

August 2022

PwC Regulatory Update





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01

Legislative/
Government
developments



CFR provides advice to the Treasurer on the use of derivatives by superannuation funds

The Council of Financial Regulators ('CFR') has provided its advice on the concerns put forth by the Treasurer on the current use of derivatives by superannuation funds. These concerns included the prudential implications for the operation of individual funds, the outcomes for members of those funds, the operational capability of funds to properly manage derivatives transactions, and the broader implications for financial system stability.

Source: [CFR](#)



CFR revises CORIE framework

The CFR has released an updated version of the Cyber Operational Resilience Intelligence-led Exercises ('CORIE') framework, which includes the gathering of threat intelligence to shape and lead adversary simulations. In the lead-up to each round of CORIE, a risk-based approach will be taken when determining the financial institutions to participate in future exercises.

Source: [CFR](#)



Treasury and Minister for Financial Services announce a review of YFYS laws

The Treasury and Minister of Financial Services have announced a review of the Your Future, Your Super ('YFYS') laws introduced by the previous Coalition Government. The YFYS reforms included an annual performance test for super funds, which will be the primary focus of the review. The review will also consider whether there have been any unintended consequences from other YFYS reforms, including the regulatory complexity of the best financial interests duty requirements.

Source: [Assistant Treasurer and Minister for Financial Services](#)



Government consults on superannuation Annual Members' Meeting notices

The Government has released a consultation paper which outlines proposed changes to the disclosure requirements for superannuation Annual Members' Meeting notices. The changes include:

- Aligning the definition of 'related party';
- Streamlining disclosure requirements through preventing double-counting of political donation expenditure; and
- Removing the requirement for itemised disclosure for certain categories of expenses.

Submissions were due by 28 July 2022.

Source: [Treasury](#)



Government consults on remake of ACNC regulations

The Government has released a consultation paper for the draft *Australian Charities and Not-for-profits Commission Regulations 2022* which proposes to remake the 2013 regulations with minimal changes to the substantive inclusions and requirements. These changes reflect current drafting practice, remove provisions that are no longer required, and improve clarity.

Submissions are due by 15 August 2022.

Source: [Treasury](#)





Treasury invites feedback on guidance notes for the Payment Times Reporting Scheme

Treasury is inviting feedback on three draft guidance notes for the Payment Times Reporting Scheme, which intends to assist reporting entities to understand expectations and meet their obligations when undertaking compliance activities. Feedback is sought on whether:

- there are sections of guidance requiring further details;
- additional information could be included;
- practical concerns or issues may arise from the updated guidance; and
- specific obligations and requirements not covered should be included.

Submissions are due by 2 September 2022.

Source: [Treasury](#)



Government consults on superannuation performance test treatment of faith-based products

The Government has released a consultation paper seeking views on exposure draft legislation which would adjust how faith-based superannuation products are treated under the annual performance test. The legislation would:

- enable trustees to apply to APRA for faith-based product status;
- subject faith-based products to a supplementary test that considers their faith-based investment strategy, if they fail the original test; and
- exempt faith-based products from repercussions of failure if they pass the supplementary test.

Submissions are due by 16 August 2022.

Source: [Treasury](#)



Government consults on Treasury Laws Amendment Bill 2022

The Government is introducing legislation to ensure the decision in *Commissioner of Taxation v Douglas* ('Douglas') only affects the schemes and benefits specifically outlined in the decision and that no veteran faces worse income tax outcomes because of the decision. The draft bill will:

- introduce a non-refundable tax offset to prevent adverse income tax outcomes; and
- extend these changes to Spouse and Children's pensions paid following the death of a member affected by the Douglas decision.

Source: [Treasury](#)



Treasurer announces the terms of reference of the review of the Reserve Bank

The Treasurer has announced a wide-ranging review of the Reserve Bank of Australia ('RBA'). The review, which has bipartisan support, will consider the RBA's objectives, mandate, the interaction between monetary, fiscal and macroprudential policy, the RBA's governance, culture, operations and more.

Source: [Treasurer of the Commonwealth of Australia](#)





02

What have
the regulators
been up to



What have the regulators been up to?



02

ACCC

Australian Competition & Consumer Commission



ACCC launches CDR Sandbox

The ACCC has launched the Consumer Data Right ('CDR') sandbox, enabling potential and existing CDR participants to better test and improve their CDR solutions. This aims to reduce the time and cost of becoming an active CDR participant or for updating their CDR offering. It will help participants become active, assist them in refining and developing their products and services, in addition to improving the quality of the data shared between participants.

Source: [ACCC](#)

APRA

Australian Prudential Regulation Authority



APRA launches consultations to strengthen transparency on remuneration and bank disclosures

APRA has launched two consultation papers intended to improve market discipline and transparency within the financial system. The consultations will focus on APRA's proposals to update bank prudential disclosures and proposed remuneration disclosure and reporting requirements for all superannuation funds, bank, and insurers regulated by APRA.

Submissions are due by 7 October 2022.

Source: [APRA](#)

ASIC

Australian Securities & Investments Commission

OAIC

Office of the Australian Information Commissioner



APRA's Discussion Paper on enhancing ADI public disclosures

APRA has released a Discussion Paper that provides an overview of APRA's proposals to update disclosure requirements for locally-incorporated banks through revisions to APS 330.

APRA is proposing to:

- align with updated international and domestic standards;
- improve comparability; and
- enhance proportionality.

Source: [APRA](#)



What have the regulators been up to?



02



ACCC

Australian Competition & Consumer Commission



APRA

Australian Prudential Regulation Authority



ASIC

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OAIC

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APRA increases transparency with new super publications

APRA plans to launch a series of new superannuation data publications to enhance the breadth and quality of information available to industry stakeholders through heightened transparency. It will drive better industry practices and improve outcomes for superannuation fund members, while filling a substantial gap in the data available to the concerned parties. The publications will cover aggregate quarterly data on the industry's profile and structure, investments, and member demographics.

Source: [APRA](#)



APRA consults on new prudential standard to strengthen operational resilience

APRA has released a consultation paper on a new prudential standard aimed at strengthening the management of operational risk in the insurance, banking and superannuation industries. The proposal includes the introduction of a new cross-industry Prudential Standard *CPS 230 Operational Risk Management* which will set out minimum standards for managing operational risk, including updated requirements for service provider management and business continuity. The regulated entities will need to maintain effective internal controls for operational risk, ensure continued delivery of critical operations during times of disruption, and manage the risks associated with the use of service providers. CPS 230 comes into force from 1 January 2024.

Source: [APRA](#)



ASIC releases guidance for superannuation calculators and retirement estimates

ASIC has released Regulatory Guide 276 *Superannuation forecasts: Calculators and retirement estimates* and a new legislative instrument which updates the relief facilitating the provision of superannuation calculators and retirement estimates. This will be a helpful prompt for consumers in reviewing their financial situation and seeking financial advice in addition to further information, if appropriate.

Source: [ASIC](#)



What have the regulators been up to?



02



ACCC

Australian Competition & Consumer Commission



APRA

Australian Prudential Regulation Authority



ASIC

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OAIC

Office of the Australian Information Commissioner



ASIC helps credit providers protect victims of family violence

ASIC has adopted a no-action position enabling large banks ('eligible licensees') to withhold credit reporting information on consumer credit reports where reporting this information may result in consumer harm. This includes situations where a consumer may be the victim of family violence. For example, where a victim-survivor holds a loan jointly with the perpetrator and they do not want the perpetrator to know of their financial hardship agreement, eligible licensees will be able to help the victim-survivor by withholding this information on the credit report.

Source: [ASIC](#)



ASIC makes product intervention orders for short term credit and continuing credit contracts

ASIC has made product intervention orders which impose conditions on the issuance of short-term credit and continued credit contracts to retail clients. This reinforces consumer protections by prohibiting the provision of contracts which involve unreasonably high fees charged to retail clients in excess of the cost caps in the relevant exemptions of the National Credit Code.

Source: [ASIC](#)



ASIC extends deadlines for unlisted entity financial reports

ASIC has extended the deadline for unlisted entities to lodge financial reports by one month for balance dates from 24 June 2022 to 7 July 2022 (inclusive). This will assist with pressure on resources for financial reporting and audits of smaller entities and provide them adequate time for completion of the audit process. This extension is in response to the challenges presented by COVID-19 conditions, such as reduced staff numbers, higher staff absences, and increased staff resignations.

Source: [ASIC](#)



What have the regulators been up to?



02



ACCC

Australian Competition & Consumer Commission



APRA

Australian Prudential Regulation Authority



ASIC

Australian Securities & Investments Commission



OAIC

Office of the Australian Information Commissioner



ASIC releases its enforcement and regulatory update for April to June

ASIC has released its enforcement and regulatory update for April to June, maintaining its focus on discharging its regulatory and enforcement responsibilities. ASIC additionally launched litigation against misconduct; action was taken against entities which ASIC alleged were misleading consumers or charging excessive fees. ASIC successfully took action against an entity for failing to adequately manage cyber risk. Finally, ASIC sought to improve financial report and risk management with a set of new reporting requirements for financial services licensees.

Source: [ASIC](#)



Credit Reporting Code updated in line with financial hardship reforms

The Credit Reporting Code has been updated with the ability to report financial hardship information by credit reporting bodies and credit providers. These updates will give credit providers a fuller picture of a consumer's financial situation, alongside prohibiting the use of financial hardship information to calculate an individual's credit score and limiting the retention of financial hardship information to 12 months.

Source: [OAIC](#)



03

Industry bodies



ABA

Australian Banking Association



ABA welcomes ASIC's 'no action position' to protect victims of family violence

The ABA has welcomed a decision by the Australian Securities and Investment Commission (ASIC) which provides a 'no action position' enabling banks to withhold credit reporting information. This would be done in cases where the reporting of that information could lead to customer harm. This would in turn reduce financial abuse and support victim-survivors of family violence.

Source: [ABA](#)



COBA

Customer Owned Banking Association



Australian banks launch new credit report fact sheets

The ABA and member banks have launched new credit report fact sheets which outline the support available to customers who run into financial difficulty. These fact sheets include information on help that banks can provide and are designed to help financial counsellors understand the reflection of financial hardship arrangements.

Source: [ABA](#)



FSC

Financial Services Council



COBA welcomes new campaign driving PayID take-up

The COBA has welcomed the ABA's campaign which encourages businesses and individuals to register for PayID as an effort for protection against financial scams. ABA's campaign would track both growth in payments made to a PayID and increased PayID registrations instead of an account number and BSB. COBA would also share ABA's integrated campaign materials to educate consumers on how using PayID would help in avoiding scams and ensuring that payments go where they are intended to.

Source: [COBA](#)



ABA

Australian Banking Association



COBA

Customer Owned Banking Association



FSC

Financial Services Council



Retirement Income Covenant comes into effect

The Retirement Income Covenant has come into effect from 1 July 2022 focusing on the requirement of superannuation funds in developing a retirement income strategy for their members and publishing a summary of this strategy on their website. This would result in a brighter financial future for millions of Australians which would be further accentuated by an increase in contribution rate which is legislated to reach 12 per cent by 2025.

Source: [FSC](#)



FSC welcomes review into YFYS performance test

The FSC has welcomed the government's decision to pause the extension of the Your Future, Your Super (YFYS) performance test beyond MySuper products for 12 months while reviewing the YFYS laws. It also supports the government's commitment to not unwind the stapling measures of the YFYS laws and proposes further consultation to be considered in areas undermining the performance test from being applied fairly.

Source: [FSC](#)



04

Overseas

developments



CPMI and IOSCO publish final guidance on stablecoin arrangements

The Bank for International Settlements' Committee on Payments and Market Infrastructures (CPMI) and the International Organisation of Securities Commissions (IOSCO) have published their final guidance which confirms the application of Financial Market Infrastructures to systemically important stablecoin arrangements that transfer stablecoins. It also confirms that stablecoin arrangements should observe international standards for settlement, payment, and clearing systems. This guidance is a key contribution to the G20 cross-border payments programme while supporting the work of the Financial Stability Board (FSB) in this area.

Source: [IOSCO](#)



FSB seeks feedback for measuring progress toward the G20 cross-border payments targets

The Financial Stability Board (FSB) invited feedback on the preliminary proposals regarding the approach for monitoring progress toward meeting the targets for the G20 roadmap for enhancing cross-border payments. The proposal includes:

- Recommendations of differentiated key performance indicators (KPIs) used to monitor progress over time;
- Identification of existing and potential sources of data for the calculation of those KPIs; and
- Leveraging public-sector databases such as Global Findex database and World Bank's Remittance Prices Worldwide database to calculate KPIs.

Submissions were due by 31 July 2022.

Source: [FSB](#)



Basel Committee issues high-level considerations on proportionality

The Basel Committee on Banking Supervision has issued high-level considerations on proportionality aiming at provision of practical support to supervisory authorities while they seek to implement proportionality in their domestic supervisory and regulatory frameworks. It includes guidance for proportionate decision-making and technical annexes which outline more specific considerations related to various elements of the Basel Framework.

Source: [BIS](#)





EBA adopts decision on reporting of payment fraud data under PSD via EUCLID

The European Banking Authority (EBA) has adopted the decision on reporting of payment fraud data by competent authorities under the Payment Services Directive via European Centralised Infrastructure of Data (EUCLID) and according to EBA Data Point Model (DPM). The decision allows the establishment of a streamlined workflow arrangement whereby the European Central Bank can submit data which is in line with the specifications set out in the EUCLID decision.

Source: [EBA](#)



EIOPA seeks input on supervisory statement on differential pricing practices

The EIOPA has released a consultation paper related to a draft supervisory statement on differential pricing practices. The statement aims to strengthen consumer protection via preventing the unfair treatment of consumers through adequate product oversight and governance (POG) processes and promoting greater convergence in the supervision of differential pricing practices through price walking.

Submissions are due by 7 October 2022.

Source: [EIOPA](#)



EIOPA publishes a staff paper on the proposal for an Insurance Recovery and Resolution Directive

The European Insurance and Occupational Pensions Authority (EIOPA) has published a staff paper which provides an overview of the proposal for an Insurance Recovery and Resolution Directive (IRRD) put forth by the European Commission. The staff paper while outlining the IRRD as a comprehensive framework and its main benefits, also welcomes the proposal which addresses all relevant building blocks of a resolution and recovery framework and focuses on coordination and cooperation among authorities.

Source: [EIOPA](#)





PRA consults on authorisation and supervision of Insurance Special Purpose Vehicles

The Prudential Regulation Authority's (PRA) has released a consultation paper which proposes changes in the PRA's approach to authorising and supervising Insurance Special Purpose Vehicles (ISPVs) which is relevant to firms wishing to apply/already obtained authorisation as an ISPV, as well as to insurers and reinsurers which seek to use UK ISPVs as a risk mitigation which is in accordance with the UK's onshored Solvency II framework.

Submissions are due by 11 October 2022.

Source: [BOE](#)



PRA and FCA consult on margin requirements for non-centrally cleared derivatives

The PRA and Financial Conduct Authority's (FCA) has published a consultation paper which aims to amend the UK bilateral margining requirements via:

- Introduction of a fall-back transitional provision for firms;
- Updating the list of instruments which can be used as collateral while meeting the margin requirements; and
- Updating the scope of application of these margin requirements.

Submissions are due by 12 October 2022.

Source: [BOE](#)



PRA releases feedback to the responses obtained for Solvency II: definition of an insurance holding company

The PRA has released its feedback on the responses to the consultation paper Solvency II which defines an insurance holding company thereby making minor changes to the draft policy. This policy statement is relevant to insurance firms which are within the scope of the Group Supervision Part of the PRA Rulebook and to the Society of Lloyd's.

Source: [BOE](#)





SEC proposes amendments to shareholder proposal rule

The Securities and Exchange Commission (SEC) has proposed amendments to the rule that governs the process for shareholder proposals inclusion in a company's proxy statement. The amendment would revise the substantial implementation, duplication, and resubmission of the bases of exclusion to promote better predictability and consistency in application.

Source: [SEC](#)



SEC adopts amendments to proxy rules governing proxy voting advice

The SEC has adopted amendments to its rules which govern proxy voting advice aiming at avoidance of burdens on proxy voting advice businesses which may impair the timeliness and independence of their advices. The amendment:

- Rescinds conditions to the availability of two exemptions from the proxy rules' information and filing requirements;
- Addresses misperceptions about liability standards applicable to proxy voting advice;
- Deletes 2020 changes made to proxy rules' liability provision; and
- Addresses the confusion while affirming that proxy voting advice is subject to liability under the proxy rules.

Source: [SEC](#)



CFTC extends comment period on request for information on climate-related financial risk

The Commodity Futures Trading Commission (CFTC) has extended the deadline to submit public comments on request for information on Climate-Related Financial Risk (RFI) pertaining to derivatives markets, registered entities, commodities markets, registrants, and other related market participants. In addition to this, the RFI seeks responses on questions related to scenario analysis and stress testing, risk management, disclosure, voluntary carbon markets, greenwashing, public-private partnerships and engagement, digital assets, data, product innovation, and financially vulnerable communities.

Submissions are due by 7 October 2022.

Source: [CFTC](#)





FSC introduces measures to stabilise corporate bond and CP markets

The Financial Services Commission (FSC) has announced preemptive market stability measures for stabilising corporate money markets to tackle financing difficulties exhibited by businesses amid rising volatility in the corporate bond and CP markets. In lieu of this, the Korea Development Bank (KDB) and Korea Credit Guarantee Fund (KODIT)'s maximum purchase cap and operation of the corporate bond and CP purchase programs would be extended.

Source: [FSC](#)



FSC approves revision proposal for the supervisory regulation of credit information business

The FSC has approved a revision proposal which contains revised rules on credit information business to enhance convenience and efficiency in data use through facilitating data utilisation and convergence between different industries. This includes introduction of a qualification verification system, making data specialising institutions' requirements for self-convergence of data to be more reasonable, allowing them to make request for data convergence, and introduction of a data convergence procedure on sample data.

Source: [FSC](#)



PBC, SFC and HKMA collaborate to develop Swap Connect

The People's Bank of China (PBC), the Hong Kong Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) will collaborate to develop mutual access between the Hong Kong and Mainland interest rate swap markets (Swap Connect) for promoting the development of financial derivatives markets. Swap Connect would help in:

- Enhancement and consolidation of Hong Kong's status as an international financial centre;
- Steady and progressive opening-up of the Mainland financial derivatives market;
- Diversification of market access channels for overseas investors; and
- Facilitation to trade in the Mainland interbank financial derivatives market and hedge risks.

Source: [HKMA](#)





05

PwC

publications



PwC China: Climate risk disclosure for fund managers

PwC China has released a report which advises investment funds in developing their climate frameworks and disclosure documentation, while also suggesting ways on how to best meet the Hong Kong Securities and Futures Commission (SFC)'s new requirements on how fund managers should manage climate-related risks and how these risks should be disclosed to their investors.

See [publication](#)



PwC China: Alternative assets in Hong Kong

PwC China has released a report outlining how Hong Kong's alternative investment sector has recorded tremendous growth, making it the destination of choice for alternative asset managers and investors in Asia Pacific and globally. The report also highlights the factors responsible for this outstanding performance with recommendations on charting the road forward.

See [publication](#)



PwC China: Asia Pacific Financial Services Tax Highlights

PwC China has released Asia Pacific Financial Services Tax Highlights. The areas undergoing development are Asset and Wealth Management, Banking and Capital Markets, Insurance, and others. The countries covered in this release include Australia, Hong Kong, India, South Korea, Malaysia, Taiwan, and Thailand.

See [publication](#)



PwC US: The changing regulatory landscape

PwC US has released an article outlining their take on the changing regulatory landscape on:

- The confirmation of Michael Barr as Fed Vice Chair for Supervision;
- Shifting of regulatory focus to international cooperation;
- SEC acting on shareholder proposals
- Proxy advice;
- CFPB's continual in scrutiny of fees, and
- The release of a cybersecurity report by the Fed.

See [publication](#)





PwC US: June Financial Services Regulatory Update

PwC US has released an article outlining their take on the changes in the financial services regulations of June. The topics include the meltdown of digital assets, outlining potential market structure reforms, release of a draft Net-zero Transition Plan (NZTP), issuance of a set of principles for the effective supervision and management of climate-related financial risks by the Basel Committee for Banking Supervision (BCBS). In addition to this, several developments including SEC's request for information-on-information providers, scrutinisation of bank customer service by CFPB and Gruenberg's views on Community Reinvestment Act (CRA) were included.

See [publication](#)



PwC US: Q2 Capital Markets Watch

PwC US has released an article outlining the current situation and progress of capital markets including the impact on IPOs, SPAC (Special-purpose acquisition company) IPOs, SPAC mergers, slowdown in venture capital investments, and slowing down of US debt markets due to inflation.

See [publication](#)



PwC US: July Financial Services Regulatory Update

PwC US has released an article outlining their take on the changes in the financial services regulations of July. The topics include:

- The retirement of Dan Ryan from PwC.
- Banks clearing Dodd-Frank Act Stress Test (DFAST).
- Issuance of semiannual risk perspective by the OCC (Options Clearing Corporation).

In addition to this, several developments were highlighted, including:

- Increased sanctions by the Treasury due to Russian default.
- Scrutinisation of credit card fees by CFPB (Consumer Financial Protection Bureau).
- Release of spring 2022 agenda by SEC
- Finalisation of a crypto bill by the EU.
- FCA consultation on winding down LIBOR (London Inter-Bank Offered Rate).
- Release of digital asset consultation by BCBS (Basel Committee on Banking Supervision) were included.

See [publication](#)





Contacts

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Contacts



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Upcoming Changes



06



Date	Title	Relevant Govt / Regulator
16-Aug-22	Consultation on superannuation performance test treatment of faith-based products	Treasury
2-Sep-22	Feedback on guidance notes for the Payment Times Reporting Scheme	Treasury
7-Oct-22	Consultations to strengthen transparency on remuneration and bank disclosures	APRA
1-Jan-23	Final remuneration prudential standard comes into effect	APRA
1-Oct-24	Relief for employee redundancy funds from the managed investment provisions of the <i>Corporations Act 2001</i> extended	ASIC



Thank you

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