Super Update

May 2023

In this Issue

1. An objective for superannuation

The government has released a consultation paper on legislating an objective for superannuation.

2. Consultation on “Better targeted superannuation concessions” proposals

Consultation has begun on the government’s proposal to reduce the tax concessions available to people with more than $3 million in superannuation.

3. News in brief

APRA MySuper Heatmap reissued and latest Choice Heatmap released, proposed commencement date for CPS 230 delayed, super thresholds for 2023/2024 released, and the latest superannuation statistical publications.

4. Legislative update

We provide an update on various bills, regulations and consultations affecting super.

5. A guide to key changes

A reminder of various changes to superannuation and their effective dates.

An objective for superannuation

On 20 February 2023, Treasury released a consultation paper on legislating the objective of superannuation. The paper states that the government’s goal is to provide clarity on the role of superannuation to which future policy changes can be anchored. In addition, a formal objective would enable all participants in the super system to have a shared understanding of its purpose. To that end, the government has proposed and sought feedback on the following objective:

> The objective of superannuation is to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way.

The government has included discussion on several of the terms used in this proposed definition:

- ‘preserve savings’ — this reflects the existing preservation rules. The government considers that superannuation savings should be first and foremost for the purpose of a person’s retirement and not a pool of savings to meet other lifetime costs

- 'deliver income' — emphasises the principle that superannuation is to provide income in retirement. The paper states that it is not for minimising tax on wealth accumulation or to enable retirees to leave tax-effective bequests
- 'dignified' — denotes the importance of financial security and wellbeing in retirement, while recognising that this does not necessarily equate to the same level of retirement income for all Australians. The term is intended to recognise that individuals deserve a high quality standard of living in retirement as served by both the superannuation system and government support
- 'alongside government support' — highlights the interaction of the superannuation system with the Age Pension pillar, as well as other government support
- 'equitable and sustainable' — the government considers that the system should provide similar outcomes for people in similar circumstances and that government support should be targeted to those in need. Superannuation should also fit within the broader fiscal strategy. The paper states that beyond a certain level of income, additional government support through tax concessions is not necessary or appropriate.

The consultation paper also notes that there would be a range of views on the inclusion of these terms and so includes two potential alternatives to the proposed objective. However, the government has rejected the inclusion of a secondary or subsidiary set of objectives or principles (the Financial System Inquiry in 2014 had recommended an objective for superannuation along with six subsidiary objectives). The government wants to ensure the focus remains on a single comprehensive objective.

The objective is intended to be used as a yardstick to consider prospective policy changes to the superannuation system, for example, by raising how a proposed change does or does not meet the objective. However, it is not intended to impact trustee obligations or be used by regulators to guide the regulation of trustees' conduct. It is therefore intended to be separate from prescribed trustee duties such as the best financial interests obligation and the sole purpose test.

Consultation closed on 31 March.

On balance we support the proposed objective, although we do wonder whether there should be a reference to the important role that insurance plays in supporting individuals and their families. We would encourage the government to set out the objective in its own Act, and to ensure that sufficient detail on how the objective is intended to work in practice is included in the Act's Explanatory Memorandum.

Consultation on "Better targeted superannuation concessions" proposal

On 28 February 2023, the Treasurer announced a proposal to reduce the tax concessions available to people with more than $3 million in superannuation. Where a person's total superannuation balance exceeds that threshold (which will not be indexed) the earnings on the excess are proposed to be subject to an additional 15% tax. The extra tax will first apply from the 2025/2026 financial year.

A fact sheet was released alongside the Treasurer's media release. Then on 31 March, Treasury released a consultation paper on the proposed change.

The scheme will be administered by the ATO using a similar approach to that adopted for Division 293 tax (the additional tax collected on the concessional contributions of people with relevant earnings greater than $250,000). This approach is intended to minimise compliance costs for superannuation funds, since the government estimates that even by 2025/26 the measure will apply to less than 80,000 people. However, it is expected that some changes will need to be made to the existing super fund reporting arrangements to support the change.

The proposed calculation method uses a person's Total Superannuation Balance (TSB). TSB is also used for several other purposes including determining whether a person can make non-concessional contributions to super. It captures all of the person's superannuation whether it is in the accumulation or retirement phase and regardless of what type of super fund it is held in.

A simplified calculation of earnings has been proposed:

Earnings = Total superannuation balance (TSB) for the current year + withdrawals – net contributions – TSB for the previous year.

The earnings thus calculated will be proportioned such that only the proportion attributable to the balance over $3 million will be subject to the extra tax. Negative earnings will be able to be carried forward indefinitely and offset against future earnings, including over multiple years. Capital losses that are reflected in negative earnings can be used to offset any future positive earnings including rent and interest.

Net contributions will include downsizer contributions, payments of insurance benefits from superannuation policies and transfers such as family law splits. Other adjustments may be made to the TSB or the other inputs to the earnings calculation as a result of the consultation.

Where a person's TSB increases above or falls below $3 million during a year, it will be adjusted so that any growth below the $3 million threshold will not be counted as earnings.

The extra 15% tax will be imposed separately to personal income tax and will not be able to be reduced by deductions, offsets or losses under the personal tax system. Consistent with the approach taken for excess contributions tax and Division 293 tax, affected people will be able to choose to pay the extra tax from their own resources or by releasing amounts from one or more of their superannuation balances.

The government intends that broadly commensurate treatment will apply to defined benefit interests, although the discussion paper does not include a definitive view of how that will be achieved. It does discuss how the TBC calculation currently allows for defined benefits and it notes that there are a range of possible mechanisms, or combinations of mechanisms, that could be used to achieve the commensurate treatment, for example, taxing benefits paid from the interest in pension phase.

Consultation closed on 17 April 2023.

Amid all the media discussion around this proposal, in our view it is important to remember several of its key features. It will not commence until after the next Federal election, so a new parliament could revoke the legislation before it commences. Similarly, the legislation could be amended at any time to index the threshold should a future government desire to do so. We would encourage the government to provide more time for consultation when the draft legislation is released, particularly given the lack of detail in the discussion paper around the treatment of defined benefits.

News in brief

APRA MySuper and Choice Heatmaps

APRA announced on 24 February that it had reissued the 2022 MySuper Heatmap. An explanatory FAQ stated that it was reissued to ensure that international index data is correctly reflected in the relevant investment and performance test metrics. The reissue did not lead to any changes to the products identified as having poor performance or significantly poor performance in the December 2022 release of the Heatmap, nor to the performance test determinations issued in August 2022.

The Choice product Heatmap for 2022 was released on 26 April. APRA found that one in five Choice investment options with an eight-year history significantly underperformed the heatmap benchmarks.

Delayed proposed commencement of CPS 230

APRA has announced that it will defer the proposed start date for its new cross-industry prudential standard, CPS 230 Operational risk management, from 1 January 2024 to 1 July 2025. The final version of the new prudential standard and draft supporting guidance are now expected to be released in mid-2023.

Super thresholds for 2023/2024 released

The ATO has released details of the various thresholds that will apply for the 2023/2024 year. As expected, the general Transfer Balance Cap will increase from $1.7 million to $1.9 million. However, the contribution caps will remain unchanged for another year.

APRA superannuation statistical publications released

Highlights of APRA's December 2022 Quarterly Superannuation Performance publication, issued on 28 February 2023, included the following:

	Dec 2021 ($ billion)	Dec 2022 ($ billion)	Change (%)
Total Superannuation assets	3,489.9	3,386.9	-3.0
Total APRA-regulated assets	2,368.9	2,300.1	-2.9
Of which: total assets in MySuper products	946.8	917.3	-3.1
Total self-managed super fund assets	901.8	880.6	-2.4

APRA noted that there was a 3.0 per cent decrease in the value of total superannuation assets over the 12 months to 31 December 2022, reflecting volatility in financial markets following aggressive monetary tightening by global central banks to curb inflation, which slowed economic growth. Total contributions increased 11.0 per cent over the year.

APRA's MySuper statistical publication for the December 2022 quarter was also released on 28 February. This report contains data relating to product profile, asset allocation targets and ranges, investment performance and net returns, as well as fees and costs. Statistics are presented at an individual product or lifecycle stage level.

APRA's Annual Superannuation Bulletin for the year ending 30 June 2022 was released on 31 January 2023 in three separate files covering entities, MySuper products and trustees. Together they provide an overview of the superannuation industry, including information on fund membership profiles, key financial performance metrics, financial positions, fees and expenses.

Legislative update

Parliament has risen for the autumn recess, returning for the Budget session commencing on Tuesday 9 May. There are several key bills relating to superannuation and retirement that are yet to be passed:

- the Financial Accountability Regime Bill 2023 and three related bills, which will together introduce the new accountability regime (FAR) for the banking, insurance and superannuation industries and create a compensation scheme of last resort (CSLR) for eligible consumers where they have an AFCA determination in their favour but the relevant financial firm has not paid the consumer in accordance with the determination. The package of bills is before the Senate. They are an almost identical replacement for a package of three FAR bills that stalled in the Senate late in 2022
- the Treasury Laws Amendment (2022 Measures No. 4) Bill 2022, which contains the financial reporting changes for superannuation funds and legislation to address the consequences of a Federal Court decision known as the 'Douglas decision'. This bill is before the Senate. Draft regulations to support the bill were released for consultation in April 2023, with consultation closing on 5 May
- the Treasury Laws Amendment (2023 Measures No. 1) Bill 2023, an omnibus bill which will, among other things, amend the tax legislation to align the income tax treatment of off-market share buybacks by listed public companies with on-market share buybacks, and empower the Australian Accounting Standards Board and Auditing and Assurance Standards Board to develop sustainability standards and auditing and assurance standards for sustainability purposes. This bill is also before the Senate.

In addition, there are some minor and technical amendments, including updates to modernise communication methods available to individuals, businesses and regulators when interacting with each other, in the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Bill 2022, which is also before the Senate.

On 9 February, the Senate voted to revoke the most recent round of amending regulations to the Annual Member Meeting disclosure requirements. Those changes had reduced the amount of information on various types of expenditure that super funds had to provide to members with the notice of the Annual Member Meeting. The effect of the disallowance is that the more detailed requirements in place before the amendments were made on 1 September 2022 now apply.

On 3 March, APRA released a response to a consultation conducted late in 2022 on minor changes to various reporting standards under Phase 1 of the Data Transformation project. In response to the consultation, APRA has incorporated some of the feedback into the reporting standards. It also granted extensions to the implementation timeframes for several of the standards and adjusted the timeframes for investment option reporting for several reporting tables from 35 to 40 days. Finally, the Phase 2 consultation timeline has been revised in response to concerns regarding industry capacity to implement the Phase 1 amendments at the same time as engaging with planned consultation on Phase 2.

A guide to key changes

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

Date	Change
30 Jun 2023	Temporary reduction in account-based pension drawdown limits scheduled to end.
1 Jul 2023	Next scheduled increase in SG (to 11.0 per cent).
1 Jul 2023	Last date for trustees with insurance arrangements provided by connected entities ending on or after that date to obtain independent certification under SPS 250 Insurance in superannuation.
1 Jul 2023	Proposed start of first reporting period for new financial reporting obligations for super funds
1 Jul 2023	Proposed commencement date for APRA's transfer planning requirements for MySuper products (subject to industry consultation).
1 Jul 2023	Commencement of CPS 511 Remuneration for super fund trustees that are significant financial institutions.
31 Aug 2023	Due date for first IDR reports to ASIC for most super funds.
31 Aug 2023	Last date for next performance test results to be issued.
1 Jan 2024	Commencement of section 29QC of the SIS Act.
1 Jan 2024	Proposed commencement of CPS 900 Resolution planning.
1 Jan 2024	Commencement of CPS 511 Remuneration for super fund trustees that are not significant financial institutions.
1 Jul 2024	Start date for website disclosure of certain information relating to employer-sponsored sub-plans.
1 Jul 2024	SG to increase to 11.5 per cent
1 Jan 2025	Commencement of CPS 190 Recovery and exit planning for superannuation.
1 Jan 2025	Proposed commencement of revised version of SPS 515 Strategic planning and member outcomes.
1 Jan 2025	Proposed commencement of revised version of SPS 114 Operational risk financial requirement.
1 Jan 2025	Proposed commencement of revised version of SPG 227 Successor fund transfers and wind-ups.
1 Jul 2025	SG to increase to 12.0 per cent.
1 Jul 2025	Proposed commencement of CPS 230 Operational risk management.
1 Oct 2027	Start date for publication of product dashboard for certain Choice products.
1 Oct 2027	MySuper product dashboard to be included in periodic statements.

Contact Us

For further information please contact your WTW consultant:

Melbourne 61 3 8681 9800
Sydney 61 2 9253 3333

About WTW

At WTW (NASDAQ: WTW), we provide data-driven, insight-led solutions in the areas of people, risk and capital. Leveraging the global view and local expertise of our colleagues serving 140 countries and markets, we help you sharpen your strategy, enhance organisational resilience, motivate your workforce and maximise performance.

Working shoulder to shoulder with you, we uncover opportunities for sustainable success—and provide perspective that moves you.

The information in this publication is general information only and does not take into account your particular objectives, financial circumstances or needs. It is not personal advice. You should consider obtaining professional advice about your particular circumstances before making any financial or investment decisions based on the information contained in this document.

wtwco.com/social-media

Towers Watson Australia Pty Ltd (ABN 45 002 425 349, AFSL 229921)
WTW-882AU

wtwco.com.au