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Regulatory simplification

The Super Members Council (SMC) thanks ASIC for the opportunity to make a submission to this consultation. SMC advocates for the collective interests of over 12 million Australians with more than \$1.6 trillion in retirement savings managed by profit-to-member super funds. We support policies that make superannuation simpler, clearer, and more equitable for members.

ASIC's efforts to provide regulatory relief and simplify compliance requirements are a welcome development for both super funds and their members. Such initiatives contribute to a clearer and more accessible regulatory framework that safeguards member interests while minimising unnecessary complexity. By streamlining reporting requirements and reducing administrative burdens on licensees, ASIC enables more consistent and robust compliance, which underpins consumer protection. Improved processes and clearer communication also strengthen ASIC's regulatory enforcement capabilities. This, in turn, fosters greater trust and confidence among members and consumers.

The shift to electronic signatures and digital lodgement will lower administrative friction. Fund compliance teams and service providers will save time and cost, leading to faster, more streamlined regulatory submissions. The consolidation of aged or legacy forms of regulatory relief will lead to fewer one-off, bespoke legal reconciliations. When old relief is brought together in single, logically organised instruments, funds can apply the standards more efficiently and with less risk of missing pertinent provisions. The time required to interpret complex, multi-document regimes will be reduced. Efforts to consolidate and clarify guidance mean licensees can find definitive answers faster, minimising lengthy legal reviews across dispersed documents. These initiatives, along with pilots to simplify reporting obligations and clarify guidance structures, will collectively reduce compliance costs with flow-on implications for members.

While the consultation is welcome and a valuable opportunity for stakeholder input, the breadth and number of topics covered within the process make it unwieldy, potentially diluting the focus of the outcomes. SMC notes that the primary focus of ASIC's consultation is based on reforms that are administrative with operational improvements within ASIC's own regulatory instruments and processes. While ASIC's work will improve user experience and reduce administrative burdens, SMC believes broader legislative and regulatory reform is required in consultation with Government, APRA and Treasury to better streamline and simplify the super regulatory environment. Given the breadth of recommendations in this submission, SMC welcomes further engagement with ASIC on how these may be planned and prioritised to ensure expedient regulatory reforms wherever possible.

About the Super Members Council

We are a strong voice advocating for the interests of 12 million Australians with over \$1.6 trillion in retirement savings managed by profit-to-member super funds. Our purpose is to protect and advance the interests of super fund members throughout their lives, advocating on their behalf to ensure super policy is stable, effective, and equitable. We produce rigorous research and analysis and work with Parliamentarians and policy makers across the full breadth of Parliament.



SMC recommends that ASIC

Improve access to regulatory information:

1. Add additional sorting options on ASIC's regulatory resources page including audience and include best-practice guidelines and letters to RSE licensees as standalone searchable documents.
2. Undertake a thorough review of existing guidance before developing or releasing any new material.
3. Improve consultation processes for regulatory guidance to be more transparent, inclusive, and allow longer response times.
4. Build superannuation-specific regulatory roadmaps on key regulatory regimes.

Reduce complexity in regulatory instruments

5. Recognise best-practice principles as voluntary to allow flexibility and innovation.
6. Ensure early and meaningful consultation with sectors and Government Departments during drafting processes.
7. Consolidate legislative instruments covering similar financial services activities to reduce duplication.

Make it easier to interact with ASIC

8. Improve the ASIC Connect Portal usability and establish a working group to facilitate this.
9. Preserve access to post-FSR AFSL and financial adviser historical records.
10. Accept email lodgements for high-volume, time-sensitive forms.
11. Allow electronic signing (physical and electronic signatures) on all ASIC paper forms.

Enhance regulatory surveillance and engagement

12. Engage with entities earlier, including APRA, on thematic surveillance data requests.
13. Include de-identified examples of good practice in reports to promote learning.
14. Implement blackout periods for surveillance data requests during busy seasonal periods.

Simplify reporting and compliance

15. Provide detailed guidance on reportable situations to ensure clarity and consistency and establish working groups to evaluate relief measures for smaller licensees and create consistent guidance.
16. Review and align the criteria for determining whether an incident or breach is 'significant' for reportable situations across the Corporations Act and SIS Act, to reduce duplication and provide a more consistent and streamlined framework.

Simplification through law reform

17. Modernise substantial holding notice reporting with flexible, digital, data-driven formats.
18. Enable near real-time electronic lodgement of substantial holding disclosures.
19. Reform RG 97 fee disclosure requirements in PDSs and periodic statements, including stamp duty exemptions, to reduce costs and improve investment comparability.
20. Create permanent legislative relief from the disclosure and reporting consistency obligations under section 29QC of the SIS Act.
21. ASIC to advocate to Treasury for legislative repeal of section 1017BA and on APRA to revoke Reporting Standard SRS 700.
22. Clarify complaint handling to reduce burden from vexatious complaints.
23. Align RG 271 with outcomes from Treasury's consultation on service standards.
24. Simplify the Design and Distribution Obligations framework for trustee-only distribution.
25. Amend the SIS Act to allow binding death benefit nominations to be made electronically.
26. Provide a clear and definitive statement on the interpretation of the SIS Act regarding kinship structures or advocate for legislative amendments to explicitly incorporate and respect these broader kinship structures in superannuation death benefit decisions.
27. Consider regulatory amendments to RG274 that enable more flexible and efficient disclosure practices for trustees.
28. Expedite with Treasury the Government's Delivering Better Financial Outcomes (DBFO) reforms to enable super funds greater flexibility in providing simple, cost-effective advice to members at scale.
29. Clarify and update RG 221 to explicitly state that all disclosures, including product disclosure statements and other key member communications, can be delivered digitally as the default, unless members opt out.



30. Collaborate closely with the ATO to advocate for targeted reforms that address these issues, including permanent CGT relief provisions for restructures and mergers, improved measures to prevent double taxation on global investments, and updating the treatment of foreign hybrid entities to allow reporting in foreign currencies.

Address overlapping enforcement responsibilities

31. Implement a single-entry point for licensing covering both APRA and ASIC requirements.
32. Establish a centralised data lodgement framework with APRA as primary data collator.
33. Strengthen cooperation and information sharing between APRA and ASIC, including joint working groups and aligned guidance.
34. Government establish a comprehensive data sharing framework encompassing all agencies that influence the super experience.
35. A comprehensive review of disclosure requirements should be undertaken to enable innovative, flexible, and more effective methods of educating super fund members about their products and the system.
36. Consider regulatory alignment with APRA reporting for items listed in Annexure A.

Support emerging technologies

37. Provide proactive regulatory guidance on the use of Artificial Intelligence in super and encourage evolution of governance, risk frameworks, and workforce capabilities to support AI integration.



Improve access to regulatory information

SMC welcomes ASIC's proposal to improve access to regulatory information as it addresses key challenges faced by both super funds and members in navigating complex regulatory requirements. ASIC's redesigned website with improved navigation, searchability, and clearer access to regulatory resources, makes it easier to find relevant information quickly.

SMC recommends the following changes to uplift the regulator resources page:

- add the term “audience” into the search function
- add a “target audience” sorting tag in search for each document
- additional options in the drop-down menu under instruments on the regulatory resources search page for:
 - » best-practice guidelines as stand-alone documents.
 - » letters to RSE licensees as they often contain important guidance to sectors on ASIC's regulatory position on emerging issues.

SMC welcomes ASIC developing sector-specific regulatory roadmaps and how-to guides to make complex obligations easier to understand and follow for consumers. SMC recommends that ASIC consider building superannuation-specific regulatory roadmaps that comprehensively covers critical obligations and key regulatory regimes such as the Design and Distribution Obligations (DDO), Regulatory Guide 97 (RG 97) on fee disclosure, hawking prohibitions, Product Disclosure Statements (PDS), Superannuation (SEN) legislative requirements, Regulatory Guide 271 (related to electronic delivery), and breach reporting frameworks.

SMC also recommends that roadmaps provide clear and direct references to relevant legislation, regulatory guides, and specific obligations they refer to. For instance, the financial advice providers roadmap currently states: *'Individuals and businesses that give financial product advice must meet laws that aim, among other things, to ensure those giving advice are appropriately qualified and will act in the best interests of their clients. You can protect yourself and your business by following these laws.'* This description is quite general and raises questions such as which laws apply, where they can be accessed, the nature of the obligations, and the consequences of non-compliance.

If this proves challenging, a useful approach would be to develop consolidated and integrated guidance tailored to specific industries or topics, providing practitioners with direct pathways to the relevant provisions and compliance expectations.

Changes to regulatory guidance

ASIC's proposal to review regulatory guidance so that it is clearer, more concise, and tailored to different audiences will enhance understanding for licensees and consumers by providing practical direction that is appropriate to the knowledge level of different user groups. It also improves regulatory efficiency and enforcement by reducing ambiguity, consolidating relevant guidance materials, and clarifying the distinct purposes of different types of regulatory documents. This drives greater transparency, promotes understanding of rights and obligations, and supports better decision-making for members and funds.

ASIC should undertake a thorough review of existing guidance before developing or releasing any new material. This process should include auditing all current guidance to confirm that no existing documents—whether issued by ASIC or other relevant regulators such as APRA—already address the same topic. Where new guidance is deemed necessary, ASIC should clearly articulate the rationale for its creation. In cases where overlap is identified, ASIC should rationalise the guidance concurrently or establish a clear timeline for doing so shortly thereafter. While reviewing and streamlining the existing portfolio of regulatory guidance is a substantial task, doing so diligently will help prevent further regulatory complexity and improve overall coherence.

SMC supports strengthening consultation processes for guidance development, recognising that transparent consultation processes enhance accountability and build trust. A well-structured consultation framework signals ASIC's commitment to listening and responding to stakeholder concerns, ultimately boosting confidence in the regulatory system. Better consideration of how guidance interacts with other legislative requirements helps avoid confusion and duplication, particularly relevant for complex super regulations that intersect with tax, corporate, and financial services laws. This alignment fosters coherent and efficient compliance for funds with flow on effects to members.

Longer consultation response times will allow stakeholders to give more thorough, well-considered feedback on complex regulatory proposals. This reduces rushed or superficial responses and



improves the quality of input shaping regulatory guidance.

SMC welcomes:

- Consolidating guidance for individual topics so users can access a comprehensive, single source of truth, updated for emerging regulatory issues.
- Enhancing guidance materials with tailored summaries for strategic decision makers, alongside detailed information for technical users. Tailored summaries highlight the most critical actions and regulatory expectations in plain language, enabling faster, and more effective decision-making.
- Reviewing and updating naming conventions and numbering systems for ASIC documents to group guidance by sector or topic, making navigation more logical.
- Introducing a program to regularly review and update regulatory guides and information sheets, including simplification, consolidation, and provision of practical examples.

Reduce complexity in regulatory instruments

Best practice drafting principles

SMC welcomes best-practice drafting principles to reduce regulatory complexity, improve clarity, and promote consistent and accessible regulation.

SMC recommends that the best practice drafting principles are explicitly voluntary and emphasise that they should not be prescriptive. This approach supports proportionality and practicality, ensuring principles guide rather than dictate drafting choices, which aligns with the core aim of simplification in regulatory documents. The best practice drafting principles emphasise the importance of early and meaningful collaboration with the relevant sectors when developing regulatory instruments. Early engagement allows stakeholders sufficient time to review, consider, and provide comprehensive feedback on proposed drafts, which leads to better-designed best practice principles with stronger practical outcomes. Prioritising timely and inclusive consultation maximises sector expertise, enhances transparency, and ensures that the resulting materials are both workable and effective in practice. Wherever possible, legislative instruments covering similar financial services activities should be consolidated to reduce duplication and complexity.

Making it easier to interact with ASIC

ASIC Connect Portal

The introduction of the new Professional Registers has resulted in a separation from the Historical Registers previously available through ASIC Connect. Consequently, access to information on post-FSR AFSLs and representatives authorised to provide financial advice is no longer available through the Historical Registers, which are now limited to pre-FSR roles and activities.

This change has created a gap between the Professional Registers and the Historical Registers in relation to the accessibility of post-FSR AFSL and financial adviser records. The absence of this information limits important reference material that is frequently required when undertaking due diligence or reviewing AFSLs and financial advisers with whom stakeholders have previously had dealings.

Users of the ASIC Connect Portal have advised that they experience slow connections, frequent outages and access issues. SMC member funds have made suggestions for technical improvements to portal usability which may be best collated through targeted roundtable discussions and feedback.

These include:

- the ability to appoint and register a financial adviser in the same transaction should be a priority amendment in the portal. The current two-step process may result in regular incomplete registrations.
- amending qualifications for an adviser is cumbersome and requires deletion and re-input.

SMC recommends ASIC ensures that the Professional Registers are complemented by a mechanism to preserve and provide access to post-FSR historical AFSL and financial adviser records. This would maintain the continuity, reliability, and transparency of information, supporting both consumer protection and confidence in the regulatory framework.

SMC welcomes ASICs proposals to accept:

- email lodgements for a range of higher-volume, time-sensitive forms to reduce reliance on postal and in-person submissions. It will streamline compliance processes, reduces delays, and lower



administrative burden for all parties.

- methods of electronic signing on all ASIC paper forms, including physical and electronic signatures as it increases flexibility and convenience for users by enabling multiple ways to validly sign documents.

Improved regulatory surveillance and engagement

SMC acknowledges the important role of thematic reviews to help ASIC understand emerging risks, evaluate how regulated entities are applying regulations, and gather insights on practices that may impact consumers or the market. SMC welcomes the proposal for ASIC to engage with entities earlier on thematic surveillance data requests to ensure data collected is accurate, relevant, consistent and proportionate. SMC proposes that ASIC also engage early with APRA on work associated with thematic reviews given their dual oversight of the super sector. SMC also recommends the inclusion of deidentified and non-commercially sensitive examples of good practice to help promote learning and improvement across the sector. These examples provide practical, real-world illustrations of how entities can comply well with regulatory expectations, making guidance clearer and more relatable. This positive reinforcement can encourage wider adoption of best practices, drive cultural change, and improve overall compliance standards, while maintaining the trust of participants through anonymity. SMC also welcomes blackout periods for surveillance data requests during busy seasonal periods (Christmas-New Year) to reduce reporting burden at a time when many businesses operate with limited staff and resources.

Regulatory transparency - FAR and the RIG

SMC welcomes the joint ASIC and APRA initiative to streamline the Financial Accountability Regime (FAR) to reduce regulatory burden. Simplifying reporting requirements would reduce compliance costs, lessen administrative strain, and enable super funds to focus more on member outcomes rather than complex reporting obligations. SMC seeks greater detail on the FAR initiative and welcomes early engagement on proposed changes, timing, and the scope of relief.

Simplification through law reform

Reportable situations

The previous relief provided to reportable situations is a welcome step towards reducing unnecessary regulatory burden and supporting a more efficient approach to compliance. By focusing regulatory efforts on matters of greater significance and value, these changes help entities allocate their resources more effectively and create a more proportionate and practical compliance environment.

Clarity and consistency across the industry are vital for the effective operation of the reportable situations regime. SMC would therefore welcome further practical examples and detailed guidance from ASIC to help promote greater consistency in interpretation and application, particularly regarding reporting thresholds and expectations.

For super funds, differences in the criteria for what constitutes a significant breach under the *Superannuation Industry (Supervision) Act 1993* (SIS Act) and the *Corporations Act 2001* require trustees to assess each breach or incident against both definitions when investigating, reporting, and remediating. Under the SIS Act a breach is considered 'significant' regarding:

- the number or frequency of similar previous breaches
- the impact on the RSE licensee's ability to fulfil its obligations as trustee of the superannuation entity
- whether the breach indicates inadequacies in the trustee's ability to comply with RSE legislation, financial reporting or audit obligations
- the actual or potential financial loss for members or for the trustee

Under the Corporations Act a breach is considered 'significant' regarding:

- the number or frequency of similar breaches
- the impact on the financial services licensee's ability to provide the financial services covered by its licence
- whether the breach indicates the licensee's compliance arrangements are inadequate.

Although the definitions are closely aligned, the SIS Act contains additional requirements—particularly the explicit consideration of actual or potential financial loss. These differences increase complexity for funds, requiring multiple parallel assessments for every breach or incident. ASIC has previously



recognised the reportable situations regime as an area where simplification is possible. While recent amendments to the reporting framework have been welcomed, further reform is warranted.

SMC recommends that ASIC review and align the criteria for determining whether an incident or breach is 'significant' across the Corporations Act and SIS Act, to reduce duplication and provide a more consistent and streamlined framework.

SMC acknowledges the rationale for extending additional relief to smaller licensees and appreciate efforts to reduce unnecessary reporting burdens. However, there has been a notable increase in the number of smaller AFSLs in recent years, and SMC is concerned that changes to the regime could inadvertently incentivise structuring or business decisions specifically aimed at avoiding reporting, surveillance, or other regulatory obligations.

Given these considerations, SMC strongly encourages ASIC to involve a broad range of stakeholders, in any future consultation processes regarding relief for smaller licensees. We suggest establishing an industry working group to examine the potential effects of relief measures, and support the development of practical, consistent guidance for all licensees. This collaborative approach would help balance proportionality and regulatory effectiveness with market integrity and consumer protection objectives.

ASIC's review of the reportable situations regime should examine auditors' obligations to report all suspected contraventions, rather than when they believe a significant breach has occurred. The current obligation creates duplication in information provided to ASIC and arguably renders the law and guidance on assessing breach significance redundant.

Substantial holding notices

SMC welcomes ongoing efforts to simplify and modernise substantial holding notice reporting for AFSL holders. Forms should be easy to navigate and complete by moving away from rigid prescribed formats toward more flexible, digital, and data-driven reporting solutions. These changes would reduce administrative burden and improve usability for market participants. SMC also favours enhancing the timeliness and accessibility of disclosures through streamlined processes that enable near real time electronic lodgement. Improved digital access allows consumers to freely trace and analyse substantial holding notices, thereby increasing market transparency and confidence.

Shaping ASIC's simplification work overall

RG 97 Disclosing fees and costs in PDSs and periodic statements

SMC welcomes ASIC's working group on RG 97 to reduce the compliance burden and improve investment incentives. Although legislative review is outside the remit of this consultation, SMC reiterates its view that the operation of RG 97 be reformed in the interim as follows:

- Explicitly remove the "borrower/counterparty name" field for loan assets, as was done for derivatives counterparty names in 2021.
- ASIC issue a stamp duty exemption via a class order relief. This simple change would eliminate cost spikes in year-one reporting, encourage direct investment in physical assets and restore comparability across investment structures.

More generally, the focus of RG97 on disclosing fees and costs primarily from a cost perspective may discourage super funds from investing in higher-return, productivity-enhancing asset classes such as private equity and venture capital. This is because RG97's fee-centric disclosure requirements emphasise short-term costs rather than long-term net returns, making higher-fee but potentially more lucrative investments seem less attractive. Private equity and venture capital investments often involve higher upfront fees reflecting value-adding activities like operational improvements and business scaling. These fees can appear punitive under RG97's cost-focused framework, leading funds to favour lower-fee, lower-return options to meet disclosure benchmarks. Consequently, this regulatory approach risks reducing super funds' allocations to asset classes that generate significantly higher returns and support economic productivity growth, pushing capital offshore or into more transparent but less productive investments. SMC recommends that RG97 adopt a more balanced disclosure framework that considers both the cost and long-term return value of investments. This would involve allowing superannuation funds to report fees and costs in a way that reflects the net benefit to members, including the productivity-enhancing potential of asset classes like private equity and venture capital.



Relief under section 29QC(1) of the SIS Act

SMC strongly supports permanent legislative relief from the disclosure and reporting consistency obligations under section 29QC of the SIS Act. Since 2014, ASIC has granted ongoing exemptions—most recently via Instrument 2023/941—acknowledging the unresolved practical challenges and regulatory uncertainty trustees face when required to align public disclosures with APRA reporting standards, which are themselves continuously evolving for prudential rather than consumer disclosure purposes. Entrenching this relief in legislation would provide enduring certainty for RSE licensees, removing reliance on temporary exemptions that are subject to expiry and continued extension. A permanent legislative solution would allow trustees to focus on clear, meaningful disclosures for members and their best interests—rather than expending resources navigating overly complex or ambiguous legal obligations. SMC believes this approach will provide a more stable and efficient regulatory environment for the superannuation sector and improve member outcomes overall.

Repealing the requirement for Product Dashboards

SMC supports the repeal of section 1017BA of the Corporations Act and the revocation of APRA Reporting Standard SRS 700 concerning Product Dashboards. Since the mandatory introduction of the MySuper Product Dashboard in 2013, the landscape of publicly available, comparable, and comprehensive super product information has evolved. Tools such as the ATO's YourSuper Comparison Tool and APRA's performance-related disclosures provide far more detailed and consumer-friendly reporting than the Product Dashboard alone. Maintaining the Product Dashboard requirement imposes an unnecessary compliance burden on RSE licensees without delivering commensurate benefit to consumers, who must currently navigate multiple overlapping information sources. Removing this obligation would reduce regulatory complexity, and enhance consumer clarity by focusing on centralised, consistent, and authoritative product data sources, as well as reduce duplicate preparation costs. SMC calls on ASIC to advocate to Treasury for legislative repeal of section 1017BA and on APRA to revoke Reporting Standard SRS 700.

Duplicative disclosure requirements

SMC recommends that regulators streamline overlapping disclosure requirements to improve clarity and reduce unnecessary compliance costs. Current annual member meeting (AMM) disclosure obligations duplicate information already provided through financial statements, RG 97 product disclosure requirements, and both existing and new APRA expense reporting forms (SRF 332.0 and SRF 332.1). These duplications create confusion for members, increase administrative burden for funds, and risk inconsistency with established corporate reporting frameworks. SMC calls for regulatory simplification through a coordinated approach that consolidates reporting obligations and ensures disclosures are proportionate, consistent, and meaningful for members.

Complaint handling

The current regulatory definition of a complaint is broad, requiring super funds to address frivolous complaints in a costly and resource-intensive manner. This includes complaints that may have no real impact on members, such as those about colour schemes or logos.

SMC recommends ASIC provide regulatory clarification and guidance to AFCA on complaint handling to reduce the compliance burden associated with vexatious complaints. This could be done by adopting a system that classifies complaints according to levels of harm or severity to the affected individual or member. Such systems aim to ensure serious issues receive priority attention while reducing operational burden from vexatious complaints.

SMC also recommends that ASIC align RG 271 with the outcome of Treasury's service standards consultation process.

Design and Distribution Obligations (DDO)

Under DDO, trustees are required to ensure their financial products are designed and distributed to appropriate target markets. For trustee-only distributions, especially default superannuation products where the trustee controls who receives the product (e.g., default members assigned by employers or legislation), SMC considers that the DDO regime could be simplified. Trustees could apply tailored measures rather than full DDO complexity, leveraging the controlled nature of distribution to default cohorts rather than open retail distribution.

The simplification acknowledges that because trustees directly allocate these products to members fitting specific default criteria, the obligations around steps like target market determination and distribution oversight can be adjusted or streamlined compared to products offered in the open retail market.



This helps reduce regulatory burden while still ensuring member protection and product appropriateness.

Overlapping enforcement

SMC has provided a table at **Annexure A** of this submission that summarises where ASIC and APRA can collaborate to reduce regulatory ambiguity and overlap. These areas relate to conduct regulation as both ASIC and APRA play an increasing role in this area of governance.

APRA and ASIC have overlapping regulatory responsibilities that can create duplication for regulated entities. SMC recommends several key approaches to resolve and reduce the overlap and duplication between APRA and ASIC in their regulatory responsibilities:

Single entry point for licensing: SMC suggests a single-entry point for licensing where trustees could apply once to cover both APRA and ASIC licence requirements. This would reduce duplication in the initial application process, though the trustees would still need to ultimately meet both regulators' criteria. ASIC should be required to have regard to APRA's competence assessment without making it determinative.

Single data lodgement point: SMC strongly supports the principle of a centralised or common data reporting framework to streamline lodgement, reduce the regulatory burden, and improve efficiencies when reporting to APRA and ASIC. APRA could act as a primary collator of data that is accessible to ASIC. The goal is to avoid re-reporting of data that providers have already submitted elsewhere. An example of this would be the revocation or simplification of APRA forms ARS 720.0 (ABS/RBA Statement of Financial Position) and SRS 320.0 (Statement of Financial Position), and that the provision of Financial Statements to ASIC on an annual basis be utilised by other agencies for the purposes of collecting information on superannuation funds financial position. While this requires action by APRA, ASIC could support this recommendation via a commitment to a "tell us once" principle.

Enhanced cooperation and information sharing across government:

SMC recommends that government establish a comprehensive data sharing framework encompassing all agencies that influence the super experience for members and trustees. When agencies such as the ATO, Services Australia, Births, APRA, and others each hold crucial information, fragmented or siloed data access creates duplication, inefficiency, and can delay or obstruct accurate service delivery for both trustees and members.

Wider data sharing allows funds to verify identity faster, consolidate lost or unclaimed super, ensure accurate payment of benefits, and better tailor products and communications to the needs of members. It also eases the compliance burden on trustees by reducing unnecessary paperwork and multiple reporting mechanisms, which in turn lowers administrative costs and the risk of errors. For consumers, this integration streamlines interactions, minimises the need to provide the same information repeatedly, and enhances confidence in the security and management of their retirement savings. Importantly, a whole-of-government approach helps realise productivity improvements across the super system, enables innovative digital solutions, and ensures policy and regulatory frameworks are based on complete, high-quality information—all while respecting privacy and data security.

APRA and ASIC should also focus on strengthening their formal cooperation through joint working groups, coordinating guidance, and streamlining data collection. This coordination ensures aligned messages and reduces overlap on supervisory activities, enforcement, and breach reporting.

Disclosure requirements

Consumer disclosure has traditionally been treated as the primary form of consumer protection in financial services. However, research, including by ASIC, demonstrates that disclosure alone is an ineffective safeguard. Key challenges include the complexity of financial markets, difficulty capturing consumer attention at the right time, and variability in individuals' levels of understanding and relevance.

Recent ASIC relief on digital disclosure provides only limited improvements, as requirements still mandate that all product information be presented in full at the first interaction. This regulatory constraint does not align with consumer needs or modern communication approaches. Performance disclosures should be designed to help consumers make informed choices and to foster healthy competition among funds. They should be presented in a way that is easy for the public to find and understand, ideally consolidated into one comprehensive and accessible source rather than scattered across multiple reports or platforms.



The role of Artificial Intelligence (AI)

While current regulatory obligations are technology-neutral, ASIC could play a critical role in providing regulatory guidance on the use of AI as its use rapidly grows across industries. AI integration allows funds to provide more accessible, precise, and timely retirement solutions, supporting stronger member outcomes and a more robust retirement system overall. As the pace of AI adoption continues to accelerate, it requires businesses to evolve their governance, risk frameworks, and workforce capabilities to fully leverage AI's potential. This trend reflects AI's growing role as a foundational technology. It requires proactive regulatory involvement to close any potential governance gaps and ensure AI innovation aligns with consumer safety and market integrity.

ASIC should also ensure its regulatory instruments are drafted and maintained in a form suitable for use by AI systems. This includes consulting AI experts, testing how large language models interpret the text, and applying consistent terminology across instruments. As stakeholders increasingly rely on AI to interpret regulatory materials, ensuring these systems can accurately process and understand ASIC's instruments is critical to prevent widespread misinterpretation and compliance risks.

Wet signature requirement binding death benefit nominations

SMC recommends that the SIS Act be amended to allow binding death benefit nominations to be made electronically. The current requirement for a physical 'wet signature' acts as a significant barrier, dissuading members from completing this important nomination and potentially delaying the distribution of death benefits. Enabling electronic execution and witnessing of binding death benefit nominations would simplify and streamline the process for members and trustees alike. Furthermore, establishing digital death benefit nomination registers would enhance the efficiency and accuracy of nomination management, reducing administrative delays and supporting faster, more transparent payment of death benefits to intended recipients. This reform aligns with modern digital practices and would improve member outcomes by facilitating timely and clear expression of their wishes.

Recognition of kinship in superannuation

SMC recommends that ASIC provide a clear and definitive public statement on the interpretation of the SIS Act regarding the recognition of kinship structures in the payment of superannuation death benefits. The current legislative framework, which restricts recognition to narrowly defined dependants and interdependency relationships, fails to accommodate the culturally significant kinship arrangements of Aboriginal and Torres Strait Islander peoples, and does not align with regulatory expectations for inclusivity. This legal ambiguity creates uncertainty for trustees and members, undermining confidence in the fair and culturally appropriate distribution of death benefits. SMC calls for ASIC to clarify how kinship should be understood in the context of the SIS Act or advocate for legislative amendments to explicitly incorporate and respect these broader kinship structures in superannuation death benefit decisions.

Duplicative communication of significant changes

The current regulation under RG274 and related laws requires superannuation trustees to communicate significant changes to members within a strict timeframe, often leading to multiple disclosures throughout a financial year. This process is resource-intensive, time-consuming, and costly, as it involves direct and repeated communication via channels like SMS, email, or postal mail. SMC recommends that ASIC consider regulatory amendments to RG274 that enable more flexible and efficient disclosure practices for superannuation trustees. Specifically, ASIC should explicitly permit indirect disclosure methods, such as alerts and notifications via websites, member portals, and other digital channels, in addition to traditional direct communication methods like SMS, email, or postal mail. Such flexibility would allow trustees to consolidate multiple significant change disclosures into fewer communications, reducing both frequency and volume of notices to members without diminishing transparency. It is also recommended that there be provisions allowing trustees to group disclosures occurring within short timeframes, easing administrative burdens and costs. ASIC should provide clear guidance on acceptable indirect disclosure practices and methods to demonstrate members' reasonable access to updated information. These changes would assist trustees in complying with their obligations in a cost-effective manner, ultimately benefiting members through clearer, timely, and less intrusive communication.

Financial advice reforms

SMC recommends that ASIC and policymakers expedite the Government's Delivering Better Financial Outcomes (DBFO) reforms to enable super funds greater flexibility in providing simple, cost-effective advice to members at scale. These reforms are critical to helping members build confidence in their retirement decisions. The regulatory framework should facilitate the adoption of AI tools and tailored



digital guidance solutions within funds. Members should be empowered to consent to sharing their ATO and Services Australia data with their super funds to support scalable, personalised advice models. Accelerating these reforms will ensure Australians benefit from innovative, responsive, and accessible advice that aligns with the evolving digital landscape and member needs.

Hard copy versus digital disclosure

The current RG 221 guidance lacks clarity regarding the digital receipt of disclosures by members. While it does permit some electronic delivery methods, it refers to allowing the digitisation of ‘most disclosures’ rather than explicitly confirming that all disclosures can be delivered digitally by default. This creates uncertainty for funds, preventing them from confidently defaulting members into digital receipt of all disclosures, which limits efficiency, increases costs, and hampers the adoption of fully digital communication channels. To address this issue, SMC recommends that ASIC clarify and update RG 221 to explicitly state that all disclosures, including product disclosure statements and other key member communications, can be delivered digitally as the default, unless members opt out. This clarity would support the ongoing digital transformation of super-related communication, promoting greater efficiency and member accessibility while ensuring compliance with regulatory standards.

Taxation laws disadvantaging super

Australia’s tax laws currently place APRA-regulated super funds at a disadvantage compared to corporate tax entities, due to outdated rules that have not evolved alongside the growth and complexity of the super sector. For example, super funds are unable to access capital gains tax (CGT) relief when restructuring asset holdings, such as changing legal structures without altering underlying ownership, which is common during fund mergers. This limitation can create unnecessary tax events and inefficiencies. When investing internationally, super funds face a heightened risk of double taxation because they lack access to specific corporate provisions that prevent such outcomes; instead, they must rely on the foreign income tax offset regime, which can be complicated by the pooling of foreign exchange hedging gains and losses. Additionally, many super funds invest through ‘foreign hybrid’ entities, but current law does not accommodate these entities well, particularly regarding reporting in foreign currencies, thereby increasing compliance complexity. SMC calls on ASIC to collaborate closely with the ATO to advocate for targeted reforms that address these issues, including permanent CGT relief provisions for restructures and mergers, improved measures to prevent double taxation on global investments, and updating the treatment of foreign hybrid entities to allow reporting in foreign currencies. These reforms would modernise the tax framework, align it with super fund operating realities, reduce compliance costs, and ultimately enhance member outcomes.

Annexure A

Area	ASIC regulation	APRA regulation	Suggested Fix
Conduct obligations	AFSL general obligation (s912A) - efficiently, honestly, fairly	SPS 515 (best financial interests, member outcomes)	Joint practice-note mapping trustee scenarios to both tests
Advertising and promotions	RG 234 (misleading and deceptive guidance)	SPS 515 (spend justification, best interests)	Shared examples library and expenditure template
Complaints and member contact	RG 271 (IDR framework, timeframes, metrics)	SPS 515 (member outcomes data)	Shared complaints dictionary and metrics pack
Distribution conduct	RG 274 (DDO - TMDs, reasonable steps, significant dealings)	SPS 515 (product performance monitoring, action on poor outcomes)	Integrated product review cycle aligning DDO and SPS 515
Conflicts management	s912A conflicts obligations	SPS 521/SPG 521 (detailed trustee conflicts requirements)	Single conflicts framework mapped to both regimes
Incident/breach reporting	Reportable situations regime	Notifiable matters (SPS 220, SPS 515)	Single incident taxonomy and aligned reporting gateway
Employer channel communications	INFO 89 (fund choice, anti-hawking)	SPS 515 (outcome justification)	Joint FAQ clarifying acceptable employer communications
Cybersecurity and member harm	Conduct/IDR expectations post-incident	CPS 234 and CPS 230 (cyber/operational resilience)	Joint cyber event playbook and acceptance of single communications pack
Fees and costs disclosure versus outcomes	RG 97 (fees and costs disclosures)	SPS 515 (expenditure justification, member outcomes)	Align RG 97 data structures with APRA reporting