations and duties around independent judgement in the determination of voting positions.

Consultation closed on 1 June 2021.

Legislative update

The parliament passed a number of superannuation related bills before it rose for the winter recess late in June 2021. In addition, some draft legislation was released for consultation.

The Treasury Laws Amendment (More Flexible Superannuation) bill was passed on 17 June. This bill was originally drafted to change the bring-forward rule for non-concessional contributions so that it would be available provided the individual was under age 67 rather than age 65. However, the Senate made two last minute additions to the bill. It abolished the concessional contributions charge (the interest charge payable when a person's concessional contributions exceed the cap) effective for financial years commencing on or after 1 July 2021. It also introduced a new ability for individuals to make "COVID-19 recontributions". These are one or more non-deductible personal contributions made between 1 July 2021 and 30 June 2030 by individuals who withdrew amounts under the COVID-19 early release scheme. Such amounts will not count towards the individual's non-concessional contribution cap provided:

- the total amount contributed as such COVID-19 recontributions is less than the amount of the individual's early release amounts and
- the individual completes a prescribed form and gives it to the fund to which it makes the contribution at or before the time the recontribution is made.

The Treasury Laws Amendment (Self Managed Superannuation Funds) bill was also passed on 17 June. It increases the maximum number of members in an SMSF from four to six effective from 1 July 2021, with a corresponding increase in the maximum number of members in a small APRA fund.

The Your Future Your Super bill was also passed by the Senate on 17 June. All three bills have now received Royal Assent.

The following draft legislation was released for consultation by Treasury:

- A draft bill to streamline some administrative requirements for the calculation of exempt current pension income (ECPI) was released on 21 May. It will provide choice for fund trustees to use their preferred method of calculating ECPI where the fund is fully in the retirement phase for part of the income year but not for the entire income year. It will also remove a redundant requirement for funds to obtain an actuarial certificate when calculating ECPI where the fund is fully in the retirement phase for all of the income year. Consultation on the bill closed on 18 June.
- On 31 May a draft bill was released that will allow parties to a Family Law proceeding to apply to the court to request information on their former partner's superannuation assets, and authorise the ATO to release information on superannuation holdings to court registry staff in the Family Court of Australia, Federal Circuit Court of Australia and Family Court of Western Australia. There will be an approved form that will have to be used to access information, with limits on who can access it and what can be accessed. Consultation on this bill closed on 28 June.

News in brief

Reduced income stream drawdown limits extended

On 28 May 2021 the government announced that the current reduction in the minimum drawdown limits for account-based income streams would be extended for another year to 30 June 2022. They were previously scheduled to return to the standard limits on 1 July 2021. The amending regulation was registered on 25 June 2021.

Draft Prudential Practice Guide on remuneration

APRA has released a prudential practice guide on remuneration which will apply across all regulated industries including superannuation, along with a letter to regulated entities. The letter states that APRA is currently conducting a data study with selected entities, to inform its approach to reporting and disclosure requirements. These requirements will be developed and consulted on with industry in late 2021. In the lead up to the new prudential standard on remuneration (CPS 511) coming into effect, APRA expects that entities will seek to improve and maintain transparency on their remuneration arrangements. In particular, entities should consider how they will publicly demonstrate that they meet the CPS 511 requirements, with clear, comprehensive and timely disclosures. This could include regular disclosure on:

- remuneration governance and oversight, including qualitative information about the remuneration policy, adjustment tools and process to determine remuneration outcomes
- remuneration design, including financial performance and non-financial measures, the rationale for why these measures have been chosen and the weighting applied to them
- remuneration outcomes for specified roles, including highly-paid material risk-takers, aggregated as appropriate but sufficient in detail to demonstrate how remuneration outcomes have related to performance and risk outcomes and
- any consequence management applied, including the value of and rationale for downward adjustments to remuneration.

Consultation on the draft prudential practice guide closed on 23 July 2021. CPS 511 is expected to be finalised later in 2021. It will commence for super fund trustees that are significant financial entities from 1 July 2023, and for all other trustees from 1 January 2024.

Final financial sector levies for 2021-22

The financial sector levies for 2021-22 were registered on 29 June 2021. The levies applicable to super funds that are not pooled superannuation trusts are set out below. The levy for small APRA funds remains at $590.

Table 1: **Final financial sector levies 2021-22**

Amount of levy	2021-22
Restricted:	
Rate (%)	0.00390
Minimum ($)	7,500[1]
Maximum ($)	800,000
Unrestricted (%)	0.002925

[1] There is a typographical error in the levies instrument. The table shows the assumed corrected amount.

APRA quarterly superannuation statistical publications released

Highlights of APRA's March 2021 *Quarterly Superannuation Performance* publication, issued on 25 May 2021, included the following:

Table 2: **Highlights of APRA's March 2021 *Quarterly Superannuation Performance* publication**

	March 2020 ($ billion)	March 2021 ($ billion)	Change
Total superannuation assets	$2,744.9	$3,126.9	+13.9%
Total APRA-regulated assets	$1,852.2	$2,131.6	+15.1%
Of which: total assets in MySuper products	$712.5	$850.0	+19.3%
Total self-managed super fund assets	$694.3	$787.1	-13.4%

APRA noted that that there was a 15.1 per cent increase in the value of total superannuation assets over the 12 months to 31 March 2021 due to strong investment performance. There were $18.3 billion in total benefit payments in the March 2021 quarter, a decrease of 13.2 per cent from the December 2020 quarter. Both of these quarters had significantly lower total benefit payments than the June and September 2020 quarters, which experienced historically high levels of lump sum payments under the COVID-19 early release scheme.

APRA's MySuper statistical publication for the March 2021 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*.

Table 3: **A guide to key changes**

Date	Change
30 Sep 2021	First reporting due date for APRA's new reporting forms under stage 1 of its data transformation project.
5 Oct 2021	Design and distribution obligations for certain super products (excluding MySuper and defined benefit products) commence.
5 Oct 2021	Commencement date of *RG 271 Internal dispute resolution.*
1 Nov 2021	Commencement of YFYS "stapling" laws applicable to new employees whose employment starts on or after this date.
31 Dec 2021	Current first reporting date for portfolio holdings disclosure.
1 Jan 2022	Commencement date of prohibition on trustees using fund assets to pay legislative penalties.
1 Jul 2022	Next scheduled increase in SG (to 10.5%).
1 Jul 2022	Start date for application of "shorter" PDS regime to multi-funds, platforms and hedge funds.
1 Jul 2022	Start date for performance tests for certain Choice options.
1 Jul 2022	Commencement of new advice fee rules (for existing fee arrangements prior to 1 July 2021).
30 Sep 2022	Final date for *RG 97 Disclosing fees and costs in PDSs and periodic statements* 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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