

LEGAL, REGULATORY & POLICY UPDATE PENSIONS AND SUPERANNUATION

INSIDE THIS EDITION

- FINANCIAL ACCOUNTABILITY REGIME
- CPS 511 REMUNERATION
- PERFORMANCE TEST
- SECRET COMMISSIONS IN NSW
- THE OBJECTIVE BILL
- ENFORCEMENT ACTIVITY



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IN BRIEF

The Financial Accountability Regime legislation has finally passed both Houses of Parliament, but there are still several superannuation related bills before the Senate. APRA also released the final CPS 511 Remuneration Prudential Standard.

The 2023 Performance Test results were released, with trustee directed products included for the first time. Accompanying Regulations to improve the test were finalised, alongside a Determination on combining product histories.

Trustees may soon have clarity regarding the legality of appointing a new trustee for mergers or successor fund transfers (albeit only in NSW), whilst several other cases and enforcement activities were undertaken in the courts across the country.

COMMONWEALTH PARLIAMENT



Superannuation Bills

August 2023
Parliamentary Business

[LINK TO DETAILS](#)

Status key

- House of Reps.
- Committee
- Senate
- Royal Assent

Commonwealth Parliament sat from 31 July to 3 August and again 7 August to 10 August. The following bill was introduced:

■ [Housing Australia Future Fund Bill 2023 \[No. 2\]](#)

The following superannuation-related bills remain before the Senate:

■ [Treasury Laws Amendment \(2023 Law Improvement Package No. 1\) Bill 2023](#)

■ [Treasury Laws Amendment \(2023 Measures No. 3\) Bill 2023](#)

■ [Treasury Laws Amendment \(Consumer Data Right\) Bill 2022](#)

■ [Treasury Laws Amendment \(2023 Measures No. 1\) Bill 2023](#)

■ [Housing Australia Future Fund Bill 2023](#)

The Senate passed the following Bills, which are pending royal assent:

■ [Financial Accountability Regime Bill 2023](#)

■ [Treasury Laws Amendment \(Modernising Business Communications and Other Measures\) Bill 2023](#)

The *Housing Australia Future Fund Bill 2023 [No. 2]* was introduced to replace the *Housing Australia Future Fund Bill 2023* which is currently before the Senate but has not progressed. Parliament is due to sit for two weeks commencing 4 September 2023.

The passage of the *Financial Accountability Regime Bill 2023* without amendment is a significant development for superannuation trustees. The 18 month period before commencement means that commencement is likely to be in March 2025.



MAJOR UPDATES

**Crime of corrupt benefits to trustees**

August 2023
Parliamentary Business

[LINK TO DETAILS](#)

The [Crimes Amendment \(Corrupt Benefits for Trustees\) Bill 2023](#) was introduced to New South Wales Parliament Legislative Assembly. The Bill seeks to **amend section 249E of the NSW Crimes Act**.

The amendment seeks to **introduce an element of corruption** to the offence of corrupt benefits for trustees (with retrospective effect).

If passed, the amendment would provide more certainty when appointing a new trustee as part of a merger or successor fund transfer or appointing a new trustee of an investment vehicle without the consent of all beneficiaries or the Court.

Recent decisions in the Supreme Courts of NSW and other states had created some uncertainty as to whether certain merger activities may have constituted an offence. The Bill seeks to provide certainty, but **only relates to NSW**.

Superannuation trustees should remain aware of the risks associated with the appointment of a new trustee prior to this Bill being passed, and the risks that may still exist in other states.

**Objective of Superannuation**

1 September 2023
Exposure Draft

[LINK TO DETAILS](#)

Treasury released [Exposure Draft Superannuation \(Objective\) Act 2023](#) and [Exposure Draft Superannuation \(Objective\) \(Consequential and Transitional Provisions\) Act 2023](#) (collectively 'Bills') for consultation. These Bills seek to legislate the objective of superannuation as follows:

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

Under the legislation, policy-makers would be required to assess future changes to superannuation legislation for compatibility with this objective and **include a statement of compatibility** with the objective in the explanatory materials accompanying all Commonwealth Bills and regulations relating to superannuation (unless an exception applies).

The Bills do not propose to change the operation or interpretation of superannuation law, nor the regulatory supervision activities currently performed, but is **intended to codify the system's purpose**.

Feedback is sought on the proposed objective by 29 September 2023.

Superannuation trustees should carefully review the phrasing of the objective and consider whether this aligns with existing practices and the potential unintended consequences that may arise. Trustees should strongly consider submitting a response to the consultation.



CPS 511 Remuneration

1 August 2023
Prudential Standard

[LINK TO DETAILS](#)

APRA released the finalised *Prudential Standard CPS 511 Remuneration* (CPS 511) which **introduces remuneration disclosure** and reporting for APRA-regulated entities, including RSE licensees. APRA also released a [Response Paper](#) addressing the submissions made to the consultation on CPS 511 released in July 2022.

CPS 511 will require **RSE Licensees to annually publish information on their remuneration frameworks, design, governance and outcomes.**

Disclosure obligations vary based on whether the entity is a Significant Financial Institution (SFI) or non-SFI, whereby non-SFIs must provide summary information on their remuneration framework, design and governance and key aspects of variable remuneration, whereas SFI's are required to report additional quantitative remuneration information.

The key disclosure obligations include:

- Disclosures must be published for the **first full financial year following 1 January 2024** (which for many RSE licensees with a 30 June financial year end, means the first disclosure would be due after 30 June 2025);
- Disclosures must be **published on the fund website** as soon as possible after the RSE licensee lodges its annual financial statements with ASIC, and not more than 6 months after the end of the financial year to which the disclosures relate (previously 4 months);
- Disclosures must be **published in a standalone document**, but may be combined with other forms of disclosure providing the information is clearly identified ad disclosures made under CPS 511; and
- Certain quantitative disclosures for SFIs must include data published in a machine-readable format (i.e. csv).

As part of the 2022 consultation, APRA released draft *Reporting Standard CRS 511.0 Remuneration* (CRS 511.0), proposing to collect qualitative and quantitative remuneration data from all APRA-regulated entities to support supervision of the implementation of CPS 511. However, APRA announced **the finalised CRS 511.0 will be delayed until later in 2023**, with a corresponding extension to the commencement date.

Superannuation trustees should review the specific disclosure requirements in CPS 511 to ensure preparedness for commencement of the regime. Consideration should be given to the format of publication, with relevant internal project teams being engaged early to support implementation.



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Screen Scraping Practices Review

30 August 2023
Consultation

[LINK TO DETAILS](#)

Treasury released a consultation paper seeking feedback on the practice of 'screen scraping'. Screen scraping is a widespread practice in which consumers hand over their credentials, like log in details and passwords, for a third party to access their account. The activity most commonly occurs in the banking and lending sector, but may be used across other industries, including superannuation.

The Discussion Paper, *Screen scraping – policy and regulatory implications*, seeks views to inform **policy options for regulating screen scraping**, noting the complexity and variability in its use.

The recent *Statutory Review of the Consumer Data Right (CDR)* highlighted the **risks of screen scraping and recommended the practice be banned** where the CDR may be used as an alternative way of sharing secure data. The consultation paper follows from this recommendation and requests feedback on a range of measures, including whether screen scraping should be restricted or banned, potential changes to the regulatory environment, and whether the CDR is a viable alternative to screen scraping.

Feedback to the consultation is requested by 25 October 2023.

Superannuation trustees should consider how screen scraping is utilised within their business operations, by members or third parties and the potential impact of banning the practice. Whilst the CDR expansion to superannuation is currently paused, trustees should remain abreast of such developments given trustees may be subject to the CDR in future.



Annual Performance Test Results

31 August 2023
Announcement

[LINK TO DETAILS](#)

APRA released the results of the **2023 Performance Test** which, for the first time, included an assessment of trustee directed products (TDPs) alongside MySuper products. The results showed:

- **96 trustee directed products failed to meet the test** benchmarks as 20 of 500 non-platform products and 76 of 305 platform products failed;
- 75 per cent of failed trustee directed products are concentrated in products offered by just four trustees; and
- **Only one MySuper product failed the test.**

The failed MySuper product represented the third consecutive failure of the product and thus has been closed to new members since 2022 and is in the process of being closed.

For all failed products, RSE licensees are required to **write to members by Thursday 28 September 2023** advising of the failure using the prescribed letter templates for the relevant scenario. Consideration must also be given to developing a rectification plan, the implications of the product failure on the fund and whether the transfer of members to another product of fund would be in member's best financial interests.

The test results also demonstrated the median administration fees and **costs for platform trustee directed products were the highest** at 0.54 per cent of assets, compared to 0.27 per cent for non-platform trustee directed products and 0.26 per cent for MySuper products.

Superannuation trustees who have a failed performance test product should ensure strict compliance with the communication obligations and consider members' best financial interests in any product decisions made.



Managed Investment Schemes Review

4 August 2023
Consultation

[LINK TO DETAILS](#)

Following an announcement in March, Treasury released *Review of the regulatory framework for managed investment schemes* for consultation. The review is seeking feedback on ways to **modernise and streamline the regulatory framework for managed investment schemes**, noting the underlying regulatory framework has remained largely unchanged since its introduction, despite significant regulatory reform in recent years.

Whilst general feedback in relation to the regulatory environment is sought, several questions are posed in relation to the following topics:

- How **wholesale clients** are distinguished from retail clients, thresholds and consent arrangements as they apply to wholesale clients;
- **Suitability of scheme investments** and whether conditions should be imposed on the types and complexity of investments offered;
- Potential changes to a **Responsible Entity's obligations** and ASIC's power to direct a Responsible Entity are required;
- Potential changes to power to **remove a Responsible Entity**;
- **Right to withdraw** from a scheme; and
- **Winding-up** and insolvent scheme and member liability.

Closing date for submissions is 29 September 2023.

Superannuation trustees should note the consultation as future regulatory change may impact the investment practices of the trustee.



Performance Test Regulations

3 August 2023
Legislative Instrument

[LINK TO DETAILS](#)

The Assistant Treasurer and Minister for Financial Services made *Superannuation Industry (Supervision) Amendment (Your Future, Your Super—Addressing Underperformance in Superannuation) Regulations 2023*. The Regulations:

- amend the **testing period, benchmarks and notification letter** that form part of the annual performance test requirements;
- amend the operation of the test for **trustee-direct products**, so that **platform products are tested separately to non-platform products**, and on a gross-of-taxation basis;
- make minor technical updates to improve accuracy and clarity for the annual performance test, and ensure the test is fit for purpose when it is extended to trustee directed products; and
- make minor and technical amendments to the **Your Super comparison tool** to ensure that the tool reflects updated reporting standards.

The Regulations also amend the *Electronic Transactions Regulations 2020* to allow APRA to give notifications in relation to the performance test to trustees by means of electronic communication.

The amendments apply on and after 1 July 2023.

Separately, APRA released [two new FAQs](#) in relation to the Performance Test. These provide guidance on how a trustee determines if their investment option is a Trustee Directed Product, and how standard fee and cost arrangement should be reported at product, menu and option levels.

Superannuation trustees should review the Regulations and FAQs to ensure investment teams understand the changes to the Performance Test for this year, including the amended lookback period and asset class coverage.



GUIDANCE AND POLICY



ASIC DDO Extension

15 August 2023
Consultation

[LINK TO DETAILS](#)

ASIC released a Draft Instrument for consultation which proposes to extend the operation of the *ASIC Corporations (Design and Distribution Obligations Interim Measures) 2021/784* instrument ('Instrument 2021/784') for a further five years to 5 October 2028.

Instrument 2021/784 was introduced in response to feedback on the Design and Distribution Obligations (DDO) regime at its introduction in October 2021, and was intended to provide certainty on the application of the DDO ahead of legislative changes proposed to be made by the Government to give effect to its intended operation. These include:

- **relief for distributors** to report to issuers if they received nil complaints during a reporting period;
- **amend 'excluded conduct' definition** to include giving a PDS within the provision of personal financial product advice; and
- confirms **employers are exempt** when providing a PDS to an employee for a default superannuation fund.

Aside from the extension, the only change proposed to Instrument 2021/784 is to remove an exemption for cashless welfare arrangements that is no longer necessary following the making of *the Corporations Amendment (Design and Distribution Obligations – Income Management Regimes) Regulations 2023*.

Feedback was sought by 25 August 2023.

Superannuation trustees should note the extension to the regime and ensure relevant reporting and operations continue unaffected.



Modernising Business Registers

28 August 2023
Final Report

[LINK TO DETAILS](#)

Treasury announced the **Modernising Business Registers (MBR) program** ('Program') will cease following the findings of an independent review the Program would not deliver value for money. The Program was expected to be delivered in 5 tranches:

- **Director ID:** introduction of Director ID through the ABRS platform;
- **Companies:** redesigning and migrating the Companies Register and companies related information from the ABR to the ABRS platform;
- **Business Names and ABR (non-companies):** redesigning and migrating the Business Names Register;
- **Professional and historical Registers:** redesigning and migrating professional, historical and other ASIC Registers; and
- **Decommissioning:** final decommissioning of legacy systems.

The independent review, commissioned by the current Government, identified several options for improving the delivery of the Program, the decision was ultimately made to cease the Program.

The review recommends the return of registry functions to a new division of ASIC from the ATO and revert to the prior operating model. The Director ID regime will remain unchanged.

Superannuation trustees should note the Government's announcement and remain cognisant of future registry updates to be announced which may impact reporting and processes for the trustee.



ASIC Corporate Plan

28 August 2023
Media Release

[LINK TO DETAILS](#)

ASIC released its *Corporate Plan 2023-27: Focus 23-24* which confirms ASIC's continued focus on delivering against the strategic priorities announced last year for the next four years:

- **Product design and distribution** – reduce risk of consumer harm;
- **Sustainable finance** – supervision and enforcement of disclosure standards, greenwashing and climate-related financial disclosure;
- **Retirement outcomes** – protect consumers in retirement planning;
- **Technology risks** – focus on impacts of tech in financial markets.

Together, these strategic priorities inform 6 core strategic projects:

- Strengthen ability to prevent, detect and respond to **scam activity**;
- Take action to improve **sustainable finance practices and greenwashing**, including enforcement action where required
- Take action to prevent harm to investors caused by **crypto-assets**;
- Targeted and risk-based surveillance address compliance with the **Design and Distribution Obligations (DDO)**;
- Supervise and engage to encourage prompt management of **operational risks and cyber and operational resilience practices**; and
- Improve capability and utilisation of **digital technology and data**.

ASIC specifically referenced climate risk, Australian's aging population, emerging digital technologies, crypto-asset volatility and the uncertain economic environment as key trends which have shaped priorities.

Superannuation trustees should ensure appropriate consideration and resourcing is given to those initiatives outlined in ASIC's plan, especially where surveillance and enforcement is specified.



APRA Corporate Plan

29 August 2023
Media Release

[LINK TO DETAILS](#)

APRA released its *Corporate Plan 2023-24* ('Plan') which outlines an evolution in APRA's priorities for the coming four years in response to new and developing risks impacting the global financial system. Retaining the underlying vision of 'protected today, prepared for tomorrow', the Plan seeks to address key challenges identified in the operating environment:

- Maintain focus on **reducing unacceptable product performance** by focusing on trustees with close poorly performing products;
- Drive trustees to **improve member retirement outcomes** via targeted supervision of the **retirement income covenant**;
- Increase **transparency of performance** by releasing new and expanded statistical publications;
- Simplify core requirements in **updates proposed to Prudential Standard SPS 515 Strategic Planning and Member Outcomes** to foster a culture of continuous improvement for trustees; and
- Assess trustee self-assessments against the **strengthened Prudential Standard SPS 530 Investment Governance**, particularly the approach taken to liquidity management, stress testing, and asset valuation.

The [Financial Regulator Assessment Authority review report](#) informed this.

Superannuation trustees should take note of APRA's intentions over the coming four years and ensure appropriate resourcing and prioritisation is given to these initiatives.



TECHNICAL AMENDMENTS



APRA Confidentiality Determination

3 August 2023
Legislative Instrument

[LINK TO DETAILS](#)

APRA made *Financial Sector (Collection of Data) (reporting standard) determination No. 3 of 2023* which provides that certain information given to APRA under the reporting standards listed in the instrument is non-confidential.

This determination has been made in response to minor amendments to the Superannuation Data Transformation Phase 1 reporting that were updated in May 2023. The changes are designed to reflect the structural change to the reporting forms that have been made and do not determine non-confidential data that was not covered by the previous determination.

Separately, APRA confirmed its intention to consult later in 2023 regarding:

- the confidentiality and publication of expenses under *Reporting Standard 332.0 SRS Expenses* (SRS 332.0);
- asset class characteristics 1, 2 and 3 under *Reporting Standard SRS 550.0 Asset Allocation* (SRS 550.0);
- new reporting columns introduced under *Reporting Standard SRS 605.0 RSE Structure* (SRS 605.0); and
- the fees and costs arrangements tables under *Reporting Standard SRS 606.0 RSE Profile* (SRS 606.0).

This data is not declared non-confidential under this instrument.

Superannuation trustees should note the confidentiality determinations and be cognizant of the forthcoming consultation for other Reporting Standards.



RSE Licensee Control

14 August 2023
Legislative Instrument

[LINK TO DETAILS](#)

APRA made *Superannuation Industry (Supervision) Act exemption determination No. 1 of 2023* ('Determination') which **exempts a specific class of persons, namely current, former and prospective directors of an RSE licensee, from the requirement to obtain approval from APRA to hold a controlling stake in RSE licensee in certain circumstances.**

The Determination seeks to address an unintended consequence for RSE licensee directors who hold shares in the RSE licensee for the term of their appointment. As directors are considered to be associates of each other, each director shareholder is treated as having a 100% stake in the RSE licensee, and thus is deemed to have a controlling stake. This is the case even where an individual director has a shareholding of 15% or less.

APRA's view is that governance concerns with individual directors of an RSE licensee are managed through other prudential requirements, including *Prudential Standard SPS 520 Fit and Proper*, and thus considers little utility in additionally subjecting individual directors to the controlling stake approval process.

The Determination follows a consultation on the reforms released in April.

Superannuation trustees should review the exemption and ensure current, former and prospective directors are aware of the exemption. Policies may need to be updated to reflect the changes.



Combining Performance Histories

7 August 2023
Legislative Instrument

[LINK TO DETAILS](#)

APRA made *Superannuation technical determination No 1 of 2023 - Actual and benchmark return formulae modifications* ('Instrument') which **modifies the actual and benchmark formulae** used to conduct the annual performance assessment for MySuper lifecycle Part 6A products.

The modified formulae apply where there has been a change in the structure of a MySuper product that is a lifecycle Part 6A product. Specifically, the actual return and benchmark return formulae within the SIS Regulations are modified in order to combine a lifecycle Part 6A product's performance history in respect of a quarter during which an eligible '**change of lifestage**' event occurs.

Prior to the Instrument, APRA would issue individual determinations to RSE licensees to modify the performance test formulae where a change of lifestage event occurred. However, given the methodology specified in the individual determinations is the same across all products, APRA considers it appropriate for the modified methodology to be applied via a legislative instrument on an industry-wide basis.

Supporting the Instrument is a letter to industry and Information Paper *Combining MySuper product performance histories – APRA's approach - August 2023* which details the approach APRA takes when combining the performance histories of two or more MySuper products in certain scenarios in administering the performance test.

Superannuation trustees should note the Instrument and Information Sheet should a change of lifestage event occur for a MySuper product in future.



Derivative Requirements

10 August 2023
Legislative Instrument

[LINK TO DETAILS](#)

ASIC made *Corporations (Derivatives) Determination 2023* ('2023 Determination') which repeals and remakes *Corporations (Derivatives) Determination 2013* ('2013 Determination') before the 2013 Determination sunsets on 1 October 2023. The 2023 Determination is made on the same terms as the 2013 Determination.

The 2023 Determination empowers ASIC to make Derivative Transaction Rules (DTRs) necessary for the implementation of Australia's derivative transaction regime, in line with the accepted international practice.

The 2023 Determination sets out the classes of derivatives:

- in relation to which reporting requirements may be imposed and empowers ASIC to make rules requiring the reporting of interest rate, foreign exchange, credit, equity and all commodity derivatives (with the exception of electricity derivatives) to licensed derivative trade repositories or other prescribed facilities; and
- in relation to which clearing requirements may be imposed and empowers ASIC to make rules imposing clearing requirements for over-the-counter (OTC) interest rate derivatives denominated in Australian dollars and four global currencies (being US dollars, euros, British pounds and Japanese yen). The effect of this section is to improve transparency and risk management for the market.

Superannuation trustees should note the continued relevance of the Determination.



ENFORCEMENT ACTIVITY



ASIC v Active Super

11 August 2023
Civil Penalty Proceedings

[LINK TO DETAILS](#)

ASIC commenced civil penalty proceedings in the Federal Court against LGSS Pty Limited (Active Super) alleging misleading conduct and misrepresentations to the market relating to claims it was an ethical and responsible superannuation fund.

ASIC alleges from 1 February 2021 to 30 June 2023 **Active Super exposed its members to investments it claimed to restrict or eliminate**, including

- **gambling** (Skycity Entertainment Group Limited, PointsBet Holdings Limited, The Star Entertainment Group Limited, The Lottery Corporation Limited and Tabcorp Holdings Limited);
- **tobacco** (Amcor PLC);
- **Russian entities** (Gazprom PJSC and Rosneft Oil Company);
- **oil tar sands** (ConocoPhillips); and
- **coal mining** (Coronado Global Resources Inc., New Hope Corporation Limited and Whitehaven Coal Limited).

ASIC also alleges that following the commencement of the war in Ukraine in February 2022, **Active Super made representations from May 2022 that investments in Russian companies would cease**, however still had holdings in Russian securities which remained in place as 30 June 2023.

Further, ASIC alleges **ESG misrepresentations** were made on Active Super's website, disclosure documents and on Facebook, Instagram and LinkedIn.

ASIC is seeking declarations, pecuniary penalties, adverse publicity orders and an injunction against Active Super from the Court.



ASIC Conflicted Remuneration Appeal

17 August 2023
Federal Court Appeal

[LINK TO DETAILS](#)

The Full Federal Court has dismissed ASIC's appeal against an earlier Federal Court decision to dismiss ASIC's case against the Commonwealth Bank of Australia (CBA) and Colonial First State Investments Limited (Colonial) for allegedly breaching conflicted remuneration laws.

ASIC alleged in the proceeding that CBA and its wholly owned subsidiary, Colonial, breached conflicted remuneration laws under ss963E and 963K of the *Corporations Act 2001* (Cth) when they reached an agreement in which Colonial paid CBA to distribute its Essential Super product to retail clients through CBA's branch and digital channels. Essential Super was distributed to over 390,000 individuals.

The Court ordered the appeal be dismissed and ASIC pay the costs of the appeal for both CBA and Colonial. ASIC has 28 days to lodge any application for special leave to appeal to the High Court, should it decide to do so.



Togethr Trustees v Safai

June 2023
Judgment

[LINK TO DETAILS](#)

The Supreme Court of South Australia approved an application by Togethr Trustees Pty Ltd ('Trustee'), pursuant to s59C of the *Trustee Act 1936* (SA) to vary the Trust Deed of Equipsuper ('the Fund').

The purpose of the amendment was to enable the Trustee to charge an annual fee and thereby to establish a reserve of funds to be held by the Trustee in its personal capacity. The purpose underlying the establishment of the Trustee Reserve is to address the risk of the Trustee and its directors incurring certain kinds of liabilities in relation to which they are not entitled to indemnification from the assets of the Fund by reason of ss 56(2) and 57(2) of the *Superannuation Industry (Supervision) Act 1993* (Cth) ('SIS Act').

The proposed variation was to replace Rule A3.4 of the Trust Deed in its entirety with a new Rule A3.4 providing for a fee to be payable to the Trustee ('Trustee Fee') in an amount equal to 0.08 percent per annum of the net assets of the Fund calculated as at the end of the previous year.

In coming to a decision, the Court cited several authorities including those made by Blue J when considering virtually identical provisions within the Trust Deeds for AustralianSuper and Host-Plus. The Court determined the requested Trust Deed rule changes would not be rendered void by ss 56(2) and 57(2) of the SIS Act.

Further, the Court found the proposed change to the Rules would not result in one class of beneficiaries being unfairly disadvantaged to the prejudice of another class, as required under ss 52(2)(e)-(f) of the SIS Act.



Dixon Advisory

4 August 2023
Civil Penalty Proceedings

[LINK TO DETAILS](#)

ASIC commenced civil penalty proceedings in the Federal Court against Paul Ryan, director of Dixon Advisory & Superannuation Services Pty Limited for alleged breaches of directors' duties.

ASIC alleges Mr Ryan breached his duties as a director by his involvement in decisions ASIC alleges were to the advantage of Dixon Advisory's holding company, E&P Operations Pty Ltd, and by failing to properly consider the interests of Dixon Advisory's creditors. Mr Ryan was also a director of E&P Operations.

ASIC alleges that Mr Ryan was involved in:

- amending the constitution of Dixon Advisory on 22 December 2021 to expressly authorise its directors to act in the interest of E&P Operations; and
- executing a deed of acknowledgement of debt (Deed) on 24 December 2021 between Dixon Advisory and E&P Operations to the advantage of E&P Operations and to the detriment of Dixon Advisory.

ASIC further alleges at the time the deed was amended, E&P Operations owed Dixon Advisory \$19m and Dixon Advisory was nearing insolvency.

ASIC are seeking Declarations of contravention of civil penalty provisions, payment of a pecuniary penalty and an order Mr Ryan be disqualified from managing corporations for a period to be determined by the court.



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