

LEGAL, REGULATORY & POLICY UPDATE

PENSIONS AND SUPERANNUATION

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IN BRIEF

*What a month! The release of the **Your Future, Your Super** regulations kicked us off, detailing the **Stapling, Performance Test** requirements and **Annual Member Meeting** obligations. Notably, the **Portfolio Holdings Disclosure** regime takes shape with draft regulations almost a decade after first being legislated. **Breach reporting** and **anti-hawking** regulations were also finalised, in advance of the October start.*

*A significant amount of draft legislation was released for consultation, including a proposal to impose additional **financial reporting and auditing requirements** for RSEs, proposed changes to the **DDO** regime, an inquiry into **common ownership and capital concentration** and the establishment of a **single disciplinary body** for financial advisers.*

*Regulators have been busy and released guidance and FAQs across a range of topics, including the **MySuper Product performance test** and **DDO**, while APRA continues to issue more information about the much-anticipated go-live of **APRA Connect** later this month.*

MAJOR UPDATES



Commonwealth Parliament

August 2021
Parliamentary Business

[@LINK TO DETAILS](#)

Commonwealth Parliament held several sittings throughout the month of August. The following superannuation related legislation was passed:

- [Treasury Laws Amendment \(2021 Measures No. 1\) Bill 2021](#)

The following bills were introduced:

- [Treasury Laws Amendment \(2021 Measures No. 6\) Bill 2021](#)
- [Treasury Laws Amendment \(2021 Measures No. 7\) Bill 2021](#)

The following superannuation related bills remain before Parliament:

- [Treasury Laws Amendment \(2020 Measures No. 4\) Bill 2021](#) – however it seems these measures will be pursued via the *2021 Measures No. 7 Bill*.
- [Security Legislation Amendment \(Critical Infrastructure\) Bill 2020](#)
- [Financial Sector Reform \(Hayne Royal Commission Response—Better Advice\) Bill 2021](#)
- [Treasury Laws Amendment \(2021 Measures No. 5\) Bill 2021](#)

Parliament will sit on 1-2 September before recess until 18 October 2021.

Superannuation trustees should remain apprised of bill status to ensure preparedness for any required change implementation, including ensuring adequate planning and resources are in place.



Stapling Regulations

5 August 2021
Legislative Instrument

[LINK TO DETAILS](#)

The [Treasury Laws Amendment \(Your Future, Your Super—Single Default Account\) Regulations 2021](#) were made to support the ‘stapling’ provisions within the [YFYS Act](#). The Regulations amend the [Superannuation Guarantee \(Administration\) Regulations 2018](#) and outline the requirements for a superannuation fund to be a ‘stapled fund’, along with tie-breaker rules the ATO must follow where an individual may have two or more funds that meet the stapled criteria.

The Regulations also prescribe the circumstances in which an employer may request stapled fund information from the ATO, as well as the limited circumstances where the ATO may change a previous notification given to an employer. No changes have been made from the Exposure Draft Regulations released in May 2021 to the finalised Regulations.

Superannuation trustees should review the Regulations and ensure employer-facing staff understand the requirements for the November commencement.



Annual Performance Test

5 August 2021
Legislative Instrument

[LINK TO DETAILS](#)

The [Treasury Laws Amendment \(Your Future, Your Super—Addressing Underperformance in Superannuation\) Regulations 2021](#) were made to support the annual performance test as prescribed within the [YFYS Act](#).

The ‘representative administration fees and expenses’ (RAFE) are assessed based on the most recent financial year in the finalised Regulations, whereby the Exposure Draft assessed the RAFE for the ‘lookback period’ in alignment with the period upon which actual vs benchmark investment returns were assessed.

Otherwise, the Regulations contain a significant amount of detail pertaining to the reforms, including:

- when APRA must conduct the annual performance test, which products are subject to the annual performance test and the requirements for the annual performance test;
- the circumstances where products are to be treated as combined, such as the performance test and triggering the prohibition on a trustee from accepting new beneficiaries into an underperforming product;
- the form and content requirements for the notice a trustee is required to give to beneficiaries who hold a product that has failed the performance test;
- the requirement to make information about a failed annual performance test result publicly available on the RSE's website;
- the circumstances where APRA may lift a prohibition on a trustee from accepting new beneficiaries into an underperforming product; and
- formulas as a basis for, or methods for, ranking Part 6A products, which under the amendments in the YFYS Act, APRA may give to the ATO to enable the implementation of the YourSuper comparison tool.

APRA released [the results](#) from the inaugural MySuper Product performance test on 31 August 2021. APRA assessed 76 MySuper products (out of a total 80 MySuper products in the market) with at least 5 years of performance history against the objective benchmark. APRA identified 13 products which failed against the benchmark.

Superannuation trustees should review the Regulations in detail to ensure a comprehensive understanding of the methodology and approach undertaken to assess performance.



Family Law

11 August 2021
Bill introduced

[LINK TO DETAILS](#)

The Government introduced [Treasury Laws Amendment \(2021 Measures No. 6\) Bill 2021](#). Schedule 5 of the Bill seeks to facilitate the identification of superannuation assets for family law proceedings.

The Registries of the Court will act as an intermediary in the information sharing process, whereby a party to a family law proceeding can request the Court to obtain information regarding the ex-spouse's superannuation from the ATO. The Bill also allows for the ATO to share the relevant information with the Court, to make it harder for parties to hide superannuation assets.

This initiative was initially announced as part of the 2018 Women's Economic Security Statement and fulfills a commitment made by the Government within the 2021 Federal Budget.

Superannuation trustees should review the Bill and consider the potential impacts to administration processes and disclosure to members.



Electronic Disclosures

13 August 2021
Royal Assent

[LINK TO DETAILS](#)

The [Treasury Laws Amendment \(2021 Measures No. 1\) Act 2021](#) was passed by both houses and received Royal Assent, extending the temporary relief given to companies to use technology to hold virtual meetings, distribute meeting related materials and validly execute documents.

The Act was amended within the Senate to extend the relief to 31 March 2022 (from the original end date of 15 September 2021) given the lengthy delay in passing the legislation. Additional amendments were approved, giving ASIC power to grant short-term relief for the requirement to hold a meeting at a physical location and give documents in hard-copy where the ability to do so is outside of the entity's control.

Separately, the government released Exposure Draft [Treasury Laws Amendment \(Measures for Consultation\) Bill 2021: Use of technology for meetings and related amendments](#) on 30 August 2021, which follows a consultation on implementing permanent reforms in June 2021.

Superannuation trustees should note the passing of the legislation and ensure fund policies reflect the ability to execute these responsibilities electronically.



Anti-Hawking

6 August 2021
Legislative Instrument

[LINK TO DETAILS](#)

The [Financial Sector Reform \(Hayne Royal Commission Response\) \(Hawking of Financial Products\) Regulations 2021](#) in conjunction with the [Financial Sector Reform \(Hayne Royal Commission Response\) Act 2020](#) implements recommendations 3.4 and 4.1 of the Financial Services Royal Commission in relation to the hawking of financial products, which takes effect on 5 October 2021 and prohibits the offer to sell or issue a financial product to a consumer in the course of, or because of, unsolicited contact.

Schedule 1 of the Regulations provides for an exception to this prohibition where a consumer is expected to have enough knowledge to adequately assess the suitability of the product or where another part of the law already provides a consumer with adequate protection from being hawked a financial product. The Regulations also repeal other existing exceptions to the hawking prohibition which curtail or reduce the effectiveness of the prohibition and increase the risk of consumer harm.

ASIC has also released for [consultation](#) proposed changes to Regulatory Guide 38 *The hawking prohibitions*.

Superannuation trustees should review the Regulations and ensure internal policies and processes align with the required practice.



Portfolio Holdings Disclosure

17 August 2021
Consultation

[LINK TO DETAILS](#)

The Government is undertaking further consultation on the regulations for portfolio holding disclosure by superannuation funds. The Your Future Your Super Regulations were finalised in early August, however the portfolio holdings disclosure was omitted from the finalised legislation, instead requiring an additional period of consultation based on industry feedback.

The proposed amendments include changes to:

- introduce a requirement that the information should be easily downloadable from the website of the fund in a delimited file format;
- allow cash and bank bill investments to be aggregated by the relevant institution;
- sub-divide infrastructure and property into directly held and unitised and require percentage ownership for directly held;
- remove the requirement to disclose maturity dates and counterparty name for derivatives; and
- make it clear in the Explanatory Statement that, in addition to the mandatory disclosures, RSEs are free to provide supplementary information regarding the portfolio holdings of the RSE's products in a separate public disclosure.

Consultation closed 31 August 2021.

Superannuation trustees should review the proposed amendments and ensure readiness for the commencement of the requirements from 31 December 2021.



Annual Member Meetings

5 August 2021
Legislative Instrument

[LINK TO DETAILS](#)

The [Superannuation Industry \(Supervision\) Amendment \(Your Future, Your Super—Improving Accountability and Member Outcomes\) Regulations 2021](#)

have been made to support the requirement of an RSE licensee to hold an Annual Member Meeting (AMM) in accordance with the SIS Act (the Act).

Schedule 1 prescribes the information that must be given to the member, either directly or referenced within the AMM notice, and includes:

- A summary of each significant event notice for the prior two years up to the end of the year of income;
- Remuneration details of a relevant executive officer or relevant individual trustee that are required to be made publicly available at the time the notice is given;
- A copy of the annual report, annual outcomes assessment and periodic statement for the income year;
- The sum of all payments made for the purpose of promotion, industry engagement or sponsorship itemised against payee, along with all relevant contract end terms;
- An itemised list of any gifts made to a political entity, political campaigner or an associated entity;
- An itemised list of any payments made to a registered organisation in accordance with the Fair Work (Registered Organisations) Act 2009; and
- An itemised list of any payments made to an associated entity.

The first page of required information accompanying the notice must be a one-page short-form summary document outlining the key information contained within subsequent pages. The notice must be made readily accessible on the RSE licensee's website.

Superannuation trustees should review the finalised Regulations noting that the amendments will apply from the income year ending 30 June 2022.



Influencing Employers

5 August 2021
Legislative Instrument

[LINK TO DETAILS](#)

Schedule 2 of the [Superannuation Industry \(Supervision\) Amendment \(Your Future, Your Super—Improving Accountability and Member Outcomes\) Regulations 2021](#) removes an exception to the revised prohibition on influencing employers.

It amends the SIS Regulations to remove an exemption from section 68A of the SIS Act, which prohibits the trustee or an associate of the trustee of a fund from offering or refusing to supply a good or service to an employer on the condition that the employees must become members of the fund.

Trustees will no longer be able to supply a good or services to employers even where the supply or offer is made available to all of the employer's employees who are members of the fund on terms no less favourable to those offered to the employer.

Superannuation trustees should review existing arrangements that may involve supplying or offering to supply goods or services to employers from the commencement date.



Breach Reporting

5 August 2021
Legislative Instrument

[LINK TO DETAILS](#)

Treasury released [Financial Sector Reform \(Hayne Royal Commission Response – Breach Reporting and Remediation\) Regulations 2021](#) to support the breach reporting regime which is due to commence on 1 October 2021.

The Regulations expand upon the existing exemptions to the new 'deemed' significant breach reporting requirements and prescribe additional civil penalty provisions which, if breached, do not automatically constitute a significant reportable breach.

Separately, ASIC made [ASIC Corporations and Credit \(Breach Reporting—Reportable Situations\) Instrument 2021/716](#) which seeks to exclude the civil penalty provisions contained within the [IDR Standards](#) from being classified as a reportable situation under the new breach reporting regime.

The rationale for expanding the range of breaches which are exempt from the breach reporting regime is to reduce the regulatory burden that would otherwise be associated with reporting a minor, technical, or inadvertent issue if they were deemed automatically significant.

Superannuation trustees should ensure readiness for the new Breach Reporting regime, along with a clear understanding of what constitutes a 'deemed' reportable breach and the relevant exemptions.



TECHNICAL CHANGE AND UPDATES



ATO Stapling Relief

August 2021
Draft Legislation

[LINK TO DETAILS](#)

In preparation for the Your Future Your Super Stapling reforms to commence, the ATO released two draft legislative instruments regarding the penalties associated with non-compliance with the reforms.

[SPR 2021/D1](#) and [SPR 2021/D2](#) provide for a transitional period of 1 November 2021 to 31 October 2022 for employers to comply with the stapling requirements. Where an employer is found to have a shortfall within the transitional period, the ATO may apply discretion to reduce the shortfall to nil where the employer made reasonable attempts to comply with the new legislation.

Superannuation trustees should note the draft legislation and ensure employer-facing teams are made aware of the stapling regime for the 1 November 2021 commencement.



ECPI Calculation

11 August 2021
Bill introduced

[LINK TO DETAILS](#)

[Treasury Laws Amendment \(2021 Measures No. 6\) Bill 2021](#) was introduced to Parliament which contains measures to streamline the administration requirements for the calculation of exempt current pension income (ECPI).

Schedule 3 amends the *Income Tax Assessment Act 1997* (ITAA 1997) to remove the requirement for superannuation trustees to obtain an actuarial certificate when calculating exempt current pension income, where all members of the fund are fully in retirement phase for all of the income year. This is achieved by permitting such funds to use the segregated method to calculate exempt current pension income.

Superannuation trustees should review and confirm whether there is any impact on the Trustee's accounting practices.



COVID-19 Recontribution

31 August 2021
Guidance

[LINK TO DETAILS](#)

The ATO released further guidance and FAQs in relation to the recontribution of funds withdrawn under the COVID-19 Early Release Scheme. This measure was included as a late amendment to the [Treasury Laws Amendment \(More Flexible Superannuation\) Act 2021](#) and commenced 1 July 2021.

The ATO also released the approved form that individuals are instructed to complete and provide to their superannuation fund at the time of, or before making a recontribution. Superannuation trustees can create their own version of the form providing it collects the required information.

Separately, the ATO confirmed that any recontribution amounts received must be reported via MATS as a personal contribution (as per standard process) with a corresponding monthly report containing the member details for any recontributions made. The ATO expects this information to be provided via the Bulk Data Exchange, but until this functionality is ready, trustees should temporarily retain this information until further advised.

Superannuation trustees should ensure outsourced administrators and software providers are aware of the guidance and are sufficiently prepared. Member disclosure should reflect the new contribution type, and consideration should be given to the form that members will be requested to use.



GUIDANCE AND POLICY



CPS 511 Remuneration

27 August 2021
Prudential Standard

[LINK TO DETAILS](#)

APRA issued a response paper and finalised the prudential standard [CPS 511 Remuneration](#) following an extended consultation process across the banking, insurance and superannuation industries.

Broadly applicable, the standard contains the following key requirements:

- the Board of an APRA-regulated entity is responsible for the remuneration framework and its effective application, consistent with the size, business mix and complexity of the entity;
- an entity must maintain a remuneration framework that promotes effective management of financial and non-financial risks;
- remuneration outcomes must be commensurate with performance and risk outcomes; and
- higher standards must be met for key roles and certain large, complex entities.

For RSE Licensees, the Standard will come into effect from 1 July 2023 for those which are a significant financial institution (SFI) (assets exceeding \$30B) and 1 January 2024 for all other non-SFIs. APRA expects to finalise Prudential Practice Guide *CPG 511 Remuneration* in the coming months to support the finalised Standard.

Superannuation trustees should ensure they are comfortable with the SFI criteria to ensure adherence to the correct commencement date, and that all policies are reviewed and updated to reflect the new standard.



ASIC Reviews Annual Member Meetings

6 August 2021
Report

[LINK TO DETAILS](#)

ASIC released findings related to their review of Annual Member Meetings (AMM) held by a selection of superannuation trustees over the period October 2020 to March 2021. In total, 24 superannuation funds were reviewed to assess whether trustees:

- met meeting attendance requirements by relevant directors, executive officers and service providers;
- published minutes of the meeting, including answers to members' questions, on their funds' websites; and
- provided a reasonable opportunity for members to ask questions and answered those questions within one month.

Whilst ASIC did not identify any significant failures by trustees within their surveillance, opportunities for improvement were noted, including to:

- Provide clear information to members on how to submit questions prior to and during the meeting;
- Share Q&A with the broader membership of the fund; and
- Provide a video recording of the meeting.

Superannuation trustees should review ASIC's findings and recommendations against their 2020 AMM activities and disclosure to identify any areas for improvement for the 2021 meeting.



Single Disciplinary Body

6 August 2021
Consultation

[LINK TO DETAILS](#)

Treasury released a [Policy Paper](#) seeking feedback on Regulations for the [Financial Sector Reform \(Hayne Royal Commission Response—Better Advice\) Bill 2021](#).

The objective of the paper is to seek feedback on:

- the circumstances when ASIC must convene a Financial Services and Credit Panel (FSCP) to determine a disciplinary matter; and
- the types of administrative sanctions made against a financial adviser that must be included on the Financial Advisers Register (FAR).

The consultation includes a proposed disciplinary process across both ASIC and the FSCP where a potential breach and investigation take place.

Submissions for the consultation closed on 20 August 2021.

Superannuation trustees should note the Policy Paper and consider the impact on the financial advice arm of the business (where applicable).



ASIC Levies

30 August 2021
Announcement

[LINK TO DETAILS](#)

The government announced a reduction in the ASIC cost recovery levies charged for personal advice to retail clients, reducing the amount charged to the 2018/19 level of \$1,142 per adviser for the 2020-21 and 2021-22 financial years. The flat licensee charge of \$1,500 will remain.

Treasury will also review the ASIC Industry Funding Model while this temporary relief is in place, to ensure it remains fit for purpose in the longer term given structural changes taking place in the advice industry. This review will commence in 2022 and will be undertaken in consultation with the Department of Finance and ASIC.

Superannuation trustees should note the announcement and ensure internal finance teams are aware of the change for consideration within internal budgets.



Financial Reporting & Audit

12 August 2021
Consultation

[LINK TO DETAILS](#)

Treasury released [Treasury Laws Amendment \(Financial Reporting and Auditing Requirements for Registrable Superannuation Entities\) Bill 2021](#) for consultation.

The draft Bill requires RSE licensees to:

- prepare and lodge financial reports for each financial year and half-year with ASIC;
- publish the financial report, directors' report and auditor's report for a financial year on the RSE's website and provide details of how to access these reports with the notice of the annual members meeting; and
- provide a copy of the financial reports for a financial year and half-year to members and beneficiaries on request.

The draft Bill also amends the requirements for the auditor of an RSE to ensure that the auditor, and in certain circumstances, audit firms and audit companies, are subject to stringent eligibility, reporting and independence requirements.

Consultation closes on 8 September 2021.

Superannuation trustees should consider submitting a response to the consultation and assess the impact of the reforms internally.



ASIC Priorities and Corporate Plan

26 August 2021
Announcement

[LINK TO DETAILS](#)

The Government released a [Statement of Expectations](#) of ASIC, which seeks to outline its expectations on how ASIC will achieve their objectives, carry out functions and exercise their powers, including:

- Promote sound functioning of capital markets in a way that both minimises cost and burden of regulatory requirements while promoting competition and innovation;
- Work closely with the Government and Treasury through the provision of information and the exercise of policy-related functions and rule-making powers; and
- Act independently in its regulatory functions.

In response, ASIC released a [Statement of Intent](#) to address the expectations noted by the Government.

Additionally, ASIC released their [2021-2025 Corporate Plan](#) which outlines the priorities over the next four years to achieve a fair, strong and efficient financial system. The Corporate Plan is consistent with the Statement of Intent and confirms ASIC's four external strategic priorities as:

- Promoting economic recovery;
- Reducing risk of harm to consumers who are exposed to poor product design and risk of scam activity;
- Supporting enhanced cyber resilience and cyber security; and
- Driving industry readiness in compliance with standards set by law reform initiatives.

Superannuation trustees should review the documentation to ensure familiarity with ASIC's priorities and approach to exercising their duties and ensure alignment with internal priorities.



Common Ownership Inquiry

29 July 2021
Inquiry

[LINK TO DETAILS](#)

Following a request to the Treasurer, the Joint Standing Committee on Economics will inquire into the implications of capital concentration and common ownership in publicly listed companies within Australia.

The terms of reference for the inquiry are:

- The extent of capital concentration and common ownership of public companies, and its likely future trajectory in Australia;
- The influence of capital concentration and common ownership on markets, including on investment decisions, market behaviour, competition and any other relevant factors;
- The changing influence between individual investors and small funds, compared to larger funds, as a result of capital concentration and common ownership;
- Any related consequences that flow from capital concentration and common ownership, including international experiences;
- The role of regulators in responding to these consequences; and
- Policy responses to address these consequences, including by government, regulators and public companies.

Closing date for submissions is 13 September 2021.

Superannuation trustees should review the consultation paper and consider submitting a response.



APRA Corporate Plan 2021-2025

26 August 2021
Corporate Plan

[LINK TO DETAILS](#)

APRA released the [2021-2025 Corporate Plan](#) outlining how it intends to ensure the ongoing strength and resilience of the Australian financial system over the next four years. Based upon the strategic theme of “protected today, prepared for tomorrow”, the Plan acknowledges the ongoing impact of COVID-19 on the economic and financial environment.

APRA specifically calls out the following forward-looking priorities:

- The evolving financial landscape in Australia including understanding the impact of new financial activities and participants;
- Helping to find solutions to current challenges, such as superannuation retirement income products, insurance accessibility and affordability for Australians, and the financial risks associated with climate change; and
- Adopting the latest regulatory tools, techniques and practices.

Superannuation trustees should review the Plan to ensure familiarity with APRA’s priorities and that internal initiatives align with these priorities.



MySuper Performance History

16 August 2021
Information Paper

[LINK TO DETAILS](#)

APRA has released an [Information Paper](#) outlining how they will assess a MySuper product for the purposes of undertaking the annual performance test as legislated under the Your Future Your Super reforms. The [Your Future, Your Super—Addressing Underperformance in Superannuation Regulations 2021](#) give APRA flexibility in how MySuper product performance will be assessed where changes to the product occur partway through the period.

Accordingly, APRA has developed a set of principles that will be followed to ensure consistency when determining whether to combine multiple MySuper products for the performance test, the methodology employed to calculate returns that have been combined, and how investment performance data will be combined for the ATO’s YourSuper comparison tool. Separately, APRA released a [suite of FAQs](#) to provide general and technical guidance to RSE licensees on the annual performance test.

Superannuation trustees should review the Information Paper and FAQs to ensure familiarity with APRA’s approach to the performance test.



Design and Distribution Obligations

August 2021
Guidance and consultation

[LINK TO DETAILS](#)

ASIC released a series of [FAQs and guidance](#) in relation to the significant dealing notification rules within the Design and Distribution Obligations (DDO) regime which commences 5 October 2021.

As part of these obligations, issuers must notify ASIC of a significant dealing (except excluded dealings) in a financial product that is not consistent with the product’s target market determination. The guidance provides detail on the definition of a ‘significant dealing’, and ASIC notification requirements. Separately, Treasury are [consulting](#) on a suite of proposed changes to the DDO regime to better achieve the intended operation. The proposed amendments include clarification that employees of licensees are not subject to their own separate set of obligations; provide consistency in the application of retail and wholesale investors definitions; and exempt non-cash payment facilities such as clearing houses from the regime.

ASIC intends to provide temporary relief giving effect to the Government’s policy intention in the interim before the legislative changes are made.

Superannuation trustees should review the FAQs and the proposed changes to ensure the updated requirements are reflected within the implementation of the DDO regime and ensure readiness for the 5 October 2021 commencement.



ENFORCEMENT AND CASE LAW



ASIC v Westpac

24 August 2021
Court Order

[LINK TO DETAILS](#)

The Federal Court has ordered Westpac Bank subsidiaries Westpac Securities Administration Limited (Westpac Securities) and BT Funds Management Limited (BT Funds) to pay a combined penalty of \$10.5 million for failing to act in their clients' best interests.

This follows a decision by the High Court on 3 February 2021 confirming that Westpac breached financial services laws by giving members financial product advice that was personal advice.

The original case related to 14 telephone calls made to consumers between the period of 1 January 2013 and 16 September 2016 in which a recommendation was made to customers to roll out of their existing superannuation accounts and into a Westpac-related superannuation account.

Westpac securities have been ordered to pay a \$7.5m penalty and BT Funds ordered to pay \$3m.

The presiding Judge has yet to publish the reasons for the decision.



ASIC v NAB

26 August 2021
Court Order

[LINK TO DETAILS](#)

The Federal Court has ordered National Australia Bank Limited (NAB) to pay an \$18.5m penalty in relation to misleading fee disclosure failures. The Court also declared NAB contravened its obligations as an Australian financial services licence holder to act efficiently, honestly and fairly by failing to have procedures and systems in place to provide timely and effective fee disclosure statements.

The Court found NAB breached the law on numerous occasions when it:

- charged fees for personal advice without giving customers compliant fee disclosure statements;
- failed to provide fee disclosure statements to clients within the time required; and
- made false or misleading representations to clients in fee disclosure statements about the amount clients had paid for services and the services which clients had received.

The Court also found NAB had not established or maintained systems and procedures to identify whether:

- services were provided in accordance with client service agreements;
- its fee disclosure statements were compliant; and
- it was prohibited from charging service fees.

ASIC commenced civil penalty proceedings against NAB in December 2019 in relation to Fees for No Service Conduct and the consequential issuing of defective fee disclosure statements between December 2013 and February 2019.



Also this month:



APRA [confirmed](#) that an individual in receipt of a *Pandemic Leave Disaster Payment* or *COVID-19 Disaster Payment* cannot automatically be assumed to be 'gainfully employed' for the purposes of meeting the 'Work Test'.



The [Treasury Laws Amendment \(2021 Measures No. 7\) Bill 2021](#) was introduced to Parliament. Schedule 2 of the Bill is identical to Schedule 2 of the [Treasury Laws Amendment \(2020 Measures No. 4\) Bill 2021](#) introduced earlier this year and seeks to facilitate the closure and any transitional arrangements associated with the AFCA replacing the SCT.



AFCA released a [Fact Sheet](#) to assist superannuation trustees to comply with a request from AFCA to supply a copy of the fund's Trust Deed.



APRA has [published](#) additional FAQs to provide further guidance to RSE licensees on the reporting standards for Phase 1 of the Superannuation Data Transformation project. An update has also been made to a range of [worked examples](#) in relation to the new standards.



APRA released further information and guidance to Trustees in preparation for the go-live of [APRA Connect](#) on 13 September 2021.



ATO [announced](#) an update to the Compassionate Release of Super approval notifications to include the nominated super fund's USI in the file name.



FASEA released [Corporations \(Relevant Providers Exams Standard\) \(Amendment No. 1\) Determination 2021](#) which allows an advisor to sit the November 2021 exam even if the advisor has sat the exam within 3 months before the date of the November 2021 exam.



ATO released a [factsheet](#) for individuals regarding the allocation of compensation to their superannuation account and the potential impact to the concessional contributions cap.



ASIC outlined their [approach](#) to new laws reforming the financial services sector that are due to come into effect in October, recognising the significant impact on industry.



The ATO released [TR 2010/1DC Income tax: superannuation contributions](#) which is a draft consolidation outlining proposed changes to *TR 2010/1* to explain the interactions between the non-arm's length income provisions and SG rules. Consultation closed 27 August 2021.



The ATO released [Draft Law Administration Practice Statement Remission of additional superannuation guarantee charge](#) (PS LA 2021/D1) for consultation, outlining the Commissioner's revised approach in relation to the remission of additional super guarantee charge imposed under the *Superannuation Guarantee (Administration) Act 1992* (SGAA).



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