Super Update

August 2023

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Retirement income strategy thematic review results

On 18 July APRA and ASIC released the results of their joint review of how trustees have implemented the retirement income covenant. The review covered 15 trustees responsible for 16 funds that accounted for approximately half the superannuation held by members aged 45 and over. All types of funds were examined — industry, retail, corporate and public sector

The regulators found improvements in the trustees' offerings of assistance to members in retirement. However, there was a lack of urgency in embracing the intent of the retirement income covenant, and further focus was needed in relation to:

- understanding member needs — while trustees drew data from a range of internal and external sources to understand their members' retirement needs, all had gaps in the critical information they needed about their members to inform the development of an effective retirement income strategy. Very few had plans to address these gaps. Most were not modelling how members' retirement income needs might evolve over time

- designing fit-for-purpose assistance — trustees had taken positive steps to improve assistance through a range of measures. However, some trustees were not using metrics to track how their members were using the assistance measures or their effectiveness in order to determine whether any changes were needed
- overseeing strategy implementation — many trustees had not embedded their retirement income initiatives as concrete actions in their overall business plan. A majority of trustees also lacked quantitative metrics to assess the retirement outcomes resulting from their initiatives.

APRA and ASIC identified better practice among trustees who:

- fully explored the depth and breadth of their own data, ensured data was sufficiently current, and supplemented the data they held with external (population level) data. They sought to better understand the financial profile of their membership in different sub-classes beyond superannuation balance, including information such as home ownership, partner/marriage status, and material assets and income outside of the fund or the superannuation system
- were modelling member behaviours and pension drawdown amounts using historical transactional and account data they held. Some trustees had also considered the size and pattern of household debt or medical expenditure that members may be required to service. This helped them to better understand trends in drawdown decisions and how they were associated with various member characteristics, as well as how member behaviours may change over time
- gave careful and comprehensive consideration to member segmentation, designing assistance and product offerings for each sub-class of members. In addition, a minority of trustees considered member engagement preferences when developing their sub-class approach and tailored the channel and type of assistance to meet these preferences
- considered carefully how to reduce the risk that the assistance they provided would be unsuitable for some members — for example by identifying ways to cater to members who did not fit neatly into one of their sub-classes, or who had personal or household circumstances that mean that their needs were significantly different from other members in the same sub-class.

Finally, the report considered trustees' practices in relation to longevity products. The approaches showed considerable variation. Seven of the trustees examined offered products with longevity protection. Some were offered directly by the trustee with the longevity component built into the product and provided by a life insurer; others were externally issued products that members accessed through an adviser. However, five of these trustees stated that take-up of the products by members had been generally low to date, with some trustees considering whether to continue offering the products in their current form. Six trustees said they were considering developing or offering a new longevity product. However, some pointed to the Age Pension as a form of longevity protection, while others were mindful of the development costs involved and the risk of developing a product that did not have sufficient take-up by members.

There will be a set of updates to SPS 515 Strategic Planning and Member Outcomes over the next 12 months to ensure that APRA's prudential framework adequately supports the retirement income covenant.

The regulators expect all trustees to consider the report and urgently address gaps in their approach. We would also encourage trustees to examine the examples of better practice for learnings to enhance their retirement income products and the assistance they are providing to members approaching or in retirement.

Updated guidance on investment governance released

APRA has released an updated version of its prudential practice guide SPG 530 Investment Governance, replacing both the previous version of SPG 530 and SPG 531 Valuation.

According to the consultation response letter released at the same time, the main changes from the draft include:

- additional guidance to support requirements in SPS 530 Investment Governance around liquidity management, stress testing and valuation
- additional guidance on how APRA expects trustees will take ESG risk factors into account as part of their overall risk management
- greater clarity in certain areas requested by the submissions.

Among other changes, APRA has encouraged trustees to consider articulating an investment philosophy, which it considers would provide a clear statement to members and other key stakeholders by providing longer term guiding principles for investment decision makers. Discussion on matters such as asset allocation targets and permissible investments (including any ESG-related screens) is then tied back to the investment philosophy.

Trustees are also expected to determine the most appropriate investment operating model to support the implementation of the Investment Governance Framework, with the decision documented including demonstration of how it is appropriate having regard to the size of the trustee's operations and the complexity of its investments. Where some or all investment functions are internal, APRA expects the trustee would be able to demonstrate that it has systems, resources and processes that support the appropriate management of risk commensurate with services provided by highly skilled external service providers.

Discussion on ESG considerations has been integrated throughout the guidance in response to submissions that included calls for further clarity and consistency in the language relating to ESG risks and having an appropriate emphasis on ESG from a risk perspective. ESG considerations are now linked to member outcomes, with APRA stating that a trustee may incorporate objectives from investments, such as environmental or social impact related objectives, where it can demonstrate that pursuing such additional objectives is consistent with the outcomes the trustee seeks to provide to members.

APRA has also included additional guidance on advocacy and stewardship. The new SPG states that APRA expects a trustee would consider how it uses its influence or investment market presence — including engaging with investees, making public statements, undertaking policy advocacy and voting — to generate value in investments. Where a trustee engages in such stewardship activities as part of its prudent management of investments, APRA expects the trustee would be able to demonstrate how these activities:

- contribute to value creation/preservation over different time horizons and support delivering financial returns to members
- are appropriate in the context of the trustee's business operations, resources and investment mix and complexity
- are undertaken on a cost-effective basis, including where undertaken by way of a collective approach
- are aligned with publicly disclosed statements on stewardship.

Stress testing was the subject of considerable expansion in the new version of SPS 530, and APRA's associated guidance in this area has also expanded. APRA has also clarified in the consultation response letter released with the updated SPG that it expects trustees to consider the benefits that may arise from more frequent stress testing beyond the annual requirement in SPS 530, for example on a quarterly basis or in line with criteria pre-determined by the trustee.

Valuation was another area that was significantly expanded in the new SPS 530. Previously valuation guidance was contained in a separate SPG 531, however it has now been incorporated into SPG 530. The consultation response letter notes that while some submissions requested that APRA include detailed guidance in relation to valuations of indirectly held assets, APRA's view is that the valuation guidance is equally relevant to different holding vehicle arrangements, including pooled and externally managed assets. No separate guidance has therefore been included for indirectly held assets. Importantly, APRA now expects that trustees would undertake valuations on at least a quarterly basis, as well as considering triggers that would warrant even more frequent valuations. Where less frequent valuations are adopted, APRA expects the trustee would demonstrate how it determined that frequency to be appropriate.

Finally, the consultation response letter noted concerns from the industry about the delay in issuing the updated SPG 530 given that the new version of SPS 530 commenced on 1 January 2023. However, APRA does not expect that the timing of release of final SPG 530 will affect a trustee's ability to comply with SPS 530, since APRA had observed greater focus on valuation governance and liquidity management and more widespread use of stress testing processes in recent months.

APRA has released the new SPG 530 as an "integrated version", with the guidance linked to relevant paragraphs of SPS 530. This structure, along with the more extensive guidance itself, is a material improvement over the previous version which will be welcomed by trustees.

Financial reporting and auditing changes

Legislation to extend the financial reporting and auditing requirements applicable to public companies to superannuation funds was passed by parliament in June 2023. It commenced on 1 July 2023 and applies for fund years of income commencing on or after that date. Associated regulations were made on 7 July 2023.

The main change is a new requirement for trustees to prepare a directors' report each year as part of the fund's overall financial report, which also includes the financial statements and accompanying notes and the auditor's report. The directors' report will need to include:

- general information under section 299 of the Corporations Act — this section governs annual directors' reports for public companies, and it includes information such as a review of operations during the year and the results of those operations, any significant changes in the fund's state of affairs during the year, likely developments in the fund's operation in future financial years and the expected results of those operations
- a copy of the auditor's independence declaration
- the date the report was made and signed by a director of the trustee
- details of the remuneration of each member of the key management personnel for the fund and any other matters relating to remuneration prescribed in the Corporations Regulations
- details of any payments made to the auditor for non-audit services provided by the auditor, by another person or firm on the auditor's behalf
- if approval has been granted by the directors of the fund or a declaration has been made by ASIC for an extension of the auditor rotation requirements — the details of the approval or declaration.

The financial report will need to be lodged with ASIC within three months of the end of the end of the year of income and will also need to be publicly available on the fund website by that date.

In another change, trustees are now able to appoint an individual auditor, audit firm or audit company as RSE auditor of the fund (previously an individual auditor was required be appointed as RSE auditor), consistent with the rules for public companies. However, unlike public companies, a super fund will continue to only be able to have one auditor at any given time. If an audit firm or audit company is appointed as RSE auditor, the individual responsibility will fall to the lead auditor of the firm or company, and that person will need to meet the fit and proper requirements in the prudential standards. The existing RSE auditor was deemed to have been appointed from 1 July 2023 when the new regime commenced.

In addition, the RSE auditor will now continue to hold office until they are removed or resign from office, can no longer act as a result of being unable to meet the registration, eligibility or auditor rotation requirements, fail to remedy a conflict of interest situation or in certain other limited circumstances. This will override the existing requirements in SPS 310 that require annual appointment of an RSE auditor. Where the position of super fund auditor becomes vacant, it will have to be filled within one month.

News in brief

Final performance test regulations made

New regulations were made on 3 August to implement the government's proposed changes to the performance test. As expected, the lookback period has been extended from eight to 10 years, although it will be phased in as data becomes available so it will be nine years for this year's performance test. The minimum performance history has also been extended from five to seven years, with a minimum period of six years for this year's test.

As proposed in the draft regulations, a number of covered asset classes have been disaggregated. There have also been changes to some of the indices used, and updates to the letter that must be sent to members by trustees whose product has failed the test.

The test has also been extended to platform products, although they will be tested on a gross of tax basis. The definition of a platform Trustee Directed Product for this purpose has been based on APRA's "RSE Structure" reporting standard. The reporting standards that will be used in this year's test have also been updated in the new regulations.

Final version of CPS 230 Operational Risk Management released

APRA has finalised CPS 230, its new prudential standard on operational risk management. At the same time, it released a consultation response document and a draft of the supporting prudential practice guide CPG 230 Operational Risk Management. Consultation on the CPG closes on 13 October.

According to the consultation response document, key changes from the draft version of the prudential standard include:

- a deferral of the commencement date from 1 July 2024 to 1 July 2025. Where a trustee has pre-existing contractual arrangements in place with a service provider, the requirements of the new prudential standard will apply to those arrangements from the earlier of the next renewal date of the contract and 1 July 2026, although APRA encourages contracts with material service providers to be updated as soon as possible given their importance to critical operations and operational risk

- increased flexibility around the classification of specific business operations as critical and certain service providers as material by stating that the classifications apply unless the entity can justify otherwise
- in the case of some requirements, only material arrangements with service providers will now be captured rather than all arrangements.

APRA Insight article — early findings from cyber security stocktake

APRA's latest Insight article, released on 5 July, identified a number of concerns from the first tranche of its tripartite cyber security stocktake of regulated entities. The most common gaps identified were:

- information asset classification policies that were not fully established and asset registers that were incomplete or inaccurate due to failures to update them regularly
- concerns with controls relating to third party service providers, including information security control assessment plans that were limited in scope or did not exist, a lack of independent testing of control effectiveness and testing that was not aligned to the criticality of the information assets managed by the third party
- control testing programs that were incomplete, inconsistent, lacked independence or did not provide adequate assurance
- incident response plans that were incomplete (or not in place at all), not reviewed and/or not tested regularly or contained limited plausible disruption scenarios
- limited internal audit review of information security controls and in some cases internal auditors performing control testing who lacked the necessary information security skills
- processes for reporting material incidents and control weaknesses to APRA that were often inconsistent or unclear or in some cases not in place at all.

APRA has encouraged all funds to review CPS 234 Information Security and the issues identified in the report and develop plans to address shortfalls in their cyber security controls and governance policies.

AFCA fact sheet — requirements for trust deeds

AFCA has released a fact sheet explaining what sort of documents it will accept when it requests a copy of a trust deed while assessing a complaint. Where an executed copy of a trust deed is not available but an unexecuted consolidation or working copy is, AFCA is keen to receive a certification that the document is a true and correct copy of the deed provisions in force at the relevant time. Also, if signatures are redacted in an executed document, AFCA must receive a certification that the signatures of the person/s named in the document as signatories were duly affixed to the document. This must be provided by either:

- a trustee director or company secretary, or
- a solicitor holding a practicing certificate.

The certification must be endorsed on the first page of the document provided. AFCA expects that the names of the signatories will be visible on the document.

Final supervisory levies for 2023/24

The final supervisory levies for 2023/24 were released on 26 June 2023. The levies applicable to super funds that are not pooled superannuation trusts are set out below They are higher than for the 2022/23 year and higher than forecast in Treasury's May discussion paper. The levy for small APRA funds remains at $590, although the levies instrument defines such a fund as one with fewer than five members.

	2022/23	2023/24
Restricted:		
Rate (%)	0.00459	0.00840
Minimum ($)	10,000	12,500
Maximum ($)	800,000	800,000
Unrestricted (%)	0.002989	0.003167

APRA superannuation statistical publications released

On 30 June APRA announced the first issue of its new Quarterly Superannuation Product Statistics publication. It lists all super products offered by each APRA-regulated fund and includes granular information on fees and costs, investment performance, investment strategy and asset allocation. Performance metrics are shown for 69 MySuper products and 681 multi-sector investment options. The publication has been issued as two Excel files, one on product structure and the other on performance, along with 13 CSV files that present the statistics in database format for each topic area.

On the same day APRA also released the latest edition of its Quarterly Superannuation Industry publication. This contains data on super product composition and membership and has been released as an Excel file and two CSV files.

Highlights of APRA's March 2023 Quarterly Superannuation Performance publication, issued on 23 May 2023, included the following:

	Mar 2022 ($ billion)	Mar 2023 ($ billion)	Change (%)
Total Superannuation assets	3,465.5	3,493.5	+1.1
Total APRA-regulated assets	2,330.5	2,392.6	+2.7
Of which: total assets in MySuper products	924.7	964.5	+4.3
Total self-managed super fund assets	913.4	889.5	-2.6

APRA noted that there was a 1.1% increase in the value of total superannuation assets over the 12 months to 31 March 2023, reflecting a rebound in financial markets over the December 2022 and March 2023 quarters and continued strong contribution inflows driven in part by the increase in the SG to 10.5% from 1 July 2022. Benefit payments also increased by 13.8% over the year, in line with longer term trends reflecting the ageing population and maturing of the superannuation system.

APRA's MySuper statistical publication for the March 2023 quarter was also released on 23 May. 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.

Legislative update

Parliament returned from the winter recess on Monday 31 July for a two week sitting period and is now in recess again until 4 September. A number of bills relating to superannuation were passed by parliament before the recess, including:

- the Treasury Laws Amendment (2022 Measures No. 4) Bill 2022, which contained the financial and auditing changes discussed earlier in this edition of Super Update as well as measures to deal with the consequences of the Douglas decision, received Royal Assent on 23 June
- the Treasury Laws Amendment (Financial Services Compensation Scheme of Last Resort) Bill 2023 and two related levy bills to establish the Compensation Scheme of Last resort received Royal Assent on 3 July

However, there are several key bills relating to superannuation and retirement that remain before the Senate:

- the Financial Accountability Regime Bill 2023, which will introduce the new accountability regime (FAR) for the banking, insurance and superannuation industries
- 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
- the Treasury Laws Amendment (2023 Measures No. 3) Bill 2023 contains the changes needed to create an experience pathway for financial advisers.

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. Further measures described as "law improvement" measures are contained in the Treasury Laws Amendment (2023 Law Improvement Package No. 1) Bill 2023. Both of these bills are also before the Senate.

Regulations supporting the financial and auditing changes were registered on 7 July.

The latest Family Law interest rate determination, for the 2023/24 financial year, was made by the Australian Government Actuary on 25 May 2023. The Family Law (Superannuation) (Interest Rate for Adjustment Period) Determination 2023, which sets the prescribed interest rate for adjusting a base amount under a deferred Family Law split, sets the rate for the year at 5.9% per annum.

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
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	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 previously subject to ASIC relief.
1 Jul 2024	SG to increase to 11.5%.
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%.
1 Jul 2025	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

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

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Towers Watson Australia Pty Ltd (ABN 45 002 425 349, AFSL 229921)
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