

# QMV

# REGULATORY UPDATE

## PENSIONS AND SUPERANNUATION

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- Internal Dispute Resolution
- Protecting Your Super Package Guidance
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- Legislative Reforms Effective 1 July 2019

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### IN BRIEF

The Commonwealth election provided a **moment of relative calm** on the otherwise busy pensions and superannuation legislative agenda. While the policy agenda of the new Parliament remains a little hazy, it's clear that abolishing the **subsidisation of excess dividend imputation tax credits** is off the agenda for now.

Parliament may turn its attention to existing policies such as **independent directors & equal representation**, making **default insurance opt-in for under 25s**, increases to **SG rate**, and **alternative default arrangements**. Many of the **Hayne Royal Commission Recommendations** also remain to be legislated and implemented.

In the meantime, the **Protecting Your Super Package** nears commencement with guidance issued by APRA and the ATO, and ASIC has commenced consulting industry on proposed major changes to the **Internal Dispute Resolution** framework.

## MAJOR REFORM UPDATES



### Internal Dispute Resolution

15 May 2019  
Consultation

[LINK TO DETAILS](#)

ASIC has commenced consultation on changes to complaints handling standards, covering its proposed updates to Internal Dispute Resolution (IDR) standards and a mandatory internal dispute resolution data reporting framework. ASIC's proposed changes include:

- Expanding the IDR requirements to cover superannuation trustees;
- Revising the definition of complaint in accordance with AS/NZS 10002:2014 and providing additional guidance about the definition including social media complaints;
- Requiring entities to record all complaints received and assign a unique identifier for each complaint;
- Applying new minimum content requirements for IDR responses and reducing maximum timeframes for providing responses; and
- Requiring entities to provide ASIC with IDR data.

ASIC Deputy Chair Karen Chester said, "ASIC expects greater investment and attention by Boards to their own internal customer complaints data and complaints handling procedures."

The consultation is open until 9 August 2019 and ASIC aims to release new Regulatory Guide 165 by the end of 2019.

*QMV recommends that superannuation trustees review Consultation Paper 311 and the potential impact of ASIC's proposed changes on internal member service and complaint handling functions, or outsourced service providers involved in member service & complaint handling.*

## TECHNICAL CHANGES AND UPDATES



### ATO MAAS and MATS Reporting

13 May 2019  
Regulator  
Communication

[LINK TO DETAILS](#)

The ATO wrote to superannuation trustees advising of the successful on-boarding of large APRA regulated superannuation funds onto the ATO Member Account Attribute Service (MAAS) and the ATO Member Account Transaction Service (MATS).

The ATO is preparing for the first annual MATS reporting event. It has asked trustees to provide additional information related to expected volumes over the July 2019 to October 2019 period.

Once the ATO has this information it will consider whether “an orchestrated approach” is required to ensure a smooth process.

*QMV recommends that superannuation trustees respond to the ATO’s request for information.*



### Super Balances

15 May 2019  
Regulator  
Communication

[BALANCE CAP](#)

[TOTAL BALANCE](#)

The ATO has updated guidance on the transfer balance cap for retirement phase accounts and total superannuation balance. Changes to the transfer balance cap guidance include:

- what a member may have to do if the member exceeds the transfer balance cap; and
- a change to transition-to-retirement income streams not counting towards transfer balance cap if not in retirement phase.

Changes to the total superannuation balance cap guidance include a revision to the values comprising the accumulation phase to include transition-to-retirement income streams that are not in the retirement phase, whereas previous reference was solely to transition-to-retirement income streams without reference to retirement phasing.

With the lapsing of the *Treasury Laws Amendment (2018 Superannuation Measures No 1) Bill 2018*, the ATO has also withdrawn its draft update to *Law Companion Ruling LCR 2016/12*, which provided further information on total superannuation balance is calculations.

*QMV recommends that superannuation trustees should review the updated guidance.*



### Approved Audit Report Form

14 May 2019  
APRA Update

[LINK TO DETAILS](#)

APRA has updated the Approved Audit Report Form for superannuation funds for reporting periods ending 30 June 2019.

Changes to the form include:

- Greater focus on controls in Part 3B, now titled “Controls and Compliance”; and
- Language recommended by the Auditing and Assurance Standards Board (AuASB).

*QMV recommends that superannuation trustees review the form in anticipation of their reporting obligation.*

## GUIDANCE AND POLICY



### Protecting Your Super Package ATO Guidance

24 May 2019  
Guidance

[LINK TO DETAILS](#)

After working with industry stakeholders, the ATO has published guidance on the administration of Protecting Your Super Package changes. Among a variety of advice and implementation documents, the ATO published a Questions and Answers document. Key takeaways include:

- A member must have made a binding nomination within the last 16 months to be excluded from inactive low-balance provisions – a non-binding nomination and the period of validity of a binding nomination are not relevant;
- ATO has provided a draft Member Authorisation Form for members that wish to authorise their fund to notify the ATO that they are not inactive low-balance;
- Employer super contributions, including SG obligations are not amounts owed to the fund in respect of the member;
- A positive member action is required for change of insurance to re-set the 16-month timeframe for inactive accounts;
- Consolidation of member accounts within the same fund does not result in fund 'receiving' an amount so the member's account can be excluded; and
- Acceptance of an amount to a product in an account of a successor fund or ERF restarts the 16-month timeframe.

*QMV recommends that superannuation trustees review the ATO guidance for assistance in meeting Protecting Your Super Legislation requirements.*



### Governance, Accountability and Culture

22 May 2019  
Information Paper

[LINK TO DETAILS](#)

APRA has released an information paper on the outcomes, key findings and common themes resulting from the self-assessments of the 36 authorised deposit-taking institutions, insurers and superannuation trustees in response to the *Final Report of the Prudential Inquiry into Commonwealth Bank of Australia*. APRA identified the following common themes:

- Non-financial risk management requires improvement;
- Accountabilities are not always clear, cascaded and effectively enforced;
- Acknowledged weaknesses are well-known and some have been long-standing; and
- Risk culture is not well understood, and therefore may not be reinforcing the desired behaviours.

The paper indicates that APRA will strengthen prudential expectations and increase supervisory intensity for governance, accountability and culture for all regulated institutions in the next 12 months. APRA encourages institutions that have not completed their own self-assessment to do so "as a valuable means of identifying and addressing weaknesses in their business."

*QMV recommends that superannuation trustees review the information paper and consider their governance structures and management of risks considering the identified themes and complete a self-assessment if it has not already done so.*



## Protecting Your Super Package APRA Guidance

8 May 2019  
Guidance

[LINK TO DETAILS](#)

APRA published a letter to all RSE licensees along with a list of "Frequently Asked Questions" on the implementation of the *Protecting Your Super Package*.

The letter reminded trustees that implementation should promote the PYS and members' best interests. The letter also highlighted the importance of reviewing Eligible Rollover policies and any transfers in line with ATO account sweep implications and ensuring account consolidation is not averted or delayed in contravention to members' best interests.

Key takeaways from APRA's PYS Frequently Asked Questions include:

- Fee caps and insurance opt-ins apply at a product level to all products that are not defined benefit interests; and
- A change in a member's investment strategy is not a sign of activity by the member in determining whether the account is an inactive low balance account.

*QMV recommends that superannuation trustees prioritise engagement of internal resources and service providers to ensure that business systems, policies and procedures are in place to meet the outcomes the Protecting Your Super Legislation seeks to achieve.*



## Transition away from LIBOR

9 May 2019  
Regulator  
Communication

[LINK TO DETAILS](#)

ASIC has written to CEOs of major Australian financial institutions regarding their preparation for transitioning from LIBOR to alternative benchmark rates.

ASIC warns that the "transition away from LIBOR may have significant implications on the entities' risk management, operational processes and IT infrastructure."

ASIC expects major Australian financial institutions to undertake a comprehensive risk assessment of the potential impacts associated with the transition, including:

- the size and nature of LIBOR exposure;
- contract provisions referencing LIBOR; and
- actions required for the transition to alternative benchmarking rates.

*QMV recommends that superannuation trustees ensure that they are aware of any potential impacts, including a review of investment management agreements that may be impacted by the transition.*

## UPCOMING CHANGES



### 1 July 2019 Commencement of Reforms

QMV recommends that superannuation trustees ensure that plans and activities are underway to ensure that the following key reforms commencing 1 July 2019 can be complied with.

The **Protecting Your Super Package** legislated in *Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2018*, including:

- 3 percent cap on fees to members with a final balance less than \$6,000 for MySuper or choice product.
- No exit fees on all superannuation accounts.
- No insurance on opt-out basis for inactive accounts unless member has directed otherwise.
- Transfer of inactive low-balance accounts as at 30 June to ATO.

The product disclosure and periodic reporting aspects of the transition to the **Australian Financial Complaints Authority** (AFCA) legislated in *ASIC Corporations (AFCA transition) Instrument 2018/447*. The reforms require that all disclosure and periodic statements updated with AFCA details.

**Single Touch Payroll** reporting has been extended to all employers after passage of the *Treasury Laws Amendment (2018 Measures No. 4) Bill 2018*.

The **work test for catch-up contributions** for individuals aged 65-74 will change. This will allow members with a balance of less than \$300,000 to contribute for an additional 12 months from end of financial year last meeting the work test, following passage of *Treasury Laws Amendment (Work Test Exemption) Regulations 2018*.

The **whistle blower protection framework** has been expanded with the passage of *Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2019*.

## ABOUT QMV

QMV is an independent financial services consulting firm. We provide hands-on advisory, consulting and technology to Australia's leading superannuation, insurance, banking and wealth management organisations. We offer a wide range of advisory and consulting services that support our clients to enact mandatory, technological, structural or strategic change as simply and affordably as possible.

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## NEED ASSISTANCE?



QMV partners with superannuation fund trustees and administrators to adapt to changes in the legal and regulatory environment.

If you have any questions or need assistance, you can contact Jonathan Steffanoni, Principal Consultant, Legal & Risk directly at [jsteffanoni@qmv-solutions.com](mailto:jsteffanoni@qmv-solutions.com)

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