# Super Update

**February 2022**

## In this issue



## Proposed changes to calculator and retirement estimates relief

In November 2021 ASIC released a new Consultation Paper CP 351 seeking feedback on proposed updates to relief and guidance for superannuation forecasting tools, along with a draft regulatory guide and draft legislative instrument.

ASIC proposes to adopt a single framework for how calculators and retirement estimates may be provided under its relief. It has expanded the existing guidance and relief to cover “interactive retirement estimates”. These are essentially a type of calculator that initially provides a retirement estimate based on assumptions the trustee knows about a member, and at a later stage allows the member to provide additional information for the purposes of the estimate. However, age pension amounts will no longer be permitted in static retirement estimates, only in calculators and the new interactive estimates.

ASIC proposes to alter the default assumptions used in calculators. Currently these must use a default inflation assumption of 3.2 per cent per annum, or they can use an alternative rate so long as certain disclosure requirements are met. It is proposed that this will change to a default rate of 4 per cent per annum in the accumulation phase and 2.5 per cent per annum in the retirement phase. The accumulation phase default rate is consistent with Treasury modelling used in the 2021 Intergenerational Report and the Retirement Income Review, while the retirement phase rate is the midpoint of the RBA’s target range for price inflation. Further, calculators will be required to use a default retirement age of 67 and assume that income payments are made annually for 25 years from the retirement age. There has, however, been some relaxation in relation to some of the other default assumptions for retirement estimates – for example, reasonable assumptions will be permitted on insurance premiums, and contribution assumptions will be able to exclude non-compulsory contributions where it is possible to do so. There will no longer be a requirement to use an assumed real return of 3 per cent per annum (i.e. after wage inflation) or to use the administration fees that were charged to the member over the previous 12 months. Retirement estimates will be required to use the same default inflation assumptions as calculators, which will hopefully reduce inconsistencies between the two types of retirement estimates.

The disclosure rules will no longer mandate prescribed text for calculators or retirement estimates. Instead the rules will be principles based, although providers will need to clearly and prominently disclose certain matters such as the assumptions, why any default assumptions are considered reasonable and any significant limitations of the forecast.

Trustees will be able to provide estimates either with periodic statements or via a member online portal (i.e. when they log in to access account information), or both. They will also be able to provide them more frequently than annually if desired.

There appears to be some proposed tightening up of the links to specific financial products. Calculators will not be permitted to advertise or promote a specific financial product, and retirement estimates will not be permitted to advertise or promote a specific financial product other than to the extent necessary to actually provide the estimate itself. Default assumptions in retirement estimates will be able to be set with reference to specific products but if a specific product is referred to in the disclosures about the reasonableness of an assumption, this disclosure must be less prominent than the calculator itself.

Consultation closed on 28 January 2022. ASIC intends to publish the updated instrument and guidance before the existing relief in CO 11/1227 sunsets on 1 April 2022. ASIC has proposed a six month transition period to move to the new relief (for both calculators and retirement estimates), during which providers can continue to rely on the existing relief. If the relief is to be relied on after 30 September 2022, it will need to be the updated version that is used.

*Overall, we see most of the changes as positive, particularly where they will reduce inconsistencies between calculators and other retirement estimates. However, we expect that the exclusion of the age pension from static retirement estimates, if it survives the consultation process, will prompt funds currently producing such estimates to review their approach.*

## Choice and MySuper heatmaps released

APRA released its latest MySuper and first Choice product heatmaps on 16 December 2021. The MySuper heatmap included the results of the 30 June 2021 performance test. The package of material released also included:

- an Insights paper
- a methodology paper and a technical paper for each heatmap
- an information paper on Choice sector performance.

The Insights paper provides an overall summary of the information released. It notes that the Choice heatmap was produced using SuperRatings data – it will not be until 2022 that APRA data collected under the data transformation project will be used in that heatmap. The paper also notes that 31 of the 69 MySuper products with a seven-year performance history had performed below APRA's heatmap benchmark.

The Choice heatmap covers 120 products offering 727 multi-sector investment options. Only 73 of those products have seven years of performance history (covering 398 options) and it is those 73 that are discussed in the Insights paper. Of the 398 options, more than 60 per cent returned less than APRA's heatmap benchmarks. One quarter of the 398 options had performance more than 0.5 per cent per annum worse than the heatmap benchmark, which APRA described as significant poor performance. APRA notes in the Insights paper that what it considers poor performing Choice products were concentrated in the hands of a few trustees – 31 trustees had at least one significant poor performing product, and eight of those trustees had a majority of options with significant poor performance.

Unsurprisingly, administration fees in Choice products were higher than those in MySuper products. APRA has identified 27 Choice products that had high administration fees compared to peers based on APRA's benchmarks. The paper notes that products with high fees were often differentiated by tailored features and services, but where fees are high and do not clearly contribute to improved financial outcomes for members, APRA expects trustees to reduce fees.

The Information Paper on Choice sector performance analyses the Choice sector in more detail. It notes that the Choice heatmap focused on multisector options in open accumulation products, excluding platforms. APRA has defined all products that are closed to new members as "legacy products" and there are several references to these products becoming a focus of APRA in future. For example, in discussing fees for choice products, APRA notes that in some cases higher admin fees may be due to inefficiencies in the trustee's operations (for example, running several legacy products). APRA is committed to further research into legacy products to understand their features and the benefits and costs to members that hold such products.

## APRA focus on resilience

There have been several releases from APRA in recent months that relate to financial resilience.

On 19 November APRA released a discussion paper seeking to better understand current approaches of super fund trustees to the management of financial resources, the role and use of the operational risk financial requirement (ORFR), reserving practices, and protections afforded to trustees via insurance, and how these practices might need to adapt over time. The paper outlined key principles for fee setting and design, informed by the law as it stood at the time. As various applications by funds seeking judicial advice were then still before the Courts, the paper noted that matters relating to the charging of trustee fees and management of financial resources would be likely to continue to evolve over the coming months. Feedback on the paper is requested by 11 March 2022.

Later in November APRA issued a new Insight article on improving cyber resilience. It included the results of a pilot technology resilience data collection in which APRA surveyed regulated entities including super funds on a number of IT and cyber topics. The results indicated that in the past 12 months, 35 per cent of entities had not tested their backups for critical systems, 22 per cent had not tested their cyber incident response plans and 60 per cent had not assessed all their IT service providers' information security control testing. As a result, APRA stated that in its view Boards of regulated entities need to play a more active role in reviewing and challenging information reported by management on cyber resilience, ensuring they can recover from high-impact cyber-attacks and ensuring information security controls are effective across the supply chain. The article stated that a broader assessment exercise will be rolled out across all regulated entities to help embed the baseline cyber practices required by cross-industry prudential standard CPS 234 Information Security.

APRA's new cross-industry prudential practice guide on climate change financial risks (CPG 229) was released on 26 November 2021. The CPG covers APRA's view of sound practice in areas such as governance, risk management, scenario analysis and disclosure of climate-related financial risks. It is intended to assist banks, insurers and super trustees to manage the financial risks of climate change, and it is designed to be flexible in allowing each institution to adopt an approach that is appropriate for its size, customer base and business strategy.

Finally, on 2 December 2021 APRA released a discussion paper and two draft cross-industry prudential standards to strengthen crisis preparedness across regulated entitles including super funds.

Draft CPS 190 Financial Contingency Planning introduces requirements for all APRA-regulated entities to develop contingency plans to respond to financial stress, to minimise the risk of entity failure. The plans will have to demonstrate how the trustee could take actions to recover its financial resilience and enable its orderly and solvent exit from regulated activities if actions to recover resilience are not effective. Additional requirements will apply to trustees that are classified as significant financial entities (SFIs), that is, funds with more than $30 billion in assets (or more than that amount across all funds under trusteeship, where applicable). This CPS is narrowly targeted at scenarios where the trustee itself is under financial stress, although the discussion paper notes that there are links between trustee resilience and product performance such as where the trustee relies on fee revenue to capitalise the trustee company. As many trustees will not have the ability to raise funds to recapitalise, APRA expects exit actions are likely to receive greater focus in most trustees' financial contingency plans.

Draft CPS 900 Resolution Planning requires large or complex entities, or those that provide critical functions to the economy, to be prepared for resolution to minimise the impact on the community and the financial system. Resolution is when an entity has failed and APRA has to step in to ensure beneficiaries are protected and the impact on the wider financial system is minimised. Resolution planning is intended to ensure that APRA can manage the failure from a prudential regulation perspective. This CPS will apply to SFIs and to any other entities that APRA determines provide critical functions to the economy.

APRA proposes that CPS 190 will commence for superannuation on 1 January 2025 and CPS 900 will commence from 1 January 2024. Associated prudential guidance is expected to be released for consultation in the first half of 2022 and finalised before the end of the year

Consultation on the two drafts closes on 29 April 2022..

## Legislative update

A package of legislation called the *Financial Accountability Regime* (FAR) was introduced to parliament on 28 October 2021. The package introduces a new accountability regime for the banking, insurance and superannuation industries. It will apply to super funds from the later of 1 July 2023 or 18 months after Royal Assent. The FAR introduces four core sets of obligations:

- accountability obligations – under which entities and their directors and most senior and influential executives will be required to conduct their business with honesty and with care, skill and diligence
- key personnel obligations – which will require entities to nominate senior and influential executives to be responsible for all areas of their business operations
- deferred remuneration obligations – which will require entities to defer at least 40 per cent of the variable remuneration (for example, bonuses and incentive payments) of their directors and most senior and influential executives for a minimum of four years, and to reduce their variable remuneration for non-compliance with their accountability obligations
- notification obligations – there will be core notification obligations under which all entities will need to provide the relevant regulator with certain information about their business and their directors and most senior and influential executives; and enhanced notification obligations (including accountability statements and accountability maps) for entities above a threshold to be determined by the Minister.

The legislation to introduce the retirement income covenant was introduced to parliament on 25 November 2021, located in Schedule 9 of the Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021. The only change from the consultation draft legislation was to include an explicit exclusion from the covenant for those funds that only provide death, permanent incapacity and/or temporary incapacity benefits. The Bill will commence on Royal Assent, however, trustees are not required to have formulated or published their retirement income strategy before 1 July 2022 and the Explanatory Memorandum notes that trustees are not required to give effect to all the components of their strategy on that date. Implementation of the strategy will be an ongoing process that will be required from 1 July 2022.

The Treasury Laws Amendment (Enhancing Superannuation Outcomes for Australians and Helping Australian Businesses Invest) Bill 2021, introduced to parliament on 27 October 2021, will implement a number of the proposals from the 2021 Budget, including the abolition of the $450 per month threshold for SG contributions and the reduction in the eligibility age for downsizer contributions from 65 to 60 years.

On 17 December 2021 the Treasury Laws Amendment (Miscellaneous and Technical Amendments No. 2) Regulations 2021 were made. Among other things, these regulations make permanent ASIC's long-standing class order relief from the requirement to include long term investment returns on exit statements.

Regulations making changes to the proxy advice regime were made on 16 December 2021. With effect from 7 February 2022, AFSL holders who provide proxy advice will have to give a copy of the advice to the entity that is the subject of the advice on the same day it is given to their clients. Such licensees will also be required to be independent of their clients – this change will apply from 1 July 2022 under contracts entered into or renewed on or after 18 December 2021. They also expand the information that must be published on fund websites to include a summary of how voting rights attaching to shares in listed companies that the trustee of the fund holds, or in which the trustee holds beneficial interests, have been exercised. This change will apply on or after 1 July 2022 in relation to a half financial year that begins on or after 1 January 2022.

The final portfolio holdings regulations were registered on 11 November 2021. They include example tables of how the information should be disclosed. The first reporting day was 31 December 2021, with the disclosure required to be loaded to fund websites within 90 days after that date.

APRA released new versions of SPS 250 Insurance in Superannuation and SPG 250 Insurance in Superannuation on 12 November 2021. The new prudential standard takes effect from 1 July 2022. Key changes include a requirement for a formal process to enable members to easily opt out of insurance cover and strengthened requirements in relation to conflicted arrangements, including independent certification for related party arrangements. In addition, insurance arrangements entered into on or after 1 July 2022 will be required to include termination provisions that allow the trustee to terminate the arrangement if it is not satisfied it is in the best financial interests of members. Trustees must also be able to demonstrate to APRA that rules for attributing any status to a member are fair and reasonable.

## News in brief

### *FSC standard on group insurance occupational exclusions*

The FSC has made a new Standard 27 Removal of Occupational Exclusions and Occupation Based Restrictive Disability Definitions in Default Cover.

The Standard prohibits the use of occupational exclusions by the FSC's superannuation members when providing default insurance cover to members, and prohibits the FSC's life insurance members from offering occupational exclusions and occupation based restrictive disability definitions to their clients. However, where a trustee considers such exclusions or restrictions to be in the best interests of insured members, the trustee is still permitted to ask an insurer to include them in the insurance policy. There are also exclusions for members of defined benefit funds, among others. The standard does not apply to insurance cover that is not default cover.

### *Various APRA superannuation statistical publications released*

Highlights of APRA's September 2021 Quarterly Superannuation Performance publication, issued on 23 November 2021, included the following.

**Table 1**

| | Sep 2020 ($ billion) | Sep 2021 ($ billion) | Change |
|---|---|---|---|
| Total superannuation assets | $2,896.9 | $3,403.6 | +17.5% |
| Total APRA-regulated assets | $1,953.5 | $2,324.2 | +19.0% |
| *Of which:* total assets in MySuper products | $745.8 | $922.9 | +23.7% |
| Total self-managed super fund assets | $736.0 | $860.5 | +16.9% |

APRA noted that that there was a 17.5 per cent increase in the value of total superannuation assets over the 12 months to 30 September 2021 due to strong investment performance and positive contributions growth. Benefit payments declined 27.1 per cent for the year. Over this period, lump-sum payments totalled $42.5 billion, a decline of 41.2 per cent over the year that reflects benefit payments returning to historically average levels and removing effects of the Early Release Scheme withdrawals incurred last year.

APRA's MySuper statistical publication for the September 2021 quarter was also released on 23 November 2021. This report is issued on a product-by-product basis and APRA do not report overall summary statistics.

APRA's annual Fund-level Superannuation Statistics and Annual MySuper Statistics reports for the year ending 30 June 2021 were published on 15 December 2021.

## A guide to key changes

The dates that follow were correct as at the time of publication of this edition of *Super Update*.

**Table 2**

| Date | Change |
|---|---|
| 31 Dec 2021 | Current first reporting date for portfolio holdings disclosure – disclosure must be on fund websites by 31 March 2022. |
| 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 | Proposed commencement of retirement income covenant. |
| 1 Jul 2022 | Commencement of new SPS 250 Insurance in Superannuation. |
| 1 Jul 2022 | Start date for application of “shorter” PDS regime to multi-funds, platforms and hedge funds. |
| 1 Jul 2022 | Commencement of new advice fee rules (for existing fee arrangements prior to 1 July 2021). |
| 1 Jul 2022 | Proposed start of first reporting period for new financial reporting obligations for super funds. |
| 31 Aug 2022 | Results of next performance test (first test for certain choice products) issued to trustees. |
| 30 Sep 2022 | Final date for RG 97 to apply to PDSs. |
| 30 Sep 2022 | Proposed end of transition period to new calculator and retirement estimate relief. |
| 1 Jul 2023 | Earliest proposed start date for application of Financial Accountability Regime to superannuation. |
| 1 Jul 2023 | Start date for publication of product dashboard for certain ‘choice’ products. |
| 1 Jul 2023 | MySuper product dashboard to be included in periodic statements. |
| 1 Jan 2024 | Commencement of section 29QC of the SIS Act. |
| 1 Jan 2024 | Proposed commencement of CPS 900 Resolution Planning. |
| 1 Jul 2024 | Start date for website disclosure of certain information relating to employer-sponsored sub-plans. |
| 1 Jan 2025 | Proposed commencement of CPS 190 Financial Contingency Planning for superannuation. |