Super Snapshot

Superannuation: Assessing efficiency and competitiveness, Productivity Commission Final Inquiry Report, January 2019

The purpose of this snapshot is to provide a summary of the 31 recommendations for significant reform of the system (the full report can be found here: https://www.pc.gov.au/inquiries/completed/superannuation/assessment/report) and highlights the connection with the pipeline of regulatory changes already in train to support superannuation trustees through this unprecedented time of fluid and dynamic change.

The implications of the PC's recommendations will reach far beyond the superannuation sector to, for example employers (should the process for allocating default members change), administrators (because of the system changes needed to support implementation of the recs) and auditors (with the new key role in undertaking independent audits of member outcomes approaches).

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Reactions to the report

- **Government:** The Assistant Treasurer has indicated the Government will carefully consider the recommendations and will await the final report from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, before finalising its response. How the recommendations land in practice will also depend on Federal election, as well as the findings of the Financial Services Royal Commission, with both the Government and the Opposition unlikely to implement all recommendations so expect to see some cherry picking of reforms. The Government might also decide to bring forward some of the reforms as part of the Federal Budget, which is due to be delivered on 2 April.
- **Industry bodies:** The industry bodies have responded, with AIST and ISA coming out strongly against changes to default allocation processes, the FSC welcoming the changes.
- **Regulators**: APRA and ASIC have both released media releases welcoming the PC's report (refer to coverage: https://www.financialstandard.com.au/news/apra-asic-welcome-productivity-commission-s-superannuation-report-131056290?related=130555423). We are already seeing increased regulator activity from both APRA and ASIC, which will only continue. APRA has recently announced a review of their enforcement strategy and Karen Chester, who led the review, is now a Deputy Chair at ASIC (joining two new superannuation Commissioners in Dannielle Press and Sean Hughes) so will be instrumental in operationalising ASIC's recently updated Corporate Plan. The recommendations also proposed a more active role for the ATO as a regulator of superannuation, continuing recent changes in the ATO's mandate and activities.

Points to note

- The report The report states that the PC identified evidence of a number of issues including:

  - Unintended multiple accounts
  - Insurance cover eroding member balances
  - Some persistently under-performing funds and products
  - Poor investment performance for some default and choice products
  - A lack of access to simple information and impartial advice to help members make informed decisions
  - Inadequate competition, governance and regulation which have led to these outcomes
- Whilst some of the details of the recommendations have changed since the release of the PC's draft report in May 2018, the majority are largely the same. A key difference lies in the detail of the elevated outcomes test for choice products and there has been some evolution in the PC's assessment of the performance being delivered by the system, especially in the context of investment performances (refer to page 8 and following in the Overview document) and greater attention being paid to how superannuation funds are run;
- Whilst the report lays out a smooth path to implementation starting at the end of 2019, the usual processes of a Government response, consultation and implementation of legislative and regulatory changes (by both the Government and the regulators) will take time;
- The SMSF sector was not considered to anywhere near the same degree as the APRA-regulated superannuation sector; and

Area	Key recommendations/issues	What can trustees do now?
Default fund processes	**Default model** – Default accounts should only be created for members who are new to the workforce or don't have an existing account. **'Best in show'** - Employees new to the workforce (or without an account) will have choice of funds but will be presented with a 'best in show' shortlist of funds; if no choice is made within 60 days, the employee should be defaulted into one of the shortlist. The first 'best in show' shortlist should be in place by the end of June 2021, with the universal participation default once process in place no later than December 2021. An independent expert panel should be established to run a competitive process to develop 'best in show' shortlist, with decision making guided by a clear set of published criteria.	• Consider what changes to the allocation of default members will do to strategic base. • Consider benchmarking to a leading group of super funds not just the median • Identify triggers for commencing merger talks. • Confirm or redefine purpose and identify potential target markets.
Elevated outcomes tests	All APRA-regulated funds should be required to undertake an annual outcomes test for their MySuper and choice offerings, with the assessments subject to clear benchmarking requirements and independent verification. Where an investment options falls short of these benchmarks over eight years, the fund should seek to remedy the product – if remediation is not feasible, the option should be withdrawn and the members transferred to a better performing option. This transfer should be subject to APRA oversight with APRA to be given power to stop a fund launching new options or accepting new members into existing options where a product is being remediated. Funds should be required to complete their first elevated outcomes tests by no later than 31 December 2020 (for MySuper products) and 30 June 2021 (for choice products).	• Develop member outcomes assessment using SPS 515 and APRA's guidance, but also draw inspiration from what the PC considers to be sound outcomes.
Insurance	**Opt-in insurance for young and inactive members** – Insurance through superannuation should be made opt-in for those members under 25 years of age, or where a member's account has not received a contribution for 13 months. **Insurance balance erosion trade-offs** – APRA should require all trustees to articulate and quantify their group insurance balance erosion trade-off determination they have made for their members, and make it available on their website. **Insurance code** – The government should establish a joint regulator taskforce (ASIC and APRA) track and report on adoption of the Insurance in Superannuation Voluntary Code of Practice, direct the strengthening of the Code and make the Code binding and enforceable. **Independent inquiry** – The government should commission an independent public inquiry into insurance in superannuation to assess the effectiveness of initiatives to date, examine costs and benefits and consider the need for more prescriptive regulation.	• Continue to implement the Voluntary Insurance in Super Code. • Design outcomes assessments that show critical review of the value of insurance to members.

Area	Key recommendations/issues	What can trustees do now?
Products that meet members' needs	**Fees** – The government should require that all fees charged by funds be levied on a cost-recovery basis and prohibit the use of fees to cross-subsidise between members. All trailing financial adviser commissions should be banned as soon as possible. **Multiple accounts** – Accounts with a balance less than $6,000 or have been inactive for 13 months or more should be required to be transferred to the ATO so they can be consolidated into one account. **Member-friendly dashboards** – The government should require funds to publish simple, single-page product dashboards for all superannuation investment options. ASIC should prioritise the choice product dashboard so it is implemented by end 2019 and should published all dashboards on the MoneySmart website, with links provided by the ATO through its online service. **'Advice' and approved product lists** – The government should amend the Corporations Act 2001 to ensure the term 'advice' can only be used when referring to 'personal advice', being advice that takes into consideration personal circumstances. Australian Financial Services licensees should be required to disclose to ASIC specific information about superannuation products on their approved product lists. **Financial literacy** – The government should comprehensively and systematically evaluate programs aiming to help financial literacy to better target funding. **Retirement income covenant** – The government should reassess the benefits, costs and design of the proposed retirement incomes covenant (including the proposal to develop a retirement income strategy) and only introduce it if design imperfections (including equity impacts) can be sufficiently remediated. **Information for pre-retirees** – ASIC and the Department of Human Services should be prompted to display useful information for 'pre-retirees' (over age 55) on their respective financial information websites. **Safeguards for SMSF advice** – The government should require specialist training for SMSF advisers, require the provision of specific ASIC guidance on SMSFs prior to setting one up and extend the DDO requirements to SMSFs. **Roll out the Consumer Data Right to superannuation** – The government should automatically accredit super funds to be eligible to receive bank information under the Open Banking initiative.	• Engage with Treasury's current consultation on Retirement Income Disclosure (subs due 28 March); https://treasury.gov.au/consultation/c2018-t347107/ • Design outcomes assessments that call out retirement needs and products as a specific cohort; can post-retirement be a point of differentiation? • Review legacy product book and implement simplification and rationalisation programs.

Area	Key recommendations/issues	What can trustees do now?
Best practice fund governance	**Regulation of trustee directors** – APRA should amend its prudential standards to increase prescription in respect of board performance, skills matrices, demonstrable professional understanding of superannuation and to define 'independent director'. **'Best interests' duty** – The government should pursue a clearer articulation of what the best interests duty means i.e. that a trustee should act in a manner consistent with what an informed member might reasonably expect and that this must be manifest in member outcomes. **Reducing impediments to mergers** – Trustees should be required to disclose all fund mergers as soon as the parties have entered into an agreement to merge. The Government should make the temporary capital gains tax relief permanent.	• Identify where a failure to manage conflicts are preventing genuine merger discussions. • Demonstrate how member priority is built into all key decision making. • Review governance structures to ensure efficient and effective oversight and accountability.
System governance	**Clarify regulator roles and powers** – The government should clarify the roles of APRA and ASIC in relation to superannuation. In doing so, it should consider the suitability of each regulator's powers, the suitability and strength of penalty provisions for misconduct, and whether there are any undesirable constraints. **APRA** – APRA should focus more on matters relating to licensing and authorisation, ensuring high standards of system and fund performance. APRA should be given an explicit 'member outcomes' mandate in its regulation of superannuation. The Government should immediately initiate an independent capability review of APRA to audit the authority's efficiency and effectiveness. **ASIC** – ASIC should focus more on the conduct of trustees and financial advisers and the appropriateness of products. **Data working group** – The government should establish a permanent superannuation data working group comprised of APRA, ASIC, the ATO, the Bureau of Statistics, and the Commonwealth Treasury to identify and oversee improvements in the collection and publication of superannuation-related data. **Member advocacy** – The government should establish and fund an independent member advocacy body. **Ongoing review** – The government should require APRA and ASIC to produce a 'State of Superannuation' report every two years, commission an independent inquiry into MySuper and choice evaluated outcomes every five years and commission an independent public inquiry into the superannuation industry every ten years (including a review of the 'best in show' criteria). **Inquiry into retirement incomes system** – The government should commission an independent public inquiry into the role of compulsory superannuation in the broader retirement income system, to be completed in advance of any increase in the Superannuation Guarantee rate.	
Implementation	The government should establish a Steering Group of Departmental and agency heads to oversee the implementation of the inquiry's recommendations.	

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