APRIL 2021

QMV LEGAL

LEGAL, REGULATORY, & POLICY UPDATE

PENSIONS AND SUPERANNUATION

INSIDE THIS EDITION

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IN BRIEF

No sitting days for Parliament during April – but we still saw plenty of big developments for superannuation trustees in advance of the ***Commonwealth Budget*** *on 11 May. The* ***Your Future, Your Super Bill*** *is set for debate in the Senate after the Economics Committee was split in recommending the Bill be passed.*

We also saw the pre-budget announcement of a policy which would significantly impact the ***stewardship activities*** *of superannuation trustees as shareholders.*

On Earth Day, APRA released its draft prudential guidance on ***climate related financial risks*** *– aligned with the release of an important legal opinion on the same topic and trustee duties. We also saw draft prudential guidance on remuneration, and draft regulations on* ***Portfolio Holdings Disclosure*** *and* ***Annual Member Meetings****!*

MAJOR UPDATES

Your Future, Your Super

28 April 2021
Draft Regulations

LINK TO DETAILS

Treasury released the Exposure Draft *Treasury Laws Amendment (Your Future, Your Super) Regulations 2021* for public consultation. The draft regulations detail some changes, and to key aspects of the proposed reforms, including:

- The methodology for the annual performance test and re-opening test, as well as requirements for notifications to members. The methodology now takes into account applicable administration fees in addition to investment fees and indirect cost ratios. Australian unlisted infrastructure and unlisted property were also added as specific asset classes in the performance test.
- The definition of a 'stapled fund', including tie-breaker rules for determining which fund is to be an employee's stapled fund where they have multiple existing funds.
- The formulas as a basis for ranking products on the proposed ATO YourSuper comparison tool.

Submissions to Treasury close on 25 May 2021.

In relation to the legislation, the *Senate Economics Legislation Committee* delayed then released its report on the *Treasury Laws Amendment (Your Future, Your Super) Bill 2021*. The committee recommended the bill be passed, with the Opposition Senators issuing a Dissenting Report recommending the bill not be passed. Notably, the Dissenting Report did not propose any amendments.

Superannuation trustees should make some preparations to promptly implement the reforms if passed by Parliament without revised commencement dates. There is also a possibility that the Bill is split up or amended in the Senate, or is unable to be passed in its current form.

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CPG 511 Remuneration

30 April 2021
Draft Guidance

LINK TO DETAILS

APRA released draft prudential practice guide *Prudential Practice Guide CPG 511 Remuneration* for consultation. The guide sets out principles and better practice examples to assist entities in meeting the requirements proposed in the new prudential standard, *CPS 511 Remuneration*, which is due for release later this year.

The draft prudential practice guide is intended to assist entities to comply with the new standard by:

- outlining examples of better practice in board oversight, including robust challenge and independent scrutiny;
- setting out frameworks for defining non-financial measures and determining material weight for use in calculating variable remuneration; and
- setting out principles for downward adjustments of variable remuneration where there have been poor risk outcomes.

Written submissions are requested by 23 July 2021.

APRA is currently reviewing stakeholder submissions on the revised CPS 511 that was released for consultation in November last year, but does not anticipate material changes.

Superannuation trustees should review the guidance draft CPS 511 to consider the potential impact on their remuneration policies. Trustees may wish to consider making a submission in relation to the consultation paper.

Annual Member Meetings

28 April 2021
Draft Regulations

LINK TO DETAILS

Treasury released an exposure draft of the *Treasury Laws Amendment (Your Future, Your Super—Improving Accountability and Member Outcomes) Regulations 2021*. Schedule 2 to the Regulations would amend the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) to prescribe the information that must be included with the notice of the meeting.

The information that must be included with the annual members' meeting notice and is already required to be made publicly available under the SIS Regulations would be:

- a summary of each significant event or material change notice (if any) given within the previous 2 years;
- remuneration details of executive officers;
- the annual report of the superannuation entity (where such a report is required to be produced); and
- the most recent annual outcomes determination for the superannuation entity.

The other information relating to the expenditure of the fund that would be included with the annual members meeting notice relates to:

- marketing expenses;
- political donations;
- payments to industry bodies or trade associations; and
- payments to related parties.

The consultation remains open for submissions until 25 May 2021.

Superannuation trustees should consider making submissions in relation to the new requirements and update any planning to ensure that the required information is available to be published.

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Portfolio Holdings Disclosure

28 April 2021
Draft Regulations

LINK TO DETAILS

Treasury released an exposure draft of the *Treasury Laws Amendment (Your Future, Your Super—Improving Accountability and Member Outcomes) Regulations 2021*. Schedule 1 to the Regulations amends the *Corporations Regulations 2001* to prescribe the way in which portfolio holdings of a registrable superannuation entity (RSE) are to be disclosed for purposes of section 1017BB of the *Corporations Act 2001*.

The regulations would require information about an investment option to be organised consistent with the tables contained in the Regulations The tables provide for different methods for organising information depending on if the investment options are derivatives or not.

Superannuation trustees should commence planning to implement portfolio holdings disclosure, as the temporary relief is likely to expire by no later than the end of this year. Trustees may need to engage their custodian to ensure that access to data and procedures to disclose such information are in place.

Treating Employers

28 April 2021
Draft Regulations

LINK TO DETAILS

Treasury released an exposure draft of the *Treasury Laws Amendment (Your Future, Your Super—Improving Accountability and Member Outcomes) Regulations 2021*. Schedule 3 to the Regulations would amend the SIS Regulations to remove an exemption from section 68A of the SIS Act.

Section 68A of the SIS Act was amended recently to lower the standard prohibiting an offer being 'reasonably expected to influence' an employer's choice to nominate the superannuation fund as the default fund or encourage their employees to nominate the fund as their choice of fund.

The draft Regulations would repeal paragraph 13.18A(1)(d), which allows a trustee to supply a good or service to an employer in circumstances where the supply or offer is available to all of the employer's employees who are members of the fund and the terms of the supply or offer to each employee are no less than the terms offered to the employer.

Superannuation trustees should ensure that their employer relationship and business development teams are aware of the change and consider updating relevant policies to reflect the removal of the exemption once tabled.

Responsible Manager Relief

30 March 2021
Relief

LINK TO DETAILS

ASIC announced a temporary measure related to the superannuation trustee service. Trustees notifying ASIC of the appointment of new responsible manager(s), for the provision of a superannuation trustee service, are not required to provide qualification certificates and business references at the time of notification.

The temporary arrangements apply to new responsible manager notifications only, in circumstances where the trustee does not request a separate variation to the conditions of their AFS licence.

ASIC will also extend the temporary arrangements to non-public offer trustees applying to ASIC for a new AFS licence or to vary their existing AFS licence for authorisations to provide a superannuation trustee service and to deal in superannuation. Non-public offer trustees nominating responsible managers for the provision of a superannuation trustee service and to deal in superannuation will not be required to provide this information. The temporary arrangements will end on 1 July 2021.

Superannuation trustees should take note of the relief.

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Breach Reporting

22 April 2021
Consultation

LINK TO DETAILS

ASIC issued Consultation Paper 340, seeking industry feedback on proposed updates to its draft guidance on upcoming breach reporting reforms made under Schedule 11 of the *Financial Sector Reform (Hayne Royal Commission) Response Act 2020*, which would commence 1 October. The draft RG:

- Includes case studies and scenario to support its general guidance;
- identifies where the existing breach reporting obligations (as in force immediately before 1 October 2021) continue to apply;
- provides guidance on identifying what must be reported to ASIC;
- provides guidance about the obligation to report within 30 days;
- guidance on the notifying, investigating and remediating breaches of the law for AFS licensees who are financial advisers.

ASIC seeks public comment on the draft guidance and information sheet by 3 June 2021 and will finalise guidance before 1 October 2021 commencement.

Superannuation trustees should review the proposed RG to understand ASIC's expectations and provide feedback where guidance may not align with current understanding of the obligations.

Climate Related Financial Risks

22 April 2021
Consultation

LINK TO DETAILS

APRA released draft *Prudential Practice Guide (CPG) 229 Climate Change Financial Risks* for consultation. The guide aims to assist entities by providing guidance on the management of financial risks arising from climate change, including in relation to governance, risk management, scenario analysis and disclosure. It does not impose new requirements but supports APRA's existing requirements. APRA's guidance makes the following key points:

- Climate change risks have a number of elements that distinguish them from other risks, including "the potential for irreversible changes in climate, leading to impacts that may not be easily mitigated or reversed."
- A "prudent" institution will take a "strategic and risk-based approach" to the management of risks and opportunities arising from climate change.
- It is important to understand the interaction between climate risks and business activities, "as well as the compounding effect climate risks may have on an institution's other risks."
- It is prudent for institutions to develop capabilities in climate risk scenario analysis and stress testing, or to have access to scenario analysis and stress testing capabilities, to inform long and short term risk identification.

APRA is currently undertaking a climate vulnerability assessment (CVA) involving Australia's largest banks, which will involve climate scenario analysis in line with the expectations outlined in the draft PPG. The consultation closes 31 July 2021.

Noel Hutley SC and James Mack also published a Memorandum of Opinion on Superannuation Trustee Duties and Climate Change which advises that "the likelihood of the financial risk being a material risk to investments managed by a superannuation trustee is such that a trustee is obliged to undertake a two-step exercise (if they have not already) in order to comply with obligations under superannuation law."

Superannuation trustees should review the draft guidance with a view of their current practices and consider submitting a consultation response.

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TECHNICAL CHANGES AND UPDATES

Indexation of caps

19 April 2021
Reminder

LINK TO DETAILS

The ATO has reminded APRA-regulated funds that from 1 July 2021, the superannuation concessional and non-concessional contribution caps will be indexed. The new caps will be $27,500 (concessional cap) and $110,000 or $330,000 over 3 years (non-concessional cap) for 2021-22.

The total superannuation balance limit that determines if an individual has a non-concessional contributions cap of nil will also increase from $1.6 to $1.7 million, effective from 1 July 2021.

Superannuation trustees should ensure that all material service providers are aware of this change and are taking appropriate action to update all systems, processes and fund documentation. Consideration should also be given to any online or other information provided to members in relation to the transfer balance cap to ensure this accurately reflects the changes.

Financial Reporting

26 April 2021
Legislation

LINK TO DETAILS

ASIC made *ASIC Corporations (Amendment) Instrument 2021/315* implementing temporary measures aimed at facilitating financial reporting by listed and unlisted entities whose reporting processes take additional time due to current remote work arrangements, travel restrictions and other impacts of COVID-19. The temporary measures are intended to allow entities up to one additional month to complete financial reports and have those reports audited, in compliance with the financial reporting and audit requirements of the *Corporations Act 2001*.

The amending instrument makes amendments to various ASIC instruments.

ASIC will continue to monitor the appropriateness of these legislative instruments having regard to the feedback from relevant stakeholders.

Superannuation trustees should consider the need for an extension as well as other reporting obligations and needs of members.

Financial Advice Relief

15 April 2021
Relief extension

LINK TO DETAILS

ASIC has extended the relief measure that allows financial advisers to provide a record of advice rather than a statement of advice to existing clients requiring financial advice due to the impact of COVID-19. This is one of three temporary measures that were announced with the intention to facilitate affordable and timely advice during COVID-19.

The measure has been extended to 15 October 2021.

ASIC will continue to monitor the appropriateness of the temporary relief related to records of advice in light of the impact of the COVID-19 pandemic on the demand for financial advice.

If appropriate, ASIC will end the relief before the six-month period or extend it. ASIC will give sufficient notice to industry before any early repeal or extension is implemented.

Superannuation trustees should note the extension and ensure that their financial advice teams are aware of the relief.

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Insurance and Claims Handling

15 April 2021
Regulations made

LINK TO DETAILS

Treasury made *Financial Sector Reform (Hayne Royal Commission Response) (Claimant Intermediaries) Regulations 2021*, which finalise the implementation of Recommendation 4.8 of the Financial Services Royal Commission that insurance claims handling should be regulated as a 'financial service' under the Corporations Act.

These Regulations exclude financial advisers in certain circumstances, amongst others, from regulation for claims handling as a claimant intermediary under the Act meaning the person does not need comply with obligations to hold an AFSL, act efficiently, honestly and fairly when handling claims as an intermediary, and to provide disclosure documents.

The circumstances are:

- the person is a financial services licensee whose Australian financial services licence covers the provision of financial product advice; or
- both of the following are satisfied: (i) the person is an authorised representative of a financial services licensee whose Australian financial services licence covers the provision of financial product advice; (ii) the person is authorised by the licensee to provide financial product advice on behalf of the licensee.

Superannuation trustees should note the regulations.

PAYG

30 April 2021
Reminder

LINK TO DETAILS

The ATO reminded funds that early release payments should not be included in pay as you go (PAYG) reporting. For tax time 2020, a number of funds incorrectly included COVID-19 early release of superannuation (ERS) payments in their pay as you go (PAYG) withholding payment summary annual report.

COVID-19 ERS payments are tax free and are therefore not included in a member's assessable income and do not need to be reported to the ATO.

Incorrectly including ERS payments in PAYG reporting has a significant impact on members and funds. These amounts will be automatically pre-filled in the member's income tax return, potentially resulting in a miscalculation of tax payable by the individual.

Incorrect member tax assessments also impact a range of calculations and entitlements in the superannuation and welfare systems. Funds should check that their systems exclude COVID-19 ERS payments from their PAYG withholding reporting.

Superannuation trustees should ensure systems and processes do not automatically pick up the early release payment for inclusion.

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Director IDs

16 April 2021
Legislation

LINK TO DETAILS

The *Corporations Director Identification Number Data Standard 2021* was registered. The data standard relates to the new director ID regime that will require all directors to confirm their identity and a unique identified will be assigned to each individual who consents to being appointed as a director. This data standard applies to individuals applying for a director ID under the Corporations Act.

The individual will keep that unique identifier permanently, even if they cease to be a director. An individual's director ID will not be re-issued to someone else and generally only one director ID will be issued to an individual. The director ID will provide traceability of a director's relationships across companies, enabling better tracking of directors and preventing the use of fictitious identities. This will assist regulators and external administrators to investigate a director's involvement in what may be repeated unlawful activity including illegal phoenix activity.

The *Corporations (Transitional) Director Identification Number Extended Application Period 2021* was also made, extending the application period in which new eligible officers are required to apply for a director identification number (director ID) if the individual becomes an eligible officer in the period starting when the director ID legislation commences and ending 31 October 2021, until 30 November 2022 rather than within 28 days of becoming an eligible officer.

> *Superannuation trustees should review the data standard for an indication of the type of information directors will have to provide before being appointed and keep apprised of any transitional arrangements that may impact current directors.*

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GUIDANCE AND POLICY

Stewardship & Proxy Advice

30 April 2021
Consultation

LINK TO DETAILS

The Minister for Superannuation, Financial Services and the Digital Economy and the Treasurer issued a joint media release announcing a policy to reform the regulation of proxy advice providers and stewardship activities of superannuation trustees.

Treasury is consulting on that would require proxy advisers to:

- obtain an Australian Financial Services Licence for the provision of proxy advice;
- provide research and voting recommendations to the company that is the subject of a report at least five business days before providing it to their clients;
- notify their clients how to access the company's response to the report; and
- if their client is a superannuation fund, be independent from their client.

Further, superannuation funds would be required to:

- Make publicly available more detailed information on their voting record, including whether a vote was consistent with any proxy advice received; and
- outline how they exercise independent judgement in the determination of their voting positions.

The consultation is open for submissions until 1 June 2021.

Superannuation trustees should review the consultation paper and consider providing a response. The proposed reform could have a significant impact on the ability of superannuation trustees to exercise shareholder rights in relation to fund investments.

Critical Infrastructure Rules

23 April 2021
Draft Rules

LINK TO DETAILS

The Department of Home Affairs released the *Critical Infrastructure Asset Definition Rules* paper for consultation. The paper supports the *Security Legislation Amendment (Critical Infrastructure) Bill 2020* currently before Parliament which expands the definition to critical infrastructure assets, including critical superannuation assets, introduces an enhanced framework for identified industry sectors, and amends the *Security of Critical Infrastructure Act 2018* to establish additional positive security obligations; introduce enhanced cyber security obligations; and provide Government assistance to relevant entities in response to significant serious cyber security incidents that impact on Australia's critical infrastructure assets.

The draft rules recommend that the Minister prescribe registrable superannuation entity licensees that hold total assets over $20 billion to be a critical superannuation asset. Submissions to the proposed rules are requested no later than 14 May 2021. The Department also issued a summary of its consultation related to the Co-design of Governance Rules.

Superannuation trustees should review this information and remain apprised of further sector-specific rule co-design consultations, as the legislation and rules are likely to result in additional obligations.

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APRA Data Reporting

23 April 2021
Guidance

LINK TO DETAILS

APRA issued frequently asked questions (FAQs) providing guidance on commonly asked questions about reporting. The questions are intended to clarify reporting issues raised by RSE licensees and APRA "encourages entities to report to APRA in accordance with the guidance provided [in the FAQs] to the extent practicable." APRA intends to incorporate the guidance into the final reporting standards, forms and instructions and will provide formal notice when this occurs.

Key general points include:

- The due date for the first submission of all the new superannuation forms (with the exception of *SRF 550.1 Investments and currency exposure* and *SRF 550.2 Derivatives and counterparty exposure*) is 30 September 2021, which applies regardless of the ongoing due date being 28 days or 3 months from the end of the reporting period.
- Existing reporting standards still need to be submitted concurrently with the new reporting standards.
- If there are structural changes, such as merger, that take effect on or before 30 June, APRA expects that reporting will reflect the new structure.
- All standard and customised fee structures including discounted fee structures for corporate superannuation plans that are not detailed in a PDS be reported under *SRS 706.0 Fees and Costs*.

Superannuation trustees should ensure that teams tasked with APRA reporting are aware of the guidance.

Internal Dispute Resolution

06 April 2021
Guidance

LINK TO DETAILS

ASIC published an article about its expectations about the new internal dispute resolution (IDR) requirements for superannuation trustees, which take effect on 5 October 2021. Key points from ASIC's article include:

- Trustees should seek advice on how their operations will meet the requirements of RG 271.
- ASIC expects trustees to keep the member journey front of mind when reviewing and implementing their IDR process.
- When responding to complaints, ASIC expects that issues raised to are identified and addressed; facts that support findings are included and responses tailored; and sufficient detailed reasons are provided which are proportionate to the complexity of the complaint.
- Trustees should consider what systems should be in place, with ASIC encouraging trustees to think about how best to structure complaint handling in all areas of the business and make full use of complaints data insights.
- Trustees should also assess their existing IDR practices and integrate the standards set out in RG 271 into their organisational culture.
- Reviewing IDR procedures cannot be done in isolation and must be integrated with incident and risk management practices.

Superannuation trustees should review and consider this guidance alongside the implementation of the new IDR regime for 5 October 2021 commencement.

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Rollovers

19 April 2021
Guidance

LINK TO DETAILS

The ATO published guidance for APRA regulated entities on reporting to receiving funds and members.

When a fund pays a rollover super benefit or death benefit to another super fund or retirement savings account (RSA) it must:

- provide a statement to the receiving fund or RSA within three days, using the SuperStream data and payments standard;
- if the rollover SuperStream standard does not apply to the transaction, send a rollover benefits statement (RBS) or a death benefit rollover statement (DBRS) to the receiving fund within seven days of paying the rollover; and
- provide a statement to the member within 30 days, using the RBS, DBRS or a similar statement that has the same information.

The fund must advise the receiving fund of any changes or omissions in the information it provides to them within 30 days of becoming aware of a material error. The ATO warns that administrative penalties may apply if it audits a fund and finds an accurate statement has not been provided to the receiving fund on time.

The ATO also issued a new version of the "Request for rollover of whole balance of super benefits between funds" approved form.

Superannuation trustees should ensure that administrators are aware of the guidance and the consequence of administrative penalties. Trustees should also consider limitation of liability and indemnity mechanisms with their administrators in light of the upcoming prohibitions on indemnification from trust assets for administrative penalties.

AML/CTF Guides

29 March 2021
Guidance

LINK TO DETAILS

AUSTRAC released five new regulatory guides to help entities review and strengthen their AML/CTF program, systems and controls. The guides cover key areas of AML/CTF compliance identified through AUSTRAC's regulatory activity during 2020.

The guides include:

- Governance: board and senior management oversight;
- Money laundering/terrorism financing risk assessments;
- Ongoing customer due diligence;
- International Funds Transfer Instructions (IFTIs) reporting; and
- Correspondent banking relationships.

AUSTRAC also updated the applicable customer identification procedures resources and guidance. The updates include new guidance and example scenarios that will help entities identify gaps in their customer identification, verification and ongoing customer due diligence processes.

Superannuation trustees should review the material and ensure that their administration procedures reflect the updated guidance.

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Consumer Data Right

30 April 2021
Consultation

LINK TO DETAILS

Treasury and the Data Standards Body are seeking input on the development of rules and standards to implement an 'opt-out' data sharing model for joint accounts in the banking and energy sectors. The consultation is not banking-sector specific, as the intention is to develop a model that will be workable for data sharing on joint accounts across the economy.

The current model is banking-sector specific (see Schedule 3, Part 4 of the rules). The 'opt-in' requirement means that while one joint account holder may initiate a consent process with an ADR to share joint account data, the process will stall if any other joint account holders have not previously indicated that they wish to share data from the account. ADRs have raised concerns that the current approach introduces excessive friction leading to unfulfilled data sharing requests, ultimately discouraging businesses from offering CDR-based services to consumers.

The design paper sets out proposals on options for how an 'opt-out' approach could be implemented in the rules and standards, with an aim to articulate a sector-agnostic data sharing model that provides an optimal joint accounts data sharing consumer experience that reduces friction for consumers while providing appropriate control and transparency.

Superannuation trustees should review the paper and consider whether the concepts and preferred options proposed are practicable for members that may want to share bank information with their fund.

Regulatory Body Financial Advisers

19 April 2021
Consultation

LINK TO DETAILS

Treasury has released draft legislation that seeks to implement Recommendation 2.10 of the Financial Services Royal Commission Final Report which recommended the establishment of a single disciplinary body for financial advisers and the requirement that all financial advisers who provide personal financial advice to retail clients be registered.

The *Financial Sector Reform (Hayne Royal Commission Response—A New Disciplinary System for Financial Advisers) Bill 2021*:

- expands the role of the Financial Services and Credit Panel within ASIC to operate as the single disciplinary body for financial advisers;
- creates new penalties and sanctions which apply to financial advisers found to have breached their obligations;
- introduces a new annual registration system for financial advisers; and
- provides for the wind-up of FASEA and transfer of the functions of that authority to the Minister responsible for the *Corporations Act 2001* and ASIC.

Treasury is accepting responses until 14 May 2021.

Superannuation trustees should note the draft bill and consider any potential impact on their financial advice services.

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Modernising Business Communications

21 April 2021
Announcement

LINK TO DETAILS

The Government announced, as part of its economic plan and deregulation agenda, that it has committed to modernise laws within the Treasury portfolio so they are technology neutral. The first phase of legislative reform will focus on the key areas raised by stakeholders which are implementation-ready. These include:

- expanding the range of documents that can be validly signed electronically;
- increasing the range of documents that can be sent electronically to shareholders and amending requirements to contact lost shareholders;
- improving flexibility for customers when changing address;
- removing prescriptive requirements for notices to be published in newspapers, where suitable alternatives have been identified; and
- addressing provisions in Treasury legislation where only non-electronic payment options are in place.

Subsequent phases will consider reforms in additional areas that could benefit from greater technology neutrality, including:

- communication with regulators (for example, the conduct of hearings);
- reducing or removing Treasury portfolio legislation exemptions to the *Electronic Transactions Act 1999*; and
- product disclosure and recordkeeping requirements.

Superannuation trustees should note the announcement and stay apprised of any legislative changes that may be announced as part of this initiative.

Regulator Performance Guide

April 2021
Consultation

LINK TO DETAILS

As part of its renewed Deregulation Agenda, the Government has issued for consultation a new Regulator Performance Guide. This comes in response to feedback from business, regulators and other key stakeholders that the existing framework is not consistently driving best practice performance or producing transparent and meaningful performance information.

Key elements of the draft guide include:

- A more outcomes-focused and principles-based approach, with expectations for regulator performance set out in three principals with a supporting library of best practice that gives practical examples on how to embed and report on these expectations.
- Statements of Expectations and Intent.
- Removal of the requirement for external validation of a regulator's performance assessment, with regulators instead encouraged to engage in a two-way dialogue with stakeholders on performance on an ongoing basis and reflect feedback in performance reporting.

The Government seeks submissions on the draft guide by 21 May 2021.

Superannuation trustees should review the guide and provide any feedback where warranted.

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Payment Times Reporting

14 April 2021
Reminder

LINK TO DETAILS

The Government updated its website to remind large businesses that reporting entities must report twice a year on their payment terms and practices to small business suppliers, with the first reporting window opening 1 July 2021.

An early release of the Payment Times Reporting Portal is currently available. The Small Business Identification tool (SBI tool) assists large businesses to identify their small business suppliers. The provisional version of the SBI tool is now available through the Payment Times Portal.

The Payment Times Reporting Template is available in the Portal. Reporting entities will complete the template with their payment times information and submit through the Portal. Information that businesses provide in their reports will be available to the public on the Payment Times Reports Register. The Register will be available after the end of the first reporting period, which is the third quarter of 2021.

Superannuation trustees should consider whether they are required to report under the regime and, if so, ensure they have appropriate systems and processes in place to report in accordance with the deadlines.

ENFORCEMENT & CASE LAW

ASIC Enforcement

16 April 2021
Update

LINK TO DETAILS

ASIC released its enforcement update report for the period 1 July to 31 December 2020.

Key superannuation related updates include:

- ASIC continued to prioritise misconduct related to superannuation and insurance.
- In response to the impact of COVID-19 on the financial system and the potential for harm that this has created, ASIC continued to pursue matters to address egregious governance failures within corporates, schemes and superannuation funds.
- As at 1 January 2021 there were 4 criminal and 14 civil superannuation related misconduct litigations in progress.

Superannuation trustees should note the update.

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