



ASIC
Australian Securities &
Investments Commission

Review of member communications: Protecting Your Superannuation Package (PYSP) reforms

Report 655 | February 2020

About this report

This report describes our review of trustee communications to superannuation fund members in relation to the *Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019* (PYSP Act). It outlines our expectations about trustees' future communications and related conduct in light of the issues identified.

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About ASIC regulatory documents

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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.

The PYSP reforms

The Productivity Commission's [Superannuation: Assessing Efficiency and Competitiveness](#) Inquiry report, No. 91, 21 December 2018, highlighted that superannuation system design issues coupled with consumer disengagement can result in poor outcomes for many Australians. In particular, the report identified the impact on retirement balances of unwanted multiple accounts and inappropriate insurance: see Appendix 1 of this report.

The *Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019* (PYSP Act), which came into effect on 1 July 2019, aims to protect Australians' superannuation savings from inappropriate erosion. It does this by requiring superannuation trustees to:

- › cancel insurance on accounts that have been inactive for 16 months, unless the member acts
- › transfer to the ATO accounts with balances below \$6,000 that have been inactive for 16 months, unless the member acts
- › cap administration and investment fees at 3% for accounts with balances below \$6,000 and remove exit fees.

To achieve the best outcomes for the members affected by the reforms, it is important that trustees design communications to effectively support their members' decision making.

Our review of trustees' communications to members

This report identifies our main findings from our recent review of the disclosures, communications plans and data of 12 superannuation funds relating to reforms introduced by the PYSP Act and the Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019.

It sets out our expectations about how trustees should act in implementing these and other similar reforms, such as the *Treasury Laws Amendment (Putting Members' Interests First) Act 2019* (PMIF Act).

In order to examine disclosures and communications across multiple channels in detail, in our review we focused on a limited number of trustees. Appendix 2 outlines how we approached the review and identifies the criteria we used to select the trustees and funds included in our review. Those chosen included funds likely to be considerably affected by the PYSP reforms due to their relatively high number of inactive accounts.

In addition to undertaking our review, we also examined disclosures about the PYSP reforms from a number of other trustees and third parties that came to our attention through other means.

ASIC has obtained changes to disclosure practices from some trustees and is also considering whether further regulatory action related to other communications is appropriate.

While our review is not exhaustive, we think the findings are important, informative and useful for all trustees framing future communications to members on the PYSP reforms, as well as more broadly.

In this environment of superannuation reform, we have identified issues trustees should address to ensure that their members' needs are prioritised. Improved communication, on its own, doesn't ensure members' needs are being addressed. However, a trustee's approach to communication can play a role in helping or hindering its members when the regulatory framework may require them to make decisions.

Snapshot of our review

- › The 12 superannuation funds we reviewed had just over **6 million** member accounts at 1 April 2019.
- › The trustees issued notices about the reforms to over **1.8 million** account holders.
- › The trustees issued over **928,000** insurance cancellation notices.
- › We reviewed approximately **1,100** documents provided to us by trustees.

Resources

- › See [Report 529](#) *Member experience of superannuation* (REP 529), which highlights that, given the long-term nature of the product and its complexity, superannuation is a market subject to behavioural biases.
- › In April 2019, we communicated our expectations of trustees in relation to the PYSP reforms: see [Media Release \(19-095MR\)](#) *ASIC warns trustees about protecting your super laws and provides guidance for consumers*. In October 2019, we reinforced our expectations about the PMIF reforms: see [Media Release \(19-296MR\)](#) *ASIC warns trustees on new rules for putting members' interests first*.
- › In December 2019, we released [Report 646](#) *Insurance in superannuation 2019–20: Industry implementation of the Voluntary Code of Practice* (REP 646) – the first in a series of short reports on our findings about the superannuation industry's progress in improving insurance outcomes for consumers. Further reports will be released during 2020.

Key findings and our expectations

This table summarises the key findings from our review and our expectations for future communications to members.

Table 1: Key findings and expectations

Key findings	Expectations
<p>Some trustees did not provide members with appropriate context and balanced communications:</p> <ul style="list-style-type: none"> • They failed to explain the purpose of the PYSP reforms • They provided only a limited range of options for action • They failed to highlight the impact of account proliferation. 	<p>Trustees should provide members with clear, balanced information about the importance and purpose of the PYSP and other reforms:</p> <ul style="list-style-type: none"> • The reform’s relevance to the individual member should be explained • Members should be provided with all available options • Trustees should communicate the need to assess which of multiple accounts to retain (as applicable).
<p>Some trustees placed insufficient emphasis on members’ needs:</p> <ul style="list-style-type: none"> • They had a compliance focus (‘bare minimum’ messaging) • They may have influenced members to take a certain action by causing concern or confusion, or by suggesting only one possible option • They used complex language, including legal references. 	<p>Trustees should help members make decisions in their best interests:</p> <ul style="list-style-type: none"> • Techniques or approaches that influence members to take a certain course of action should not be used when the benefits to the member are unclear • An appropriate range of options and benefits should be provided • Plain English should be used.
<p>Some trustees had limited or incomplete member contact information:</p> <ul style="list-style-type: none"> • They did not make effective contact with some members because they did not hold a valid postal or email address for the member • Some trustees only used one channel to send out their information. 	<p>Trustees should look for opportunities to improve member data:</p> <ul style="list-style-type: none"> • Where possible, trustees should update member data regularly, so they can provide relevant information and apply a multi-channel communications approach.
<p>Many trustees failed to provide information that would have been helpful for members:</p> <ul style="list-style-type: none"> • They didn’t provide members with relevant details on their existing superannuation arrangements, including last contribution date, their current premium, benefit levels, key terms and exclusions in their insurance coverage. 	<p>Trustees should put greater focus on providing relevant, factual information to members:</p> <ul style="list-style-type: none"> • This information may include a member’s account balance, insurance premiums, level of insurance and last contribution date.

Communication about insurance changes

The PYSP reforms prohibit trustees from providing insurance to a member whose account has been inactive for a continuous period of 16 months, unless the member makes a contribution or elects to take out or maintain insurance.

In our review, we saw the following occur between 1 April 2019 and 31 August 2019 in relation to the funds within the sample:

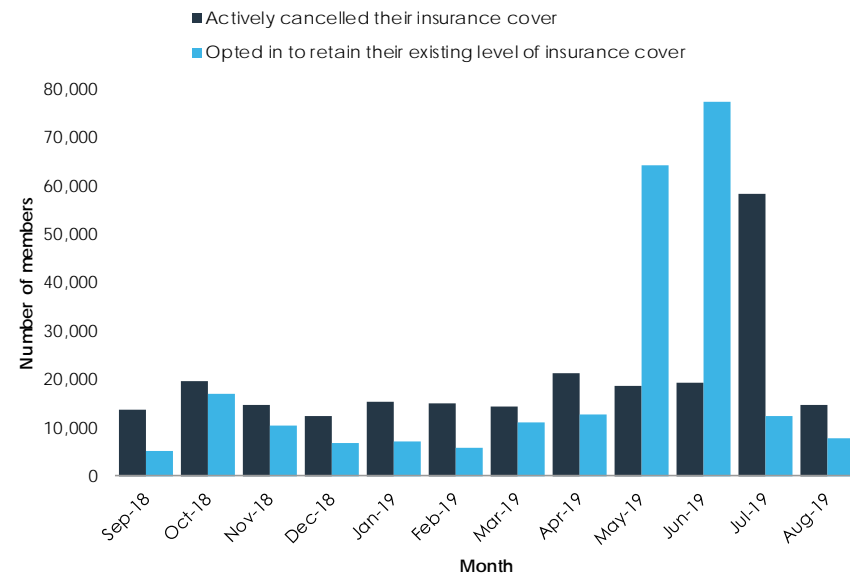
- › trustees issued over **928,000** insurance cancellation notices relating to the PYSP reforms via mail, email or online
- › **174,500** member accounts opted in to retain their existing level of insurance cover (members could also retain insurance by making a contribution or rollover)
- › insurance was actively cancelled on approximately **132,000** member accounts (members could also have their cover cancelled by taking no action)
- › notices were not issued to at least **21,600** member accounts because the trustee did not have contact details for the member.

While the focus of our review was on communications, we noticed that some trustees facilitated opt-in decisions. This included putting processes in place to allow members to retain insurance by telephone, in writing, through online forms and through member portals. Worryingly, we also saw an example of a trustee incentivising call centre staff to retain members.

Actions taken by members

Figure 1 shows the key actions taken by members by month, and highlights the high level of opt-ins during May and June. It also shows a spike in cancellations in July. This was heavily impacted by one superannuation fund processing over 43,000 cancellations in that month. Another fund was not able to provide data for the period from September 2018 to February 2019.

Figure 1: Actions taken by members, September 2018 to August 2019



Note: See Table 2 in Appendix 3 for the data shown in this figure (accessible version).

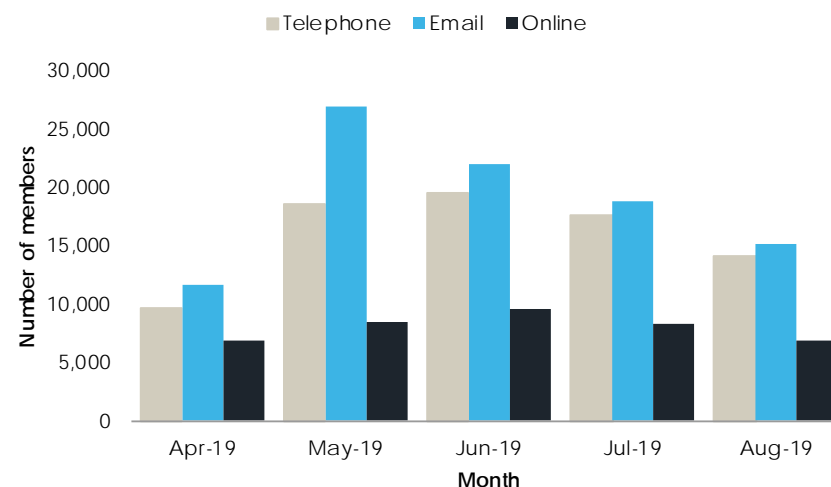
In addition to maintaining or cancelling insurance cover, members could have taken other actions affecting their insurance, such as making additional contributions to stop their account being considered inactive.

Channels used by members

Figure 2 shows the channels used by members to contact their fund about their insurance. These contacts are not necessarily PYSP-related – they could reflect other insurance-related contacts.

There was a noticeable increase in telephone contact from members from May 2019. This highlights the importance of appropriately resourcing call centres to cope with call volumes and their important role in ensuring that balanced information is conveyed to members. It also reinforces the importance of not undermining good, balanced written communications by inappropriate call centre messaging. This might occur, for instance, if staff are given incentives to influence members to behave in a particular way. There was considerable variation in trustees' usage of online communications channels.

Figure 2: Channels used by members to contact their fund about insurance, April 2019 to August 2019



Note: See Table 3 in Appendix 3 for the data shown in this figure (accessible version).

Areas of concern

Some trustees did not provide members with appropriate context and balanced communications

For example:

- › While a small number of trustees provided context about what the PYSP reforms are trying to achieve, some trustees failed to provide an appropriate explanation of the importance and purpose of the reforms and the potential benefits to the individual member.
- › Some trustees largely ignored the issue of account proliferation and its impact on account balances. They failed to mention to members

to check whether they have a superannuation account and insurance cover with another fund.

- › We saw instances of communications that highlighted the benefits of retaining insurance but didn't refer to the conditions and waiting periods for being able to claim on such policies.

“ **When things don't go to plan, make sure you're protected.** When 23-year-old Jon hurt his knee playing soccer, he couldn't work for weeks after surgery. Jon's insurance claim was processed and his income protection cover provided him with a monthly income replacement while he was unable to work. He was able to focus on getting better without having to worry about money.’

– Insurance inactivity notice

Some trustees placed insufficient emphasis on members' needs

For example:

- › In some trustees' communications plans there was a strong focus on maximising member and insurance retention.

“ **We will continue this 2-week cycle until July 1 2019 to maximise member engagement and insurance retention.**’

– Communications plan

- › While retention of insurance might be appropriate for some members, a member's ability to choose their best option is limited if no information is provided about any option other than retention of existing insurance cover.

- › Several of the insurance cancellation notices we reviewed failed to provide balanced content for keeping and reviewing cover – some were factual but focused only on reasons to retain cover.
- › Trustees tended to emphasise the 'value and benefits' of insurance – some conveyed a sense that paying the insurance premiums would have minimal impact on a member's day-to-day financial situation. There was little attempt by some trustees to link the changes to the objectives behind the PYSP reforms, or to emphasise that even if the payment has little impact on a member's current financial situation, it will have an impact on their retirement savings.

“ **The premiums are all paid by your super account – not your back pocket.**’

– Call centre script

“ **Insurance cover through super has no impact on your day-to-day cashflow.**’

– Initial cancellation notice

- › We saw communications that used emotive sales language, without balancing the messages with facts.

“ **Why insurance cover could be so important.** Most Australians often forget about insuring their most valuable asset: themselves and their family's livelihoods. This is why we're a big believer in offering insurance cover to members through their super account.’

– Initial cancellation notice

- › We found communications that could inappropriately leverage behavioural biases such as loss aversion.
- › We reviewed a call centre script that showed undue persistence in promoting insurance cover retention even after the member said they did not wish to retain cover. The script then required the call centre employee to read out four benefits of retaining cover, including that the insurance was ‘award winning’ and then ask:

“Are you sure you don’t need the cover?”

– Call centre script

- › We saw communications that used complex and technical language. For example, some trustees quoted sections of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) in member communications.

“Please make a selection from the below:

- I elect under section 68AAA of the Superannuation Industry (Supervision) Act 1993 (Cth) for all and any insurance in my super account to be continued even if my super account has been inactive for a continuous period of 16 months.
- I am not electing under section 68AAA of the Superannuation Industry (Supervision) Act 1993 for insurance in my super account to be continued if my super account has been inactive for a continuous period of 16 months.’

– Digital election form

Many trustees failed to provide relevant factual information

For example:

- › There was considerable variation in the amount of relevant information trustees provided to their members to help with their decision making. For example, several trustees failed to provide their members with information about current insurance premium levels.
- › Some trustees sent members to online calculators and tables that only had generic and high-level information. This information is likely to be of use only if the member already knows about their level of cover.

Encouraging signs

Database development

A small number of trustees used their communications program as an opportunity to encourage members to update their details.

Approach to communication

Some trustees distributed mandated communications that focused on members’ information needs.

For example, they:

- › listed the criteria for an inactive member
- › detailed the type, level and cost of each type of insurance cover held by a member
- › encouraged members to consider the appropriateness of insurance in their current circumstances
- › clearly presented the date at which cover would cease if the member didn’t act.

Communication about inactive low-balance accounts

The PYSP reforms require trustees to transfer ‘inactive’ accounts with balances under \$6,000 to the ATO, unless specific action is taken by the member.

In mid-November 2019, the ATO advised that it had received over 2.3 million inactive low-balance accounts from superannuation funds, valued at approximately \$2.16 billion, since July 2019: see [The race is on to find \\$20.8 billion in super](#) on the ATO’s website.

Areas of concern

Some trustees did not provide their members with appropriate context and balanced communications

For example:

- › We reviewed communications that referred to ‘stopping your super going to the ATO’, with little context and explanation of potential benefits.
- › In general, trustees provided more straightforward calls-to-action for members wanting to remain in the fund. For example, we saw instances where funds used simple text messages to create a sense of urgency about opting in.

Trustees often placed insufficient emphasis on members’ needs

For example:

- › Some trustees failed to explain to members the role of the ATO in assisting members to find, claim and consolidate their super funds.
- › We observed communications that did not explain the benefits of consolidation when multiple accounts are held.

Several trustees failed to provide relevant information

For example:

- › We saw several examples of communications that lacked information that could assist members to understand their current situation, such as the date of their last contribution.

Encouraging signs

Providing context

Some communications explained the rationale for the PYSP reforms and used positive language like ‘reuniting’.

‘ We are required to transfer “inactive” members to the ATO to prevent low-balance accounts from being eroded due to fees and to prevent members with multiple superannuation accounts from paying multiple fees for multiple accounts.’

– Inactive low-balance account notification

Communication about fee changes

The PYSP reforms require trustees to cap annual administration and investment fees at 3% for accounts with a balance of less than \$6,000 and remove fund exit fees.

We reviewed disclosures made by trustees that included information for consumers about these changes. These disclosures included product disclosure statements (PDSs) and significant event notices.

Areas of concern

Some trustees did not provide accurate communications

While trustees appear to have generally provided updated information to consumers about the fee and cost changes, trustees need to ensure that any disclosures they make about fees and costs (including in advertising and other communication materials) are accurate.

For example:

- › We saw examples where the impact of the fee caps and the benefits for members were not accurately conveyed when the trustee provided information comparing their fund and other funds in the market.

Encouraging signs

Clear communication about fee changes

We saw examples of funds being clear about why the fee changes were being made and the benefits to members.

“From 1 July 2019, we will no longer charge exit fees (currently \$55) on any partial or full withdrawals from members' accounts, regardless of the account balance. This is because exit fees are considered to be a disincentive to members consolidating multiple accounts and consolidation of multiple accounts reduces exposure to duplication of fees and the erosion of your superannuation savings.”

– *Significant event notice*

Some of the better disclosures also addressed how the cap and exit fees were calculated.

Other considerations

Group insurers

Trustees should be mindful if they are receiving guidance from group insurers before developing their key messages. Those messages may be consistent with a group insurer's priorities but not necessarily in members' best interests.

It is the trustee's duty to ensure that members' interests are at the forefront of its thinking.

Administrators

We observed a number of trustees using disclosure templates prepared by their administrator to develop their member communications.

Trustees should always prioritise their duty to members, and they should review any templates or materials provided by administrators with this in mind.

It is also important that trustees are specific about what they expect from their administrators. Trustees must drive the relationship with their administrators. This includes ensuring that they have adequate data and information from their administrators to monitor and assess whether reforms, such as the PYSP reforms, are appropriately implemented.

It's the trustee's responsibility to think about what is right for members. They should not just take the word of others.

Financial advisers

Financial advisers also need to be conscious that they may be providing personal advice to members about the PYSP reforms. If they do so, they are subject to various legislative requirements.

Tips for future member communications

Improved communications could help strengthen Australians' confidence in their superannuation. Trustees should look for opportunities for meaningful interactions with their members.

We expect trustees to be able to clearly articulate what success looks like when communicating with members. Success should be cast in member-centric terms.

Trustee boards should take into account how members make decisions and focus on ensuring that their communications capture their members' attention. If members are faced with a decision, trustees need to provide information that enables members to make suitable decisions and take action if appropriate.

Trustees should be careful about the use of information in conjunction with emotional appeals to action that pressure members to take a particular course that may not be best for them.

We recommend that trustees conduct consumer testing of communications and further data analysis to better understand consumers' responses to communications.

Member-centric approach to communications

Provide appropriate context and balance

For PYSP reforms, communications should not be focused solely on how many members are retained, or how many members keep their

insurance cover. Retention of members and their insurance cover may benefit the trustee and fund, but may not benefit the member.

A trustee's approach should reflect that some members may be better off if their funds are transferred to the ATO or if their superannuation balance is not being eroded by insurance premiums.

Meeting the expectations set out in Table 1 will help trustees in achieving member-centric communications about the PYSP reforms.

Layer information

Information should be ordered in a balanced and factual way, from most to least important, from the member's point of view.

In addition to any mandated content, trustees should only include information necessary for members to understand and make an informed decision.

Use headlines and provide signposts

Information should include short sections with member-centric labels, so it is easy for the member to find answers to questions they may have.

Clear signposts should also point to where members:

- › can find additional information
- › can make further inquiries
- › can take action if they choose to do so.

Update member data

When improved data is available trustees are better placed to provide relevant information and apply a multi-channel communications approach.

Make the process easy

Member-centric communications should be backed up by member-centric processes.

We encourage trustees to question the user-friendliness of processes related to or affected by the PYSP reforms and other reforms.

For example:

- › Are call centres resourced sufficiently to deal with potentially elevated rates of member inquiries?
- › Do call centre staff have easy access to resources to allow them to respond effectively and factually to inquiries?
- › Is there utility in implementing a specific PYSP-related interactive voice response (IVR) option or email address for member inquiries?
- › Steps to take action should be clear and simple. There should be no risk that members inadvertently make a choice they did not intend to make.

Every piece of communication is important

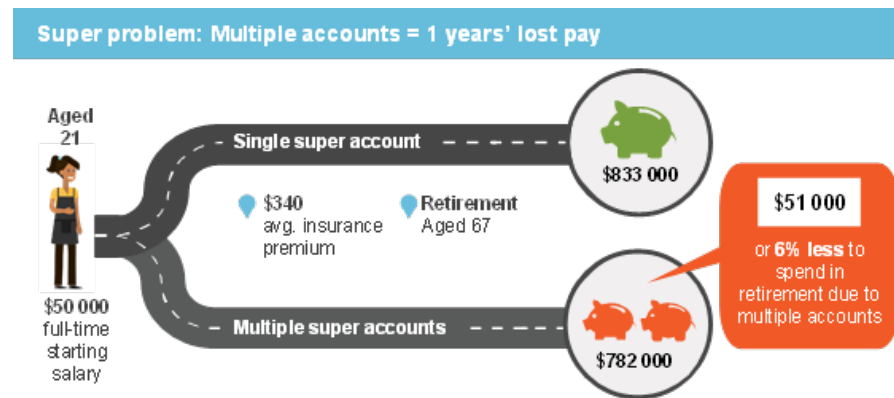
Australians traditionally have low levels of engagement with their superannuation. It is unclear which pieces of communication a member may read (if any).

This lack of engagement highlights the importance of ensuring that members are not exposed to unbalanced messages in any piece of communication they receive. It may be the only one with which the member engages. We reviewed each trustee's implementation approach in this light.

Appendix 1: Productivity Commission cameos

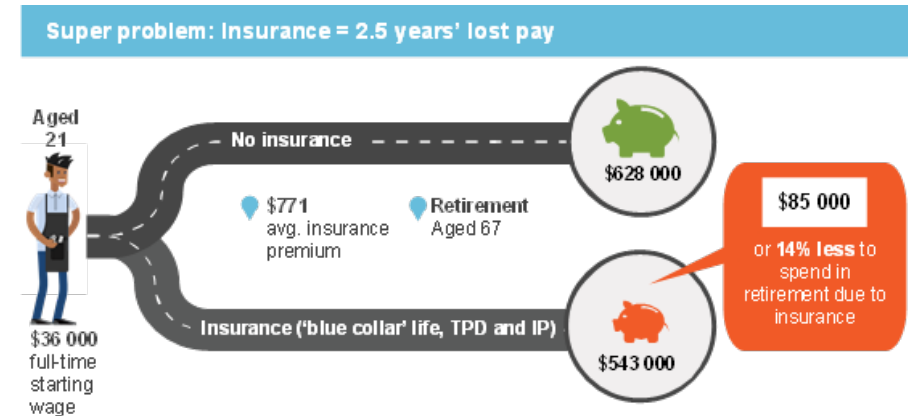
The Productivity Commission’s report, [Superannuation: Assessing Efficiency and Competitiveness](#), highlighted that superannuation system design issues coupled with consumer disengagement can result in poor outcomes for many Australians. In particular, the Productivity Commission identified the impact on retirement balances of unwanted multiple accounts and inappropriate insurance. This appendix reproduces two cameos from the Productivity Commission’s report.

Figure 3: Cameo 4 – Multiple accounts reduce retirement balances



Cameo 4 shows that if, from age 21, a person holds multiple superannuation accounts, their retirement benefit will be \$51,000 lower than if they held a single account.

Figure 4: Cameo 5 – Insurance policies erode balances for low-income workers



Cameo 5 shows that if, from age 21, a person pays insurance premiums, their retirement benefit will be \$85,000 lower than if they had no insurance.

Note: See Productivity Commission, [Superannuation: Assessing Efficiency and Competitiveness](#) Inquiry report, no. 91, 21 December 2018, pp. 17–19.

Appendix 2: Our approach to the review

To assess trustees' implementation of the PYSP reforms, we reviewed the disclosure, communications plans and data of 12 superannuation funds offered by different trustees. We referred to publicly available annual fund-level superannuation statistics published by APRA in June 2018 to select the entities included in the review.

The funds we reviewed had approximately **6 million** member accounts as at 1 April 2019.

Selection criteria

The selection criteria included:

- › the number of accounts with balances of less than \$1,000
- › the average balance of inactive member accounts
- › the number of inactive member accounts
- › the total number of member accounts.

Documents and information we reviewed

We reviewed approximately **1,100** documents provided to us by trustees, as requested. These included:

- › documents mandated by the PYSP reforms and by the product disclosure regime of the *Corporations Act 2001*, including product disclosure documents and significant event notices
- › trustees' communications and marketing materials about the PYSP reforms, including communications plans, emails, letters, text messages, online messages and call centre scripts.

We also received data on members' activity in relation to their insurance and how trustees engaged with their members about the reforms.

In addition to the documents of the trustees of the 12 superannuation funds chosen for the review, we looked at communications, documentation and information from a number of other entities, which came to our attention through other means.

Note: While we have made reasonable efforts to identify and address any inconsistencies or problems in materials received as part of our review, we note that this may reflect inconsistencies in reporting by entities.

Key questions addressed in our review

We addressed the following key questions in our review:

- › Did trustees detail the PYSP reforms accurately and provide members with appropriate information to help them make their decisions, or not?
- › Was there evidence of trustees supporting their members to make decisions or, alternatively, pressuring or manipulating members?
- › Was the information on websites or distributed through call centres clear or confusing?
- › Were there indicators of potential harm to members, or not?

Our further work

We are currently engaging directly with some trustees to correct unbalanced or misleading communications, statements and information on their websites. We intend taking action, including enforcement action, when trustees break the law as a result of issuing misleading communications under the PYSP and/or other reforms.

We are working closely with APRA and the ATO to ensure the best possible member outcomes from the PYSP and other reforms.

Appendix 3: Accessible versions of figures

This appendix is for people with visual or other impairments. It provides the underlying information for the figures presented in this report.

Table 2: Actions taken by members, September 2018 to August 2019

Month	Actively cancelled insurance cover	Opted in to retain their existing level of insurance cover
September 2018	13,670	5,175
October 2018	19,620	16,946
November 2018	14,710	10,527
December 2018	12,355	6,911
January 2019	15,317	7,322
February 2019	14,901	5,939
March 2019	14,394	11,201
April 2019	21,195	12,650
May 2019	18,802	64,159
June 2019	19,158	77,388
July 2019	58,425	12,507
August 2019	14,608	7,893

Note: This table shows the data contained in Figure 1.

Table 3: Channels used by members to contact their fund about insurance, April 2019 to August 2019

Month	Telephone	Email	Online
April 2019	9,637	11,663	6,865
May 2019	18,541	26,925	8,510
June 2019	19,492	22,009	9,562
July 2019	17,603	18,861	8,225
August 2019	14,045	15,148	6,838

Note: This table shows the data contained in Figure 2.

Key terms and related information

Key terms

APRA	Australian Prudential Regulation Authority
ATO	Australian Taxation Office
insurance cancellation notice	A written notice provided to a fund member under item 3(3)(b) of Sch 2, Pt 2 of the PYSP Act
PMIF Act	<i>Treasury Laws Amendment (Putting Members' Interests First) Act 2019</i>
PYSP	Protecting Your Superannuation Package
PYSP Act	<i>Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019</i>
SIS Act	<i>Superannuation Industry (Supervision) Act 1993</i>

Related information

Legislation

Corporations Act 2001

Superannuation Industry (Supervision) Act 1993

Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019

Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Treasury Laws Amendment (Putting Members' Interests First) Act 2019

ASIC documents

[REP 529](#) *Member experience of superannuation*

[REP 646](#) *Insurance in superannuation 2019–20: Industry implementation of the Voluntary Code of Practice*