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2022

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SISG key messages 22 November 2022



Key topics discussed at the Superannuation Industry Stewardship Group meeting 22 November 2022.

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Last updated 6 January 2023

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Welcome and introductions

Co-chair Emma Rosenzweig opened the meeting and welcomed members. Apologies were noted and no conflicts of interest were declared.

Superannuation regulator updates

Treasury

Treasury noted October 2022 budget announcements impacting the superannuation and employer markets, including:

- expanding eligibility for downsizer contributions to reduce the minimum eligibility age from 60 to 55 years
- deferred start date for relaxing residency requirement for self-managed superannuation funds (SMSFs) to allow time for the policies to be legislated and implemented.

Several measures had been announced but not legislated by the previous government and will not be proceeding, including:

- the proposed tax and regulatory framework for limited partnership collective investment vehicles
- the 3 yearly audit requirements for certain SMSFs
- the proposal to introduce a requirement for retirement income product providers to report standardised metrics in product disclosure statements.

Treasury has held consultations as part of the review of Your Future, Your Super and in the future expects to undertake consultation on the objective of superannuation. The Treasurer is holding the first of his Investor Roundtables this week focused on leveraging institutional investment into affordable and social housing.

Consultation recently closed on financial adviser professional and educational standards and Treasury will work through the feedback with a view to prepare advice for government.

Treasury confirmed that they continue to work with the government on issues associated with non-arm's length income (NALI) / non-arm's length expenditure.

Australian Securities and Investments Commission

Australian Securities and Investment Commission (ASIC) mentioned the release of observations from the first stage of ASIC's surveillance on internal dispute resolution practices of trustees and noted that a report on internal dispute resolution would be issued before the end of 2022. Further releases about ASIC's surveillance work, including a

release on trustee communication about the MySuper performance test and insurance in superannuation will follow next year.

ASIC is continuing work to develop additional guidance on breach reporting. Surveillance of choice products has also commenced.

Further information about ASIC's current enforcement priorities is on the ASIC website and includes misconduct in the superannuation sector, targeting poor design and distribution of financial products and misleading conduct in relation to sustainable finance including greenwashing.

Australian Prudential Regulation Authority

The Australian Prudential Regulation Authority (APRA) provided an update on policy priorities around the prudent management of financial resources, including:

- Updated [guidance on investment governance for superannuation trustees has recently been released for consultation](#) . The guidance is designed to assist trustees in meeting their requirements under the recently strengthened *Prudential Standard SPS 530 Investment Governance in Superannuation*, which comes into effect on 1 January 2023.
- APRA's amendments to *Prudential Standard SPS 310 Audit and Related Matters* are expected to be released this side of Christmas.
- Draft enhancements to *Prudential Standard SPS 515 Strategic Planning and Member Outcomes* are expected to be released for consultation in early 2023.
- APRA has also begun consulting on a series of measures to [enhance transfer planning](#)  by superannuation trustees in the event they need to transfer members out of or into their fund. Consultation on transfer planning proposals is open until March 2023.
- APRA mentioned that its focus remains on governance, board capability (includes composition and tenure) and upholding the best financial interest's duty in trustee expenditure.

Australian Financial Complaints Authority

The Australian Financial Complaints Authority (AFCA) has released its annual review and updated statistics for the financial year which

include information on the top types of complaints.

From 1 July 2022 to 30 October 2022, approximately 2,000 complaints have been lodged relating to superannuation. Many cases are resolved at the registration and referral stage. The top types of complaints continue to be associated with superannuation accounts, death benefit, pension, and insurance in super products.

The main reason for delays experienced in resolving insurance in super complaints/claims appears to be at the insurer end. A third of complaints relate to total and permanent disability and income protection.

Statistics show there have been many cases closed/resolved and it takes an average of 60 days to direct a complaint for decision to an ombudsman or adjudicator if a recommendation is rejected by a party.

ATO

ATO confirmed measures announced in October budget including those already mentioned by Treasury and the Powering Australia – Electric Car discount measure which comes into effect from 1 July 2022.

Emma reminded members that directors who had not already applied for a director ID had until 30 November 2022 to do so. We estimate that there are more than 692,000 directors in the SMSF cohort that are required to apply for a director ID. More than 57% of these (approximately 395,000) have already applied, leaving around 42.9% (approximately 297,000) yet to apply. Emma acknowledged the support from the SMSF Association who have worked closely with the ATO to promote the call to action with their members.

Emma provided information about Downsizer and the First Home Superannuation Saver Scheme (FHSSS) in response to questions received from members.

Downsizer

- As of 30 September, over 49,000 people have made contributions (there have been contributions from over 700 individuals aged 60–64 years since commencement of legislation 1 July 2022 to reduce the eligibility age to 60 years).
- More than \$12.1 billion dollars has been contributed through the scheme.

- Around 55% of contributors are women.
- Treasury added that the average contribution is approx. \$245,000.

FHSSS

- Since 1 July 2018, approx. 31,600 new home buyers have released over \$371 million dollars' worth of savings under the FHSSS.
- 70% that use the scheme are 35 years and under.

There have been 1,200 applications requested under the visibility of superannuation law which allows individuals in a current property settlement proceeding to request super information of their current/former spouse or de facto through the Family Courts.

ATO also mentioned that we were expecting to issue the **first annual snapshot** of ATO compliance activities and employer actions relating to superannuation guarantee. Further information including highlights from 2021–22 can be found on ato.gov.au

Environmental scan

Members provided updates on emerging priorities and issues for their market, including:

- They continue to see an increase in cybersecurity risks and fraud.
- A number of members have been working with Treasury on the objective of super project and would like to see simplification of limits for consumers and threshold questions answered, for example, what is important in the objective of super.
- The Australian Institute of Superannuation Trustees (AIST) is conducting research to gain insights into why people at retirement age do not appear to commence a retirement income stream.
- AIST is also looking into impacts for women experiencing menopause who are unable to continue working. There are significant social, health and financial impacts for individuals and the economy.
- The Financial Services Council (FSC) is focussing on Your Future, Your Super and policy arising from the Retirement Income Covenant. They are looking to commission research about how other countries approach retirement income policy and to

implement a new FSC standard around trustee claims handling. The Tax Institute continues to focus on and advocate for policy reform of NALI measures.

- The SMSF Association has been working with software providers on cybersecurity and continue to monitor increases in establishment of SMSFs to ensure they are doing it for the right reasons.
- Other trustee issues in the current climate of heightened fraud and cybersecurity attacks include member complaints about rollover transactions. Super Consumers Australia are looking to get a better understanding of what trustees are doing within the 3-day obligation for rollovers under the portability rules to understand what funds are already doing to manage the risk of fraud and cybersecurity issues. Members acknowledged that the Gateway Network Governance Board was also doing significant work on these matters.
- The Law Council of Australia expressed concerns from clients on Your Future, Your Super performance tests breach reporting, as well as reporting of best financial interest duty. ASIC confirmed they are working to update guidance to remove confusion in this area.

Fraud and cyber security

Hans van Daatselaar, ASP Services, provided a practitioner and industry perspective on the challenges and opportunities faced in the current climate including recent cyber attacks reported by Optus and Medibank.

The Association of Superannuation Funds of Australia ran a recent pilot to increase visibility, capability and awareness of the issues faced within the superannuation ecosystem. The increase in digitisation and SuperStream connectivity with third and fourth-party stakeholders is seeing an increase in personal information being shared between, ATO and industry, funds, employers and now also increasingly with SMSFs.

It was agreed that a working group would be established, led by APRA, and include a subset of representatives of the Superannuation Industry Stewardship Group (SISG) member organisations to understand and document fraud risks, and the effectiveness of existing controls, including actions required to strengthen/mitigate against emerging risk areas to safeguard member accounts and member data.

The SISG secretariat will liaise with APRA, ASIC and ATO representatives on the scope of the working group and request suggested nominations or additional parties to be involved from members.

Members acknowledged this was a shared problem and that one of the first steps would be to develop a shared vision of how we would respond and that we need to maintain an ongoing focus in this area.

Insurance in super

AFCA provided some insights of the issues generating an increase in complaints in this area:

- Cancellation of insurance appears to be the main cause for a range of reasons but mostly because of inactive accounts.
- AFCA receive an average of 18 complaints a month that insurance has been cancelled, and an average of 4 complaints a month that a claim has been denied because there was no insurance in place.
- For every member that lodges a complaint there is a number of additional members potentially affected.
- Most of these complaints tend to close early in the process. About 11% of complaints go through to an ombudsman or adjudicator for decision.
- Disclosure by trustees has improved over the year.
- Common issues raised by complainants include 'I didn't consent', 'I was never notified' or the individual has gone to get their cover reinstated and has discovered additional conditions are now in place.
- Some people have their cover cancelled, then pass away or need to claim an event and encounter that they do not have any cover.
- Notices about cancellations sent by post or email often go unread or end up in the bin or a spam folder as junk mail. The better approach is to use 2 methods of communication, and to follow up by SMS that they have received the correspondence.
- AFCA has the ability to exercise discretion and not continue with the complaint if it is clear the trustee has made no error.

- AFCA receives complaints from those with unwanted insurance, where they realise they have been paying for insurance over a number of years.

Super Consumers Australia has been advocating for a review of insurance in super to determine if there are areas that we can do better to provide consumers with protection.

According to APRA's MySuper data publication, some funds like UniSuper and MLC appear to have high rates of MySuper members who opt out of insurance in super. This suggests different fund practices could make a difference to outcomes.

In response to questions about what more could be done to ensure members receive, read and open communications about insurance, SISG members raised ideas including:

- using multiple communication channels, potentially including the MyGov inbox
- making insurance information more prominent in annual statements.

Another potential option is to conduct an annual health check with members, similar to what the ATO does as part of the tax return process which prompts individuals to check other elements of their account/cover.

ASIC is undertaking further work on identification fraud and insurance in super and will report back on their findings at the next SISG meeting. In addition, following on from the advice review, ASIC is considering what additional guidance is required to support the industry to improve communication with their clients.

Members agreed to revisit some of the ideas raised during this meeting at the next SISG meeting.

Status of worker

A draft Taxation Ruling (TR) and Practical Compliance Guide (PCG) were provided to SISG members for initial comments. These documents are under embargo until they are published for consultation, expected in early December. Consultation on the TR and PCG will remain open until February 2023. ATO provided an introduction for the topic including:

- Following High Court decisions, ATO developed a decision impact statement advising we were reviewing our public advice and guidance in relation to classification of workers.
- The TR has been revised to reflect the principles considered and set out by the High Court in the *Personnel Contracting* and *Jamsek* cases.
- The draft PCG outlines the Commissioner of Taxation's compliance approach and shows where the ATO will allocate compliance resources to investigate classification of worker concerns using a risk-based approach.

Members discussed the approach outlined in the PCG and commended the ATO for providing this additional level of guidance and support, in particular for small business who may not have the resources to pursue these matters on their own. While the PCG provides some guidance it was noted that some businesses may choose to seek additional or specialist advice depending on their circumstances.

Global Pension Index

David Knox, Mercer, provided members with a summary of some of the highlights from the Mercer CFA Institute Global Pension Index 2022.

Forty-four retirement income systems from around the world were assessed based on adequacy, sustainability, and integrity.

Australia rated sixth place at B+ grade. Iceland, the Netherlands, and Denmark were the only countries assessed as A grade.

Members discussed some of the things those other countries were doing that Australia could do to reach A grade including:

- increase the coverage of employees (including non-standard workers and those self-employed) in the super system' noting that removal of the \$450 threshold is a nod in the right direction
- increase the pension age gradually to reflect increasing life expectancy
- promote higher labour force participation rates at older ages which can increase savings available for retirement

- review retirement income strategies in place and whether part of the benefit needs to be an income stream. Retirement income projections could be mandated to improve understanding and confidence for members.

Review of SISG

Members discussed operation of the SISG including achievements, forward priorities, coverage of membership and meeting processes.

Feedback included:

- SISG is a value-added forum and supports members to maintain a strategic view of issues impacting the industry, for example, through the environmental scan and discussions on cyber security.
- Members appreciate regular updates from regulators including Treasury.
- Members appreciate the collaboration, mutual trust and respect shared between SISG members.
- Members recognised that more consideration is being put towards determining agenda items and promoting input from members and useful discussion.
- Members noted that the SISG provides an opportunity for much wider input and reflection rather than just a focus on tax matters.
- Members feel the diversity of the group is adequate and additional thought could be given to special appearances from other groups as required, for example, Austrac.
- Members feel the format of the hybrid hub/WebEx meeting works well and those online feel included in the meeting.
- ATO outlined a change in approach to setting the agenda for future meetings where members will be approached via email to ask for topics for upcoming meetings. Regulators asked to maintain the regulator agenda preparation sessions.
- Suggested topics and focus areas for 2023 include
 - cyber security
 - insurance
 - effectiveness of communication and quality of advice

- financial advice
- investor roundtable issues
- formal audit of superannuation funds
- superannuation issues for First Nations people
- Your Future, Your Super review
- data quality in super.

Members asked about the loss of a specific Tax Technical forum to discuss superannuation matters. ATO reaffirmed that we are happy to organise special purpose working groups on specific topics as required.

Attendees

Attendees list

Organisation	Member
ATO	Emma Rosenzweig (Co-chair), Superannuation and Employer Obligations
ATO	Larissa Evans, Superannuation and Employer Obligations
ATO	Peta Lonergan, Superannuation and Employer Obligations
Association of Super Funds Australia	Glen McCrea
Australian Financial Complaints Authority	Heather Gray
Australian Institute of Superannuation Trustees	Melissa Birks
Australian Prudential	Carolyn Morris

Regulation Authority	
Australian Prudential Regulation Authority	Mike Cornwell
Australian Securities and Investments Commission	Jane Eccleston
Chartered Accountants Australia and New Zealand	Tony Negline
Industry Super Australia	Ella Cebon
Law Council of Australia	Maged Girgis
Mercer	David Knox (Co-chair)
SMSF Association	Peter Burgess
The Tax Institute	Phil Broderick
Treasury	Lynn Kelly

Guest attendees

Guest attendees list

Organisation	Attendee
ATO	Eric Armstrong, Office of the Chief Tax Counsel
ATO	Kylie White, Superannuation and Employer Obligations
ATO	Malcolm Allen, Superannuation and Employer Obligations
ATO	Michelle Allen, Superannuation and Employer Obligations
ATO	Usha Narain, Superannuation and

	Employer Obligations
ASP Services	Han van Daatselaar
Australian Prudential Regulation Authority	Bruce Young
Australian Prudential Regulation Authority	Chanum Torres
Australian Prudential Regulation Authority	Claire Mitchell
Australian Prudential Regulation Authority	John Singh
Financial Services Council	Aidan Nguyen
Super Consumers Australia	Rosie Thomas
Treasury	Luke Spear

Apologies

Apologies list

Organisation	Members
Australian Securities and Investments Commission	Jessica Spence
Business Council of Australia	Ben Davies
COTA Australia	Ian Yates
Financial Services Council	Spiro Premetis
Link Group	Deborah Schembri
Super Consumers Australia	Xavier O'Halloran

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