



ASIC

Australian Securities & Investments Commission

REPORT 529

Member experience of superannuation

June 2017

About this report

This report is for superannuation industry participants, consumer and investor organisations, and superannuation members.

It gives feedback on some key disclosures and practices in the superannuation industry based on the findings from recent ASIC projects and reviews, with a view to enhancing members' experience of, and engagement with, their superannuation.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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Executive summary

1 Superannuation is a compulsory retirement savings scheme, which represents one of the three pillars of Australia’s retirement income system, along with the age pension and voluntary savings. There are 14.8 million Australians with a superannuation account and 28 million member accounts. Superannuation assets totalled \$2.3 trillion at the March 2017 quarter.

Note: See Australian Tax Office (ATO), [Super accounts data overview—30 June 2016](#), Australian Prudential Regulation Authority (APRA), [Quarterly Superannuation Performance—March 2017](#), 23 May 2017 and APRA, [Annual Superannuation Bulletin](#), 1 February 2017.

2 While superannuation is vital to consumers and to the Government’s retirement income system, superannuation is a long-term and inherently complex product for many consumers. For the consumer, there is a lot to consider with superannuation, and a lot at stake.

3 ASIC is committed to improving outcomes for consumers and superannuation members, particularly those who are less engaged with their superannuation.

4 We expect superannuation trustees to make their disclosures to members as effective as possible. However, not all issues faced by consumers will be addressed by disclosure. In some cases, changes to industry conduct and practice are required to ensure consumers can continue to have confidence in a compulsory superannuation system.

5 The report summarises the findings from ASIC’s work on two key projects:

- (a) *The Member Experience project*—This project explored aspects of the superannuation lifecycle from the consumer’s perspective, including joining a fund, participating in a fund, and changing or leaving a fund. This work highlighted vulnerabilities for consumers in superannuation, particularly where events occur without their express consent, and the need for trustees not to take advantage of consumer inertia.
- (b) *The Effective Disclosure project*—This project reviewed disclosures to members from 14 superannuation trustees, highlighting key areas for improvement in Product Disclosure Statements (PDSs), written reasons for decision, product dashboards and other website content.

6 The report also draws on some of our findings and experiences from other recent project work and reactive reviews, and looks at the role of behavioural economics in the superannuation context.

7 We are following up on the issues in this report in 2017 in the Employers and Superannuation and Insurance in Superannuation projects, including some questions on these issues in a notice that has been sent to nearly 50 trustees. These projects will have a strong compliance focus and we expect to make public our findings.

Key findings and other issues

- 8 The key findings from the projects are summarised in Table 1 with a more detailed discussion in Section B. We also set out our expectations for trustees in improving the experience of superannuation for members.

Insurance in superannuation

- 9 Many of the key findings from the projects relate to the insurance component of superannuation, specifically:
- (a) the lack of adequate upfront and ongoing disclosure to members about insurance cover (e.g. exclusions, changes to or cessation of cover); and
 - (b) the use of inappropriate defaults when transferring members between different divisions of funds (e.g. ‘smokers’ or ‘blue collar workers’).
- 10 ASIC has sought improved disclosure from trustees involved in the projects and our reviews. We now expect all trustees to review their disclosures to ensure consistency between their policies, PDSs and other disclosure material, and to provide adequate notification of changes to or cessation of cover.
- 11 Further, we expect all trustees to immediately review their default arrangements in insurance, particularly where members are being transferred between fund divisions without consent. Defaulting members as ‘smokers’ or ‘blue collar workers’ in the absence of information about member status is inappropriate.

Claims and complaints handling

- 12 Other findings relate to claims and complaints handling, including:
- (a) issues that may arise when trustees rely on administrators to handle aspects of claims and complaints workloads;
 - (b) poor disclosure about claims and the processes members must follow, particularly the need to go through internal dispute resolution (IDR) before going to the Superannuation Complaints Tribunal (SCT).
 - (c) the failure of trustees to provide adequate written reasons for decision in relation to complaints.
- 13 We expect trustees to:
- (a) ensure their claims and complaints handling processes are clearly explained and consistent with good industry practice; and
 - (b) provide written reasons for decision where required to do so, with a focus on the information needs of the member.

Other issues

- 14 Table 2 summarises findings from the projects and our expectations for trustees on other issues such as product dashboards, calculators, group branding, consolidation, and strategies for vulnerable consumers.
- 15 Specific findings and feedback from the projects on these issues have been communicated individually to the trustees reviewed.

Table 1: Summary of key findings and further work for trustees

Issue	Findings	Further work for trustees
Disclosure about insurance cover (see paragraphs 51–59)	<ul style="list-style-type: none"> • Disclosure about insurance cover in superannuation is sometimes inadequate, with inconsistencies between policy documents, PDSs, and other disclosure material from the trustee. In some cases, exclusions from cover could be more clearly articulated. • ASIC has sought improved disclosure from some trustees in our projects/reviews. 	<ul style="list-style-type: none"> • We expect trustees to: <ul style="list-style-type: none"> – review their disclosures about insurance cover, focusing particularly on exclusions and limitations to cover (e.g. exclusions for hazardous occupations, or situations in which claims may be denied for non-disclosure of medical conditions by the member); – ensure that disclosure about insurance is consistent in policies, PDSs, and other disclosure material; and – consider making voluntary disclosure of group insurance policies prominently on the fund’s website. • ASIC’s Insurance in Superannuation project is following up on these issues in 2017. Where we find poor disclosure in this project, we will take further regulatory action and make public the outcomes of our work.
Changes to or cessation of cover (see paragraphs 60–72)	<ul style="list-style-type: none"> • Some trustees are providing inadequate notification of changes to, or cessation of, insurance cover, and are relying on disclosure made in PDSs about the circumstances when cover will change or stop. 	<ul style="list-style-type: none"> • We expect trustees to tell members when cover is about to change or cease in a way that allows them to take action if they wish to (e.g. change products or obtain advice). One example is notifying members before cover ceases, rather than relying on disclosure in the PDS they received when they joined the fund. • ASIC’s Insurance in Superannuation project is following up on these issues in 2017. Questions about whether disclosure is given before cover ceases have been included in a notice that has been sent to almost 50 trustees. • We intend to publicise the outcomes of this project work. This may include naming trustees where we think best practice standards are not being met in relation to the cessation of cover.
Default transfer arrangements (see paragraphs 73–83)	<ul style="list-style-type: none"> • Some trustees are defaulting members as ‘smokers’ or ‘blue collar workers’ for insurance purposes when moving members between divisions of funds. • Even if disclosure of the change is made to members, the higher insurance premiums can have a significant adverse financial impact on disengaged members. 	<ul style="list-style-type: none"> • Trustees should not default members as ‘smokers’ or ‘blue collar workers’ in the absence of information about member status. • ASIC’s Insurance in Superannuation project is following up on these issues in 2017. Questions about smoker defaults have been included in a notice that has been sent to almost 50 trustees. • We intend to publicise the outcomes of this project work. This may include naming trustees where we think best practice standards are not being met for defaults.

Issue	Findings	Further work for trustees
Claims and complaints handling (see paragraphs 84–106)	<ul style="list-style-type: none"> Trustees are sometimes relying on administrators and insurers to handle aspects of their claims and complaints workloads. Poor interaction between trustees, insurers and service providers can result in delays and poor communication to members. In some cases, claims and complaints handling processes are poorly explained to members, particularly the need to go through IDR before going to the SCT. Some trustees are failing to provide adequate written reasons for decision as required under the law: see s101 of the <i>Superannuation Industry (Supervision) Act 1993</i> (SIS Act). ASIC has contacted seven trustees in relation to complaints about death benefit claims. 	<ul style="list-style-type: none"> We expect trustees to: <ul style="list-style-type: none"> ensure that claims and complaints handling processes are clearly explained, easy to navigate and consistent with good industry practice; adequately explain why a claim has been denied and clearly explain the complaint processes, including the need to go through IDR and the member's right to external dispute resolution (EDR) if a matter is not resolved to their satisfaction; and where required, provide written reasons for decision that focus on the information needs of the member. ASIC's Insurance in Superannuation project is following up some of these issues. Given our previous work in this area, we will take stronger regulatory action in the future where we identify poor disclosure or trustees that are failing to provide written reasons for decision in breach of the law.

Table 2: Summary of other issues and further work for trustees

Issue	Findings	Further work for trustees
Product dashboards (see paragraphs 107–120)	<ul style="list-style-type: none"> Some product dashboards did not meet the basic requirements, particularly for terminology. Product dashboards are still not prominent on websites, despite previous ASIC guidance and feedback. It was unclear from our reviews whether trustees or their experts assess the dashboard measures against their trustee peers where their dashboard is unusual in comparison. ASIC has contacted some trustees about their dashboard disclosure. 	<ul style="list-style-type: none"> We expect trustees to: <ul style="list-style-type: none"> review the content of their product dashboards, particularly use of the required terminology to ensure consistency and comparability of disclosure; ensure that product dashboards are prominent on the homepage of their websites and easily accessible to members and other consumers, highlighting that they can be used as a comparison tool; and assess their external consultants' dashboard recommendations, particularly if the data looks unusual when compared with peers, and ensure there is a reasonable basis for statements made (Board oversight may be required). Given the importance of product dashboards and the ASIC guidance already provided, we may take stronger regulatory action, including issuing stop orders, where dashboards do not meet the requirements. Failing to meet the requirements may also be an offence.

Issue	Findings	Further work for trustees
Calculators (see paragraphs 121–127)	<ul style="list-style-type: none"> Some trustees are offering generic calculators prepared by third parties. It is sometimes not clear on the fund's website who is responsible for the calculator and the results that it generates. Trustees are responsible for the decision to include a calculator on their website. In providing a third party calculator, trustees need to consider their SIS Act obligations to act in the best interests of members. 	<ul style="list-style-type: none"> We expect trustees to: <ul style="list-style-type: none"> be clear on the fund's website about who is responsible for the calculator; and consider their trustee, and other, duties when deciding to put a calculator on a website, including a calculator from a third party.
Group branding (see paragraphs 128–132)	<ul style="list-style-type: none"> For some trustees who belong to a corporate group, excessive prominence was given to the group's branding in disclosure material for consumers. Group branding that overshadows the trustee's identity could be misleading for consumers. 	<ul style="list-style-type: none"> We expect trustees to: <ul style="list-style-type: none"> ensure that the inclusion of group branding does not overshadow other more important information for consumers; and clearly disclose at all times who the trustee for the fund is. ASIC will take action where we consider that group branding and extraneous information is misleading.
Consolidation (see paragraphs 134–143)	<ul style="list-style-type: none"> Most trustees in our review addressed the risks of consolidating all of a person's superannuation into one account. However, discussion of the benefits was generally more prominent than disclosure of the risks. Some trustees used marketing promotions to influence their members to undertake actions to consolidate their accounts or update their details. While incentives for consumer action are not prohibited in the superannuation context, they should not distract members from making an informed financial decision. 	<ul style="list-style-type: none"> We expect trustees to: <ul style="list-style-type: none"> review all disclosures on consolidation, including on their website; ensure they are giving balanced disclosure and equal prominence to both the benefits and the risks of consolidation; and exercise caution when using incentives to ensure that the incentive does not distract a member from making an informed financial decision. ASIC has previously warned trustees about this issue and may take stronger regulatory action in future, including issuing stop orders. Law reform may be needed to ensure account consolidation is appropriately managed.
Vulnerable consumers (see paragraphs 144–151)	<ul style="list-style-type: none"> None of the trustees in our review had a strategy to address communications with vulnerable consumers (including Indigenous and Torres Strait Islander members). 	<ul style="list-style-type: none"> We encourage trustees to: <ul style="list-style-type: none"> consider whether current ASIC disclosure relief can help them to better engage and communicate with their membership base; and develop measures to identify and address the needs of their vulnerable consumers, and discuss them with us if it is relevant or useful to do so.

A Background to the report

Key points

This section gives background information on the Member Experience and Effective Disclosure projects and ASIC's other activities in superannuation.

It also discusses the role of behavioural economics in understanding the way people think, behave and make decisions.

About the projects

The Member Experience project

- 16 The Member Experience project mapped the superannuation lifecycle as seen from the perspective of the consumer and identified key areas of potential vulnerability or risk and how these issues could be addressed by industry and/or ASIC.
- 17 Three stages of the superannuation lifecycle were mapped:
- (a) *Stage 1: Joining a fund*—This covered the role of employers, the risks for members, and insurance in the default superannuation system.
 - (b) *Stage 2: Participating in a fund*—This covered communications to members, decision making and advice, inquiries and complaints handling.
 - (c) *Stage 3: Changing or leaving a fund*—This covered lost superannuation, consolidation of superannuation, fund transfers and retirement.
- 18 After mapping and identifying vulnerabilities in these areas of the superannuation system, we considered insights from behavioural economics to explore relevant factors. Behavioural economics and related disciplines help us to understand the way people think, behave and make decisions. For a discussion of the role of behavioural economics, see paragraphs 41–45.
- 19 Consumers are particularly vulnerable where events happen to them without their consent. This can often include events relating to insurance, such as cover ceasing or conditions changing.
- 20 This project will continue in 2017, with our focus being primarily on Indigenous consumers and their needs.

The Effective Disclosure project

21 The purpose of this project was to review the disclosure practices used by trustees in communicating information to their members. We also took the opportunity to observe whether some of the Stronger Super reforms were operating effectively.

Note: The Stronger Super reforms included the introduction of a 'MySuper' default superannuation product and heightened duties for trustees: see Treasury, [Stronger Super](#).

22 Under notice, we collected and reviewed documents from 14 trustees across the superannuation industry sector, including retail, industry and corporate funds. We considered product dashboards, systemic transparency requirements, notifications to members, trustees' strategies for dealing with vulnerable consumers, and insurance disclosures.

23 The project reviewed the quality of the information that is publicly available as well as information that cannot be viewed on the superannuation fund's website, but which relates to, and affects, individual members.

24 As part of our work for this project, we also asked trustees questions about their reliance on recently released ASIC disclosure relief, as well as their use of data to better understand their member base. There is significant scope for increasing the use of data analysis so trustees can better target their disclosure and service the needs of members. Better use of data can help trustees get tailored information or assistance to different member cohorts.

Other ASIC activities

25 Within ASIC, there is significant ongoing work on superannuation. As well as our business-as-usual work of surveillances, disclosure reviews, and administrative action, we have undertaken a number of projects examining specific issues in superannuation. These include our work on fee and cost disclosure and our annual risk-based surveillance reviews.

26 In 2016, our risk-based surveillance reviews of superannuation trustees covered three trustees, two of which were required to make changes to their businesses as a result of our reviews, particularly their disclosure material.

27 The third trustee undertook a successor fund transfer of their fund as we started our review and we monitored their engagement with consumers through this process. Their transfer suggested our profiling was accurate in identifying trustees that presented risks. The results of this review work are included in this report where relevant.

28 There is room for improvement in the industry to enhance the experience of superannuation for consumers. Trustees may need to think beyond just complying with minimum disclosure requirements in order to communicate effectively with consumers and members. Some issues consumers face may not be addressed by disclosure at all, but by changes to industry practices.

29 We intend to take further action where we consider consumers are being poorly treated in relation to their superannuation. ASIC's enforcement powers include stop orders and infringement notices where disclosure concerns are identified. We also have the ability to take civil and criminal action where serious breaches are identified, and can take licensing action where a trustee holds an Australian financial services (AFS) licence.

Note: [ASIC's Corporate Plan for 2016–2017 to 2019–20](#) (in particular, Focus 2016–17) outlines key risks and challenges that ASIC is considering, and how we will respond. Importantly, it also includes a summary of 'what good looks like' in superannuation and managed funds, which underlines our consumer focus. Overall, the conduct, product and disclosure practices in each sector should promote investor and consumer trust and confidence and market integrity (see p. 36).

Insurance in superannuation

30 During 2017, ASIC's Insurance in Superannuation project, will look at complaints handling and disclosure, as well as aspects of conflicts, incentives and culture.

31 This project will draw on our findings in [Report 498 Life insurance claims: An industry review](#) (REP 498), published in October 2016, which identified concerns with claims handling practices across the life insurance industry. One aspect of this review was the interaction between superannuation trustees, insurers and consumers.

32 We have served notices on nearly 50 superannuation trustees to ask questions about their insurance arrangements, including questions about disclosure to members, claims and complaints handling, as well as questions about rebates and benefits offered by insurers to trustees.

33 Several superannuation industry associations have announced the formation of an Insurance in Superannuation Industry Working Group (ISWG) to look at improving the experience of superannuation fund members. A key deliverable for the working group is a code of practice in insurance that will apply to superannuation funds. ASIC supports these initiatives from industry.

34 We also expect that the ISWG may consider some of the issues in this report in the development of a code of practice, such as disclosure about insurance cover (see paragraphs 51–59), outsourcing to third parties (see paragraphs 86–90) and information about claims and complaints (see paragraphs 91–96).

Employers and superannuation

35 During 2017, we are also looking at the role of employers in superannuation. This project recognises the significant impact that employers can have on the retirement outcomes of their employees. In particular, we will consider:

- (a) who provides advice to employees/employers, what services are provided, and how these are paid for;

- (b) what disclosure materials are given to employers by trustees and others;
- (c) what benefits are offered to employers by trustees or others; and
- (d) what role other third parties play in engaging with trustees (e.g. clearing houses, payroll providers, advisers and others who provide corporate tender services).

36 In conjunction with our Insurance in Superannuation project, ASIC has served notices on nearly 50 superannuation trustees asking them about their arrangements with employers, including questions about disclosure, benefits, services and advice provided to employers, as well as questions about the involvement of third parties (such as advisers) in the process.

Ongoing surveillance and review

37 As part of our ongoing surveillance work, we monitor information provided to us and intelligence received. We register and assess reports of misconduct received from the general public, breach notifications from regulated entities, referrals of information, and reports of misconduct.

38 In the 2015–16 financial year, we received 1,654 breach notifications and 9,751 reports of misconduct. Of these, approximately 2% of the reports of misconduct involved superannuation.

Note: See ASIC's [2015–16 Annual Report](#), pp. 90 and 93.

39 Some of our reactive and project work is referred to in this report. For example, based on intelligence received, we have undertaken reviews of trustees who failed to give adequate written reasons for decision: see paragraphs 97–106.

40 The findings discussed in this report will feed into other projects that are underway and shape the reactive matters we focus on in 2017. This work will also help inform the feedback we give Treasury on law reform related matters.

The role of behavioural economics

41 Behavioural economics departs from economic models that rely on assumptions about 'rational' human behaviour and instead focuses on how people and firms actually behave. Among other things, it seeks to understand the different—and often unconscious—mental shortcuts or 'biases' that can drive decision making and behaviour.

42 The financial services sector is a particularly rich environment for behavioural biases because financial products and services:

- (a) are inherently complex and often require consumers to make important decisions involving risk and uncertainty in situations where we know that people are prone to making systematic errors in these decisions;

- (b) represent extreme examples of ‘credence goods’ in that quality may not be known for years or decades after purchase;
- (c) can involve critical long-term promises to the purchaser;
- (d) include examples of products that are infrequently purchased and so provide limited opportunity for feedback and learning; and
- (e) often involve significant sums of money.

Note: See the speech by ASIC Deputy Chairman Peter Kell, [ASIC and behavioural economics: Regulating for real people](#), at The Impacts of Behavioural Economics on Financial Markets and Regulations Symposium, Brisbane, Australia, 18 October 2016.

- 43 These points are particularly pertinent in a superannuation context, given the long-term nature of the product and its complexity.
- 44 Some trustees are already using behavioural insights in their interactions with members, including in claims handling processes for insurance in superannuation, to improve member outcomes. We support the design and testing of behaviourally informed processes by trustees. The most well-designed and targeted disclosures will not be useful if the underlying process to make a claim on insurance, for example, is complex and full of frictions.
- 45 The timing of disclosures and the use of effective prompts (e.g. reminders) can influence their effectiveness. Superannuation trustees should give greater consideration to the timing, context and method of their communications to members. Information design should be consumer centric and based on what the member needs to know.

B Key findings from the projects

Key points

The Member Experience and Effective Disclosure projects identified the following key issues:

- disclosure about insurance cover in superannuation needs improvement;
- industry practices around defaulting members into categories such as 'smoker' or 'blue collar worker' for the purposes of insurance cover need to change, irrespective of the disclosure given to members;
- information about claims and the complaints handling process is not always being clearly explained to members; and
- in some cases, trustees are failing to provide adequate written reasons for decision in breach of the law.

Other issues identified in the projects are discussed in Section C.

Insurance in superannuation

- 46 Under the Stronger Super reforms, trustees offering default (MySuper) products are generally required to offer a member death and total and permanent disability (TPD) cover on an opt-out basis: see s68AA of the *Superannuation Industry (Supervision) Act 1993* (SIS Act).
- 47 While there is no statutory minimum for TPD cover, minimum amounts are specified for death cover: see Sch 1 of the Superannuation Guarantee (Administration) Regulations 1993. Members can usually opt to increase cover as well as decide against holding cover entirely.
- 48 Superannuation trustees also play an integral role in the claims handling process. Life insurance offered through superannuation is typically group insurance, which means the insurance contract is between the trustee and the insurer, rather than the member. The member must make any insurance claims through the trustee. This differs from the consumer experience of direct life insurance.
- 49 Trustees are also subject to specific obligations under the SIS Act in relation to their insurance offerings. While s68AA generally requires certain types of insurance to be offered, trustees are also subject to the covenants in s52(7) of the SIS Act. Under s52(7), a trustee must formulate, review regularly and give effect to an insurance strategy for the benefit of beneficiaries of the entity that includes provisions addressing matters such as the basis for the decision to offer or acquire insurance of those kinds, with cover at that level or levels, given the demographic composition of the beneficiaries of the entity.

- 50 However, a trustee must only offer or acquire insurance of a particular kind, or at a particular level, if the cost of the insurance does not inappropriately erode the retirement income of beneficiaries: see s52(7)(c) of the SIS Act. A trustee must also do everything that is reasonable to pursue an insurance claim for the benefit of a beneficiary, if the claim has a reasonable prospect of success: see s52(7)(d).

Note: See paragraphs 129–133 of REP 498.

Disclosure about insurance cover

- 51 Insurance is a complex area, with technical policy documents and conditions (and exclusions) that members need to be aware of. In these situations, members rely heavily on the trustee to distil the basic information for them in a simple way. In our reviews, we found cases where disclosure was inconsistent and needs to be improved.
- 52 We found instances where fact sheets about insurance did not match the insurance policy, as well as differences in age and premiums between the insurance policy and PDS documentation. In one case, there was a lack of clarity in terminology between the PDS and insurance policy in the description of employee categories where the policy had been amended a number of times and no consolidated insurance policy was available.
- 53 In our risk-based surveillance reviews, one trustee was also using an outdated definition of terminal illness in connection with the early release of benefits. Corrective disclosure was required in this case.
- 54 In another case, the disclosure document did not clearly disclose the limitations and exclusions for the trustee's death and TPD policy. In particular, we could not identify whether there were exclusions for injury caused by war outside Australia, or as a result of intentional self-inflicted injury or attempted suicide, which are common exclusions for these types of policies. Further, the disclosure material for the trustee's income protection policy did contain these exclusions.
- 55 Information about exclusions is important to members, as it helps them assess the value of the cover in their circumstances. We are aware that some trustees may use broad definitions of 'hazardous occupations'. Unless this is explained clearly in disclosure material, a member may not realise that they are employed in what the trustee may consider a 'hazardous occupation' and not have appropriate cover.
- 56 It is also important for trustees to be clear about the factors affecting claims. Feedback ASIC has received suggests that some claims may be denied on the basis of non-disclosure of minor or unrelated mental illness. Trustees need to make it clear to members that this information must be disclosed.

- 57 Trustees should review documentation to ensure all product features and exclusions are clearly articulated, including when cover may cease. We also expect trustees to ensure information is both accurate and consistent between disclosure documents and policy documentation.
- 58 ASIC has sought improved disclosure from trustees involved in the projects and our reviews.
- 59 It is not mandatory for group insurance policies between trustees and insurers to be made publicly available. However, we do receive queries from members who are keen to obtain policy documentation. We think trustees should consider making these documents available on their websites. In our reviews, we found one trustee who did put this information online.

Further work for trustees: Disclosure about insurance cover

We expect trustees to:

- review their disclosures about insurance cover, focusing particularly on exclusions and limitations to cover (e.g. exclusions for hazardous occupations, or situations in which claims may be denied for non-disclosure of medical conditions by the member);
- ensure that disclosure about insurance is consistent in policies, PDSs, and other disclosure material; and
- consider making voluntary disclosure of group insurance policies prominently on the fund's website.

ASIC's Insurance in Superannuation project is following up on these issues in 2017. Where we find poor disclosure in this project, we will take further regulatory action and make public the outcomes of our work.

Changes to or cessation of cover

- 60 One of the specific features of insurance in superannuation is that it is not 'guaranteed renewable'. Guaranteed renewable means that a life insurer must continue to maintain the life insurance product for as long as the policy holder pays premiums. Under the law, life insurers must not change the terms and definitions of a guaranteed renewable life insurance policy without the consent of the policy holder: see paragraph 11 of REP 498.
- 61 With insurance in superannuation, changes may be made to the policy, or cover may cease, without the member's active consent and, in some cases, with no timely disclosure about the change at all.
- 62 We found that members were vulnerable in these situations because the consequences of changes to insurance could have significant ramifications and yet members may be unaware of these changes.

- 63 For example, to avoid eroding member benefits unnecessarily, trustees may have nominated a particular threshold for accounts so that if a member's account drops below this amount, cover will cease and premiums will no longer be deducted. This means that there is a designated point at which cover will cease without the member doing anything further.
- 64 Some trustees appeared to rely on the statements in PDSs about the circumstances when cover will stop. One insurance guide we reviewed stated that insurance cover would be cancelled without warning as it was the member's responsibility to maintain the minimum balance in their account to cover the premium.
- 65 For many consumers, this disclosure about when cover may cease or change may have been received a long time ago, and the details are now forgotten. Information about cover ceasing is also often included by reference in a PDS. For one trustee we reviewed, the initial PDS noted that information about insurance was incorporated by reference but there was no indication given that the incorporated material contained important information about such matters as when cover may cease.
- 66 Trustees should not rely on this point of time disclosure as an effective means of influencing future member behaviour (e.g. to top up their accounts to avoid falling below the threshold at which cover will cease).
- 67 Disclosure about cover ceasing should occur at an appropriate time and in an appropriate way to have the best chance of being useful to the consumer in making decisions about their next steps in light of the change.
- 68 We also suggest that trustees trial different approaches to notifying members (e.g. using emails or text messages), and consider the use of reminders to nudge behaviour.
- Note: In our reviews, we found that more than 70% of the trustees did not use digital disclosure to communicate with members. While ASIC is technology neutral, our disclosure relief may provide options for trustees when communicating and engaging with their members using digital means: see paragraph 150.
- 69 We are aware of other situations where members may be advised by the trustee (usually through a periodic statement) that they hold insurance, when in fact this cover has ceased due to a change in the member's circumstances (e.g. because of cessation of employment with a particular employer).
- 70 In such cases, the member lodges an insurance claim, prompting the trustee to check their employment status. The trustee then denies the claim on the basis that cover should have ceased when the member left the employer. While premiums are refunded in many of these cases, the member is now left without cover, despite having paid premiums and receiving disclosure suggesting they had cover.

- 71 This issue highlights some of the administrative challenges trustees face in getting information from third parties, such as employers. However, we are concerned that members should not be adversely affected by these issues.
- 72 If trustees cannot be confident that they have timely and accurate information from employers, or that disclosure can be provided to warn the member that cover will cease, they should consider whether defaults that rely on data from employers are appropriate, given the needs of the membership base.

Further action for trustees: Changes to or cessation of cover

We expect trustees to tell members when cover is about to cease in a way that allows them to take action if they want to (e.g. change products or obtain advice). One example is notifying members before cover ceases, rather than relying on disclosure in the PDS they received when they joined the fund.

ASIC's Insurance in Superannuation project is following up on these issues in 2017. Questions about whether disclosure is given before cover ceases have been included in a notice that has been sent to almost 50 trustees.

We intend to publicise the outcomes of this project work. This may include naming trustees where we think best practice standards are not being met in relation to the cessation of cover.

Default transfer arrangements

- 73 As with insurance cover ceasing, superannuation has other default arrangements that can present risks to consumers who are not engaged with their superannuation. Again, in these cases, consumers may find that changes are made to their detriment and without their active consent.
- 74 Fund transfers, especially trustee-determined transfers (e.g. switches from employer sub-plans to personal divisions, accrued default amount transfers and successor fund transfers), are one such point of vulnerability in the superannuation cycle. Despite mandatory disclosures, some members are not aware of the transfer or its impact on their superannuation benefits, costs and fees, and insurance cover where relevant.
- 75 These transfers are not initiated by the member and are usually the result of a change in their employment or the trustee's circumstances (e.g. in the case of successor fund transfers, the trustee may be exiting the superannuation industry and needs to place members' money in another fund). To the extent that a member engages with the disclosure a trustee provides them before the transfer, they can opt-out of the transfer and go to another fund.

- 76 Employers, particularly large employers, may ask trustees to establish sub-plans within the fund which are exclusively available to their employees. These sub-plans are tailored to the employer and its employees and may offer lower fees and costs, and/or better insurance terms.
- 77 However, there is a significant vulnerability for members when they leave an employer and the trustee transfers them from that employer's sub-plan into the fund's personal division. In many cases, the fees and costs, particularly for insurance, increase upon transfer and the terms and conditions of the cover may change as well.
- 78 While members are likely to receive disclosure outlining these changes, some members may not engage with the disclosure material. This means that if there are increases to fees and costs, or changes to insurance costs and cover, these members may not be aware of this change.
- 79 In some cases, trustees have transferred members to a different division of the fund and classified them by default as a 'smoker' or 'blue collar worker' for insurance purposes, resulting in higher premiums that may not reflect the risk characteristics of the member. Even if good disclosures are made by trustees about these transfers, unless a trustee has specific information about their members, this practice is unacceptable as it is likely to have a significant adverse impact on disengaged members and their superannuation balances.
- 80 We note recent determinations by the Superannuation Complaints Tribunal (SCT) on this subject. In one case, the member had been moved from the employer to the personal division of a fund and had been charged approximately \$77,000 more in premiums than a non-smoker. The member was not, and never had been, a smoker. The member wanted the premiums refunded and the trustee refused.
- 81 In this case, the SCT set aside the decision of the trustee and a decision was substituted that the trustee refund the premiums which exceeded the premiums that would have applied for cover at non-smoker rates. Although the trustee had arguably notified the member on transfer in the 'welcome letter' (and included a copy of a non-smoker's declaration), the SCT found that a single communication about the premium increase was insufficient.

Note: See SCT, [Determination D14-15/236](#), 6 May 2015.

- 82 Trustees should not presume that members smoke in determining their insurance premiums. There are low levels of smoking in the community, with only 14.5% of adults being daily smokers. In these circumstances, it is statistically appropriate to assume a person is *not* a smoker, in the absence of other information about that member or that group of members.

Note: In 2014-15, 14.5% of adults aged 18 years or over were daily smokers, see Australian Bureau of Statistics (ABS), [4364.0.55.001—National Health Survey: First Results, 2014-15](#), 8 December 2015.

- 83 In our 2017 project work, we have asked trustees whether they use such defaults when transferring members between divisions in their funds. We intend to make public our findings.

Further work for trustees: Default transfer arrangements

Trustees should not default members as 'smokers' or 'blue collar workers' in the absence of information about member status.

ASIC's Insurance in Superannuation project is following up on these issues in 2017. Questions about smoker defaults have been included in a notice that was sent to almost 50 trustees.

We intend to publicise the outcomes of this project work. This may include naming trustees where we think best practice standards are not being met for defaults.

Claims and complaints handling

- 84 Claims and complaints handling was identified in our project work as a potential area of vulnerability for members.

Note: Claims handling and complaints handling are separate processes, although claims that are denied by a trustee may become complaints to the trustee's IDR processes at a later stage. The handling of complaints is regulated by the *Corporations Act 2001* (Corporations Act) and s101 of the SIS Act.

- 85 Claims and complaints handling processes can be difficult for members to navigate. Lodging a claim involves an awareness of the insurance cover available in superannuation, and the process itself can be time consuming and complex, particularly if someone is suffering from a medical condition.

Outsourcing to third parties

- 86 Trustees sometimes rely on administrators and insurers to handle aspects of their claims and complaints workloads. Consumers may find themselves dealing with these third parties, which can cause confusion for the member about who is taking responsibility for their claim.

- 87 Further, poor interaction between trustees, insurers and service providers can result in delays and poor communication to members.

Note: See APRA, [Prudential Practice Guide SPG 231 Outsourcing](#) (SPG 231) (PDF 250 KB). See also APRA's letter to trustees, 'RSE licensees claims oversight and governance: APRA review of responses to information request', 12 October 2016.

- 88 If a trustee outsources important functions (e.g. administration), it must take responsibility if there are poor member outcomes. Trustees need to work more closely with the administrators and insurers they use, and consider their own performance, to minimise delays and distress for members.

89 We are also aware of an increasing reliance on lawyers to assist consumers in pursuing claims for benefits. While engaging a lawyer can help achieve a better outcome for a claimant, this may prove expensive for the claimant and create unnecessary complexity for them in engaging with the trustee.

90 While claims and complaints handling may be complex areas for trustees and insurers, we consider that in many circumstances members should not need legal representation to progress their claim.

Further work for trustees: Outsourcing to third parties

We expect trustees to ensure that:

- their claims and complaints handling processes are clearly explained and easy for members to navigate; and
- the claims process is consistent with good industry practice.

ASIC's Insurance in Superannuation project is following up on these issues in 2017.

Information about claims and complaints

91 In our reviews, we found the quality of letters from trustees about declined claims varied. Some trustees explained why a claim was not successful by referring to the relevant definition or exclusion in the policy. Other trustees summarised the facts provided by the claimant and the medical advice (where relevant). Providing clear and comprehensive responses helps consumers to decide whether or not to pursue a matter further.

92 Most responses outlined the consumer's right for the decision to be internally reviewed under the trustee's internal dispute resolution (IDR) procedures and their right to make a complaint to the SCT.

93 However, some trustees need to make it clearer that consumers must go through IDR before seeking review by the SCT. This may be as simple as considering the prominence of the contact details of the SCT compared to the IDR details for the trustee. For example, if the SCT material is included in bold text, consumers may tend to contact the SCT first.

94 As the SCT cannot deal with disputes that have not first been through IDR, failure to clearly advise consumers about this process can create additional, unnecessary steps in their efforts to resolve a matter.

95 We also saw at least one trustee whose disclosure did not make it clear when the 90-day time period for a trustee to address complaints would run from: see s101(1)(b). We think it is important for trustees to be clear when a complaint is started, as consumers are entitled to request written reasons for the failure to make a decision within 90 days.

- 96 One trustee did not meet the required standards as complaints had to be made in writing. IDR procedures should allow complaints or inquiries to be made by any reasonable means (e.g. letter, telephone, email, or in person).

Further work for trustees: Information about claims and complaints

We expect trustees to ensure that:

- the reasons a claim has been denied are adequately explained; and
- the complaint process is clearly explained, including the need to go through IDR and the member's right to go to EDR if the matter is not resolved to their satisfaction.

ASIC's Insurance in Superannuation project is following up on these issues in 2017. Where we find poor disclosure in this project, we will take further regulatory action and make public the outcomes of our work.

Written reasons for decision

- 97 Written reasons for decision must be provided automatically for complaints about death benefit claims, or on request for other types of complaint under the Corporations Act and s101 of the SIS Act. The information is important for consumers in assessing their next steps in pursuing a matter.

Note: See ASIC's [Frequently Asked Question E1](#) *For decisions on complaints, what detail must be included in written reasons for decision?*

- 98 Complaints about insurance and death benefit claims appear to make up a significant number of the overall complaints received by trustees. For example, for 2015–16, the SCT reported it received 1,340 complaints of which 429 related to death benefits and 295 to disability claims.

Note: See SCT, [2015–16 Annual Report](#).

- 99 In a separate piece of review work, ASIC has recently contacted seven trustees about failure to provide adequate written reasons in response to complaints about death benefit claims. Five of these trustees have now implemented new procedures for handling death benefit claims, and we continue to work through these issues with the remaining two.

- 100 In particular, two of these trustees' administration providers and insurers have now updated their processes to ensure that all correspondence about claims is copied to the trustee, when this did not always occur in the past. Two other trustees—and one of their administration providers—implemented additional compliance testing and monitoring. In one case, the changes were underway before ASIC contacted the trustee.

- 101 An effective letter with written reasons for decision should provide enough information so that the trustee's decision making process, and the factors underlying that decision, are clear. It should also clearly set out what steps a consumer can take to escalate a complaint if they wish to do so.
- 102 In our other review work, we have seen letters where the trustee provides a list of documents and other information that it considered in making a decision. We think that this is a simple and effective way of showing what information was relevant to the decision (and therefore, whether any information or documents provided may have been lost or misplaced during the assessment process).
- 103 We have also seen trustees break down and explain the key facts of the matter and how each of these facts affects eligibility to claim. We think that this approach is very effective in simplifying what can be very complex considerations, and making it clear how a decision was reached.
- 104 In drafting written reasons for decision, trustees should be aware that many consumers will not understand the technicalities of insurance or death benefit arrangements. We encourage trustees to explain these arrangements in plain English so that consumers understand what has occurred and if there are any valid grounds to pursue a complaint if they feel unfairly treated.
- 105 Providing consumers with relevant information to address any concerns or confusion is likely to result in better outcomes and reduce the prospect of complaints being made unnecessarily to the SCT.
- 106 A failure to provide adequate written reasons where required to do so is a breach of the law. In the future, where we identify further examples of such breaches we may take stronger action.

Further work for trustees: Written reasons for decision

We expect trustees to:

- provide written reasons for decision about complaints where required to do so; and
- where written reasons for decision are given, focus on the information needs of the member.

ASIC's Insurance in Superannuation project is following up on some of these issues in 2017, although issues with the provision (and quality of) written reasons for decision extend beyond insurance complaints. Given our previous work in this area, we will take stronger regulatory action in the future where we identify poor disclosure or trustees that are failing to provide written reasons for decision in breach of the law.

C Other issues

Key points

Our review of disclosures from 14 different trustees in the Effective Disclosure project highlighted the following issues:

- Product dashboards did not meet mandatory requirements; they also need to be more prominently displayed and have adequate sign-off processes.
- Trustees need to consider their trustee and other duties when deciding whether to put a calculator on their website, including from a third party.
- Group branding which overshadows the superannuation trustee's identity could be misleading for consumers.
- There are still issues with disclosure about consolidation focusing primarily on benefits.

Trustees did not have a strategy to tailor communications for vulnerable consumers.

We will be following up with individual trustees on the concerns that are relevant to their business. We anticipate that changes to both disclosure and conduct may be required.

Product dashboards

- 107 Product dashboards are a key recent reform in superannuation. The product dashboard is intended to provide key information about MySuper products, which is useful to both new and existing members. The information is presented in a standardised manner to allow consumers to easily compare products and make informed choices.

Note: See paragraph 3.40 of the Explanatory Memorandum of the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*.

- 108 The MySuper product dashboard must be publicly available on the superannuation fund's website, updated as required and contain the prescribed information about past returns, return targets, risk and fees and costs: see s1017BA of the Corporations Act.

Content of dashboards

- 109 Detailed requirements about the content and presentation of the information in the product dashboard are set out in the Corporations Regulations 2001, and in APRA's [Reporting Standard SRS 700.0 Product dashboard](#) (SRS 700.0) (PDF, 312 KB), which includes the form [SRF 700.0 Product dashboard](#) (SRF 700.0) (PDF, 212 KB).

110 In December 2013, we issued [Infosheet 170](#) *MySuper product dashboard requirements for superannuation trustees* (INFO 170), which gives guidance on the product dashboard requirements.

111 In our reviews, we found that some trustees included additional information to define the terms used in the dashboard which is helpful. Other trustees referred to ASIC's MoneySmart website.

112 However, we were concerned about the extent of the deviation from the prescribed requirements for dashboard. This included:

- (a) omission of the moving average 10-year return and return target from the graph; and
- (b) terminology included in the comparison graph in the dashboard that was not in accordance with the prescribed requirements.

113 Inconsistent information makes it difficult for consumers to compare the product dashboards between MySuper products. Some trustees have been contacted about their dashboard disclosure.

114 We may exercise our powers, including issuing stop orders, if a product dashboard is defective, as defined in s1020E(11) of the Corporations Act—that is, if:

- (a) it has not been updated as required by s1017BA of the Corporations Act;
- (b) it omits information required by s1017BA and related regulations; or
- (c) the information in the dashboard is otherwise misleading or deceptive.

Note: See INFO 170 for detailed information about the content and presentation requirements for MySuper product dashboards and the penalties that apply if these requirements are not met.

Further work for trustees: Content of dashboards

We expect trustees to review the content of their product dashboards, including use of the required terminology to ensure consistency and comparability of disclosure.

Given the importance of product dashboards and the guidance already provided by ASIC, we may take stronger regulatory action, including issuing stop orders, where dashboards do not meet the requirements. Failing to meet the requirements may also be an offence.

Prominence and purpose of dashboards

115 In our reviews of MySuper product dashboards in 2014, we noted that the product dashboard needs to be placed in a prominent position and in a readily accessible location on the trustee's website: see [Media release 14-110MR](#) *ASIC reviews MySuper product dashboards*, 14 May 2015. That is, the product dashboard should be readily seen by a user of the website who has no previous knowledge of the concept of the dashboard.

- 116 In our most recent reviews, many trustees did not have a direct link to the product dashboard from their home page. Rather, the product dashboard was located under the ‘Investments’ or ‘Performance’ tab of the webpage. Those trustees who did have a link from their home page often used a smaller font size which could be easily missed compared with other disclosures.
- 117 Trustees generally did not highlight the purpose of the product dashboard on their home page nor that the product dashboard can be used as a comparison tool for members. We consider this information may assist consumers. Our example dashboard, released with INFO 170, includes statements at the beginning of the dashboard outlining the dashboard’s comparison purpose.

Further work for trustees: Prominence and purpose of dashboards

We expect trustees to ensure that product dashboards are prominent on the home page of their websites and easily accessible to members and other consumers, highlighting that they can be used as a comparison tool.

Dashboard sign-off

- 118 APRA publishes data based on information provided by trustees relating to their product dashboards. Based on this data, we were concerned about the basis for some of the figures being used in dashboards (e.g. in relation to return targets, or risk levels). We wanted to ensure that trustees had a reasonable basis for the statements they were making in their dashboards and we asked trustees about their calculation methodologies.

Note: See APRA, SRF 700.0 and [Quarterly MySuper Statistics—March 2017](#), 23 May 2017.

- 119 All of the trustees we reviewed relied upon external parties for advice on the content for the product dashboard.
- 120 We expect trustees to assess their external consultants’ recommendations about dashboards, particularly if the data provided by the consultant looks unusual compared with the trustees’ peers (e.g. as shown in the APRA Quarterly MySuper Statistics). For example, we would expect a trustee to raise questions with their external consultants if the dashboard presents a high-return target, but the MySuper product is also described as medium-low risk. In some cases, it may be appropriate for the Board to have oversight of the dashboard content.

Further work for trustees: Dashboard sign-off

We expect trustees to assess their external consultants’ dashboard recommendations, particularly if the data looks unusual when compared with peers, and ensure that there is a reasonable basis for statements made (Board oversight may be required).

Calculators

- 121 Half of the trustees we reviewed provided generic financial calculators on their websites to help members calculate their projected superannuation balance on retirement and how long it may last. More generally, retirement planners, insurance calculators and savings or budget planners are commonplace on fund websites.
- 122 Typically, calculators are interactive so members can modify the assumptions to factor in changes in lifestyle (e.g. the impact of moving to part time work or the effect of working longer or increasing contributions).
- 123 The ability to modify the calculator to suit individual circumstances allows members to have a clearer picture of their financial position in retirement and what they may need to do to reach that position. Through these tools, members can gain a better understanding of their financial circumstances and goals and what they can do to work towards those goals.
- 124 We consider that calculators present an opportunity for trustees to engage members who prefer the use of interactive tools to assist in their decision-making processes.
- 125 We have outlined our position on the use of generic financial calculators in [Regulatory Guide 167 Licensing: Discretionary powers \(RG 167\)](#). Entities that provide generic calculators and comply with certain conditions in [ASIC Corporations \(Generic Calculators\) Instrument 2016/207](#) have relief from the requirement in s911A(1) of the Corporations Act to hold an AFS licence covering the provision of that advice or from other obligations relating to the Statement of Advice provisions if they do have an AFS licence.
- 126 In our review, we noted that some trustees offered generic calculators prepared by third parties. Where third parties prepare these calculators for the superannuation fund's website, the trustee will still need to make it clear who is responsible for the calculator and the results that it generates.
- 127 In providing a calculator from a third party on its website, a trustee also needs to consider matters such as its SIS Act obligations to act in the best interests of members when putting information, including a calculator, on a fund website (and allowing it to remain there). A trustee is responsible for the decision to include the calculator on a fund website.

Further work for trustees: Calculators

We expect trustees to:

- be clear on the fund's website who is responsible for the calculator; and
- consider their trustee, and other, duties in deciding to put a calculator on a website, including a calculator from a third party.

Group branding

- 128 The inclusion of extraneous information in disclosure documents could mean that consumers miss important information in these documents. In serious cases, a consumer may be misled or deceived. In particular, we think it is important to be clear who is responsible for a product. In our reviews, we noted that some trustees who belong to a corporate group highlighted their group's branding in the disclosure material for consumers.
- Note: For our views on extraneous information in PDSs, see [Regulatory Guide 168 Disclosure: Product Disclosure Statements \(and other disclosure obligations\)](#) (RG 168) at RG 168.79–RG 168.81.
- 129 Fund websites also often prominently displayed the group logo and the group branding. The identity of the trustee of the superannuation fund was often included at the bottom of the webpage in smaller sized print together with disclaimers to the effect that the corporate group does not guarantee the superannuation trustee or performance of the superannuation fund.
- 130 We are concerned that the consumer could form the impression that the product has the sanction or possibly the backing of the corporate group, particularly if the disclosures or webpages are not viewed in their entirety.
- 131 Heavy promotion of the group branding was also observed in periodic statements. One statement had almost two pages of promotional material before the disclosure of the member's information. The branding of the corporate group with its identifiable colour scheme appeared on every page. The trustee was only identified on the final page of the 11-page statement with similar disclaimers that the corporate group did not guarantee the performance of the trustee nor the superannuation fund. The print size of this information was considerably smaller than the text of the periodic statement.
- 132 As with website disclosures, we are concerned that a member who is less engaged could easily misinterpret the involvement of the parent and group if the document is not read in its entirety. The practices adopted by these trustees could confuse consumers and may be misleading in some circumstances.
- 133 ASIC has a range of different remedies for misleading or deceptive statements: see Section D of [Regulatory Guide 234 Advertising financial products and services \(including credit\): Good practice guidance](#) (RG 234).

Further work for trustees: Group branding

We expect trustees to:

- ensure that the inclusion of group branding does not overshadow other more important information for consumers; and
- clearly disclose at all times who the trustee for the fund is.

ASIC will take action where we consider that group branding and extraneous information is misleading.

Consolidation

- 134 Of the 14.8 million Australians with superannuation balances, 43% have more than one superannuation account. There are a total of 28 million member accounts in Australia.
- 135 While consolidating accounts is generally a positive step, this can be a complex area for consumers. In most cases, consolidating accounts reduces multiple member fees and insurance premiums, particularly where the member may only be able to claim under one insurance policy. However, consumers may sometimes want to maintain multiple accounts, where funds offer different features, such as insurance.
- 136 Trustees may be keen to encourage a new member to consolidate all super accounts into their particular fund because there are also benefits to the trustee in this arrangement in having greater funds under management. ASIC expects that the messages trustees give to consumers about consolidation are balanced.
- 137 While most of the trustees in our review addressed the risks of consolidating all of a person's superannuation into one account, the discussion of the benefits generally outweighed the prominence of the risk disclosure.
- 138 To the extent that risks were flagged, trustees generally advised members to check the effect of any exit fees from the other fund and loss of benefits such as insurance. A few trustees had no disclosure about risks in their documents about consolidation at all and we are following up with these trustees.
- 139 We also identified one trustee who had not prominently disclosed the implications of consolidating superannuation before seeking the consent of members to search for lost superannuation accounts for the purpose of consolidating benefits. This trustee addressed our concerns with corrective disclosure on their website.
- 140 We also observed trustees using marketing promotions to influence their members to undertake actions to either consolidate or update their details. For example, a promotion from one trustee encouraged members to be in a draw to win a substantial prize for consolidating their superannuation. While there was disclosure elsewhere on the website about matters members should consider when making a financial decision to rollover their superannuation, this disclosure did not accompany the promotion.
- 141 In December 2012, we wrote to all trustees emphasising the disclosure requirements associated with advertising for superannuation products. At that time, there was a trend for trustees to offer incentives to encourage members to consolidate their superannuation accounts or for new members to join the fund. These incentives included cash or other prizes.

Note: See [ASIC's letter to trustees—Advertising and disclosure obligations](#) (PDF 31 KB), 11 December 2012.

- 142 While the use of such incentives is not prohibited in the superannuation context, trustees need to be cautious that the use of such incentives does not distract a member from making an informed financial decision. In our view, the offering of gifts to influence a financial decision is not conducive to enhancing consumer trust and confidence in the superannuation industry.
- 143 We consider that trustees in general need to review their disclosure on consolidation and ensure they follow the principles in RG 234 in providing balanced disclosure and giving equal prominence to the benefits and the risks of consolidation.

Further work for trustees: Consolidation

We expect trustees to:

- review all disclosures on consolidation, including on their website;
- ensure they are giving balanced disclosure and equal prominence to both the benefits and the risks of consolidation; and
- exercise caution when using incentives to ensure that the incentive does not distract a member from making an informed financial decision.

ASIC has previously warned trustees about this issue and may take stronger regulatory action in future, including issuing stop orders. Law reform may be needed to ensure that account consolidation is appropriately managed.

Vulnerable consumers

- 144 We asked trustees whether they had a strategy to address communications with vulnerable consumers (including Indigenous and Torres Strait Islander members). None of the trustees in our review had such a strategy.
- 145 Vulnerable consumers can encompass people who:
- (a) have an Indigenous background;
 - (b) are from a non-English speaking background;
 - (c) have a disability;
 - (d) have poor reading, writing and numerical skills;
 - (e) come from a remote area; or
 - (f) are disengaged.
- 146 There is some work being done in the community to help provide solutions to help vulnerable consumers. For example, work is being done by the Indigenous Superannuation Working Group to develop and implement strategies that address a range of issues that Indigenous and Torres Strait Islander peoples face in relation to their superannuation. A number of industry associations and superannuation funds are participants in this group.

- 147 AUSTRAC, Australia's financial intelligence agency, has produced an online compliance guide to help businesses meet customer identification requirements under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* for people of Indigenous and/or Torres Strait Islander background. The guidance aims to overcome difficulties faced by many Indigenous and Torres Strait Islander consumers in accessing financial services such as superannuation entitlements.
- 148 Trustees are required to perform their duties and exercise their powers in the best interests of the beneficiaries: see s52(2)(c) of the SIS Act. It is important for trustees to develop records of their membership to identify members who may have different needs. Seeking to identify distinctive attributes of the fund's membership can help to ensure that the needs of vulnerable members are addressed.
- 149 With better digital data and electronic processes, we encourage trustees to get to know their membership to better communicate and tailor appropriate information to their audience.
- 150 ASIC has also provided relief to give trustees options in how they engage with their membership base. This includes relief to facilitate the provision of digital disclosure, as well as relief to facilitate the provision of retirement income projections in some periodic statements.
- Note: See [Regulatory Guide 221](#) *Facilitating digital financial services disclosures* (RG 221) and relief available under [ASIC Corporations \(Facilitating Electronic Delivery of Financial Services Disclosure\) Instrument 2015/647](#) and [Regulatory Guide 229](#) *Superannuation forecasts* (RG 229) and relief available under [Class Order \[CO 11/1227\]](#) *Relief for providers of retirement estimates*.
- 151 ASIC's reviews suggest that many trustees may still be considering the take-up of this relief.

Further work for trustees: Vulnerable consumers

We encourage trustees to:

- consider whether current ASIC disclosure relief could help them to better engage and communicate with their membership base; and
- develop measures to identify and address the needs of their vulnerable consumers, and discuss them with us if it is relevant or useful to do so.

Key terms

Term	Meaning in this document
ABS	Australian Bureau of Statistics
advice	Financial product advice
advice provider	<p>A person to whom the obligations in Div 2 of Pt 7.7A of the Corporations Act apply when providing personal advice to a client. This is generally the individual who provides the personal advice. However, if there is no individual that provides the advice, which may be the case if advice is provided through a computer program, the obligations in Div 2 of Pt 7.7A apply to the legal person that provides the advice (e.g. a corporate licensee or authorised representative)</p> <p>Note: These obligations apply from 1 July 2013, unless a person elects to comply with Pt 7.7A before this date (from 1 July 2012).</p>
AFS licence	<p>An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services</p> <p>Note: This is a definition contained in s761A.</p>
AFS licensee	<p>A person who holds an AFS licence under s913B of the Corporations Act</p> <p>Note: This is a definition contained in s761A.</p>
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
financial adviser	An advice provider
financial product advice	<p>A recommendation or a statement of opinion, or a report of either of these things, that:</p> <ul style="list-style-type: none"> is intended to influence a person or persons in making a decision about a particular financial product or class of financial product, or an interest in a particular financial product or class of financial product; or could reasonably be regarded as being intended to have such an influence. <p>This does not include anything in an exempt document</p> <p>Note: This is a definition contained in s766B of the Corporations Act.</p>
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act

Term	Meaning in this document
IDR	Internal dispute resolution
INFO 170 (for example)	An ASIC information sheet (in this example numbered 170)
insurer	The company that issues the life insurance policy
ISWG	The Insurance in Superannuation Working Group established by superannuation industry associations
life insurance	An insurance policy that pays either a lump sum or income stream payment in the event of death, illness, disability. Life insurance policies can include cover for death, total and permanent disablement, trauma and income protection. These policies may be held or purchased inside or outside the superannuation environment
member	A member of a superannuation fund
personal advice	Financial product advice given or directed to a person (including by electronic means) in circumstances where: <ul style="list-style-type: none"> • the person giving the advice has considered one or more of the client's objectives, financial situation and needs; or • a reasonable person might expect the person giving the advice to have considered one or more of these matters <p>Note: This is a definition contained in s766B(3) of the Corporations Act.</p>
Product Disclosure Statement (PDS)	A document that must be given to a retail client for the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act <p>Note: See s761A of the Corporations Act for the exact definition.</p>
REP 498 (for example)	An ASIC report (in this example numbered 498)
RG 97 (for example)	An ASIC regulatory guide (in this example numbered 97)
s101 (for example)	A section of the SIS Act (in this example numbered 101), unless otherwise specified
SCT	Superannuation Complaints Tribunal
SIS Act	<i>Superannuation Industry (Supervision) Act 1993</i>
Statement of Advice	A document that must be given to a retail client for the provision of personal advice under Subdivs C and D of Div 3 of Pt 7.7 of the Corporations Act <p>Note: See s761A for the exact definition.</p>
total and permanent disability (TPD) cover	A life insurance policy that pays a lump sum benefit if the policyholder becomes injured or ill or is unable to work again

Related information

Headnotes

claims handling, complaints, consolidation, default arrangements, digital disclosures, disclosure, fund transfers, generic calculators, insurance, insurers, members, life insurance, MySuper, periodic statements, product dashboards, significant event notifications, superannuation fund, total and permanent disability, TPD, trustees

Class orders and pro formas

[\[CO 11/1227\] Relief for providers of retirement estimates](#)

[ASIC Corporations \(Facilitating Electronic Delivery of Financial Services Disclosure\) Instrument 2015/647](#)

[ASIC Corporations \(Generic Calculators\) Instrument 2016/207](#)

Regulatory guides

[RG 97](#) *Disclosing fees and costs in PDSs and periodic statements*

[RG 167](#) *Licensing: Discretionary powers*

[RG 168](#) *Disclosure: Product Disclosure Statements (and other disclosure obligations)*

[RG 221](#) *Facilitating digital financial services disclosures*

[RG 229](#) *Superannuation forecasts*

[RG 234](#) *Advertising financial products and services (including credit): Good practice guidance*

Legislation

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Corporations Act, s761, 766B, 911A(1), 913B, 1017BA, 1020E(11)

Corporations Regulations 2001

Explanatory Memorandum of the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012

SIS Act, s52(2), 52(7), 68AA, 101(1), 101

Superannuation Guarantee (Administration) Regulations 1993, Sch 1

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