



ASIC
Australian Securities &
Investments Commission

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and Investments Commission**

Office address (inc courier deliveries):
Level 7, 120 Collins Street,
Melbourne VIC 3000

Mail address for Melbourne office:
GPO Box 9827,
Brisbane QLD 4001

Tel: +61 1300 935 075
Fax: +61 1300 729 000

www.asic.gov.au

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By email only

Member communications in relation to:

- **Treasury Laws Amendment (Putting Members' Interests First) Act 2019 (PMIF) and**
- **Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019 (PYSP)**

Trustees need to issue initial PMIF notices shortly. The purpose of this letter is to communicate ASIC's expectations of trustees in relation to member communications about the insurance reforms implemented by **PMIF** and **PYSP**.

Although this letter is focused on insurance reform communications, trustees should also consider these expectations in relation to communications to members about inactive low balance accounts proposed to be transferred to the Australian Taxation Office (ATO).

ASIC's expectations about insurance communications

ASIC expects trustees to help their members understand and make good decisions by:

1. Providing balanced and factual communications, that include appropriate context about the reforms; and
2. Tailoring communications to the needs of their members (including appropriate tailoring of language, structure and communication method).

The PMIF and PYSP reforms provide members with a decision point in relation to their superannuation arrangements. Members need to receive accurate information on which to base their decisions.

Communications should be developed with the member's best interests as the priority. They should not induce members to take a certain course of action by causing concern or confusion or by creating an impression that the

only option is to retain insurance. We encourage trustees to consumer test disclosures to members as much as possible.

We note that the steps that trustees take today in relation to the communication of the PMIF and PYSP reforms are crucial in reducing the risk of member disputes in the future.

Where ASIC identifies poor conduct and disclosure, we will consider all of our regulatory options, including enforcement action.

ASIC has been systematically reviewing a sample of disclosures concerning PYSP. Our sample included both insurance and inactive low balance communications. A number of trustees have failed to meet the needs of their members in the communications issued to date and we are actively exploring whether enforcement action is an appropriate outcome in some instances. We will continue to review a selection of member communications and anticipate highlighting good and bad examples of these in future public statements.

ASIC previously outlined in a [letter](#) to industry bodies on 2 April 2019 its expectations for member communications in relation to PYSP and tips for developing consumer centric communications. These expectations and tips are also relevant for PMIF communications.

Below is some further guidance, informed by our review of PYSP communications, about how trustees should be seeking to communicate through the lens of members best interests'.

What communications will trustees be making?

Under PMIF, trustees are required to provide notice in writing, by 1 December 2019, to those members whose balances are less than \$6,000 and who hold insurance cover. The notice must outline that from 1 April 2020, the member's insurance cover will cease unless the member elects in writing to retain their cover.

While we anticipate that the notices will be a primary focus for trustees, we remind trustees that other disclosure obligations may be affected by the PMIF reforms. These include:

- Product Disclosure Statements: trustees will need to update their Product Disclosure Statements to reflect the changes introduced by the reforms; and
- Significant Event Notices: trustees could be required to update existing members about other relevant changes that arising from the reforms (such as a change in insurers, changes to insurance premiums).

In addition, trustees may decide to communicate with affected members in other ways about the PMIF reforms, such as through newsletters or advisers. Trustees need to ensure that all their disclosures are clear and accurate.

Getting the message right

1. **Include information about the importance and purpose of the reforms (i.e. to ensure that insurance arrangements do not unduly erode retirement balances) and make sure messages are balanced.**

As part of providing a **balanced message** we think it is important that the purpose of the reforms is provided as context.

It is also important that members are provided with communications that indicate all of the options available to the member and the benefits and drawbacks of each option. Trustees should not solely communicate the benefits of one option. In particular, it may be important to explain why ceasing insurance cover may be appropriate.

- *Findings of PYSP review: Some communications lacked balance when describing the available options, benefits and drawbacks. For example, the communications tended to place emphasis on the potential loss of insurance, without consideration of the risk of inappropriate erosion of superannuation account balances by insurance premiums, or the benefits of having one consolidated super account, or the fact that the insurance might only have value if the member is able to satisfy a work test. Further, trustee communications often did not address the issue of multiple accounts – for example, the communications did not tell members that they may have other accounts, including accounts that would provide insurance.*

2. **Include a call to action for members to review the appropriateness of their insurance cover for their needs. Encourage members to seek help if they are unsure whether they should be taking any action.**

We think trustees need to focus on identifying the **right call to action** in communications. This is about assessing and making a decision about insurance cover, not just opting to retain insurance cover.

- *Findings of PYSP review: We also noticed minimal calls to action for members to review the appropriateness of their insurance cover for their current needs and circumstances. Instead we observed that the options for action presented to members were how to retain their insurance by making a contribution or by completing a form to keep their cover.*

3. **Tailor the language and structure of the communication for the audience.**

The **audience** for these communications is members, who vary significantly in terms of understanding of insurance and superannuation and literacy levels. It is important to use simple direct language and structure communications appropriately to maximise the ability of members to understand.

- *Findings of PYSP review: Some trustees appeared to approach the communications as a compliance exercise, rather than a member communication. For instance, we saw letters that quoted section numbers of the legislation extensively and used legal jargon.*

4. **As far as possible, communications should provide the information that members generally need to make an informed decision or suggest additional sources of assistance.**

Trustees should include in their communications useful information about the member's superannuation account held by the trustee (such as the member's account balance, or level of insurance cover). Alternatively, the trustee may seek to link to other helpful sources of information. We note that members are able to view and consolidate their super accounts and any ATO held lost or unclaimed super on ATO Online, which they can access via MyGov. As well, ASIC's MoneySmart provides basic information about the reforms and insurance in superannuation more generally.

- *Findings of PYSP review: We noticed that some communications did not include the current account balance of the member, their insurance premium, type of cover or amount of cover that the member holds. This is the kind of information that helps members to make an informed decision.*

5. **Finally, make sure any messages are not misleading.**

While the above tips should help minimise the risk that messages are misleading, it is important to **check the entirety of communications** to see the impression conveyed. We also note that messages may mislead members as a result of the statements included in the communication, and also as a result of information that has been excluded from the communication.

- *Findings of PYSP review: We found that there was often no mention that a cancellation of insurance would not affect any cover for an insurable event that occurred in the past when the member's insurance policy was active and an impression was created that members would lose the value of past insurance fees paid.*

Communication plans should be holistic and centred around members

1. The communication obligations in relation to PMIF will require significant work on the part of trustees and related stakeholders, such as administrators. Trustees should ensure they develop a **communication plan** and be aware of how these communications interact with other communications members may receive. A **holistic approach** to the content and distribution of all PMIF and insurance communications can ensure disclosure is delivered in a balanced way that prioritises the member's best interests.

- *Findings of PYSP review: We noticed that some trustees did not have a communication plan or if they did, the plan lacked details of an approach to communication and only contained high level overviews of the PYSP legislation and its requirements.*

Some members will be part of a cohort able to be identified by trustees as having special needs. For instance, it may be possible for trustees to identify those who are likely to be in dangerous occupations, those who reside in remote areas or those who are new entrants to the workforce rather than members who have had low balances for a significant period of time. Trustees may need to plan a different communications approach for these groups of members.

2. **Personalisation** may help members who receive and read these communications by providing information about their current insurance product/s upfront. We strongly encourage trustees to personalise communications by including information such as the member's current premium, benefit levels and key terms/exclusions of their coverage.
 - *Findings of PYSP review: We found some communications were generic and factual. They were not tailored to the member as they did not include information on the member's account balance, premiums, benefits, type of cover or amount of cover.*
3. To meet the needs of members, trustees may need to use **multiple channels** of communication and also provide appropriate resources to deal with members' queries.
 - *Findings of PYSP review: Our review found that trustees used letters, emails and websites to inform members about the PYSP changes. We encourage trustees to use multiple channels, and to repeat their messages, to make their communications more effective. However, each form of communication needs to be clear and accurate in itself.*
4. The **timing needs of members**, not of the trustee, should be emphasised in communications. In particular, members should not be pressured into acting quickly.
 - *Findings of PYSP review: Some trustees suggested responses were needed from their members within a short timeframe, when this did not align with the timeframes in the law.*

Other ASIC Concerns

ASIC has seen examples of disclosure from third parties about the reforms that have lacked balance or context. ASIC can take action against third parties, including advisers, who make misleading statements about the changes. Trustees need to ensure that advisers and others that they interact with are provided with accurate information.

Next steps

ASIC and APRA will continue to work together to provide guidance where needed.

ASIC will continue monitoring communications to members about insurance and share its findings with industry.

If you have any further queries, please contact Alex Purvis on (03) 6235 6828.

Yours sincerely

Jane Eccleston
Senior Executive Leader, Superannuation
Australian Securities and Investments Commission