Australian Government

Stronger Super

Information Pack

21 September 2011

ISBN 978-0-642-74735-8

Contents

Foreword

By 2050, almost one in four Australians will have reached retirement age, compared to one in seven today. The gift of longer life means it's in the national interest to encourage Australians to save more for their retirement but it's also fair that the superannuation industry contribute to higher retirement savings through greater efficiency and lower fees.

The superannuation industry manages $1.4 trillion in hard-working Australians' retirement nest-eggs. Every dollar diverted in fees or other unnecessary overheads is a dollar less going towards a larger and more secure retirement. Over a person's working life, these fees can total tens of thousands of dollars of lost retirement income.

The Gillard Government's Stronger Super reforms deliver on our election commitment to provide a better deal for the many Australians who choose not to take an active role in managing their superannuation, but who instead rely on superannuation funds to act in their best interests. The reforms will also improve the overall efficiency and integrity of the superannuation system.

Stronger Super complements the Government's historic commitment to increase the superannuation guarantee to 12 per cent.

In combination, the Government's superannuation reforms are estimated to increase retirement superannuation balances by almost $150,000 for a 30 year old worker earning average full-time wages.

I am pleased today to announce the Government's decisions on key design aspects of the Stronger Super reforms, which include:

- MySuper products will have a single investment strategy and a standard set of fees. However, funds will be able to offer a discounted administration fee to employees of particular employers. Funds will also have the flexibility to offer employers with more than 500 employees a MySuper product tailored to the needs of the particular workplace;
- from 1 October 2013, employers must make contributions for employees who have not chosen their fund, to a fund offering a MySuper product in order to satisfy superannuation guarantee obligations. By 1 July 2017, funds will need to transfer the existing default balances of members to a MySuper product;
- new processes for locating and consolidating multiple member accounts that will see lost and inactive accounts with balances under $1,000, and accounts in eligible rollover funds consolidated into the member's current active account (unless the member opts out);
- better information for employees regarding their superannuation entitlements, as employers will disclose on payslips when contributions are due to be paid; and
- e-commerce and data standards that will reduce the time it takes to process contributions and rollovers, enable money to be allocated to member accounts in a more timely manner and

reduce the likelihood of member accounts being lost due to incomplete or incorrect information being provided to funds.

These decisions have been informed by the extensive consultation process led by Paul Costello in the first half of this year. I would like to thank Paul for the excellent job he did in leading this process. I would also like to thank everyone who gave of their time and experience to contribute to the consultation process.

I note that the Stronger Super consultations also considered the merits of an independent advocacy body for superannuation consumers. I believe this concept warrants further consideration and will consult with industry and consumer groups on how such a body might be implemented.

I acknowledge the significant contribution of my Ministerial predecessors, Chris Bowen and Nick Sherry, and thank officials from APRA, ASIC, the ATO and the Australian Treasury for their hard work.

The Government will continue to work closely with industry, employers, and employee and consumer groups in developing legislation to implement Stronger Super.

The Hon Bill Shorten MP
Assistant Treasurer and Minister for Financial Services and Superannuation

1. SUMMARY

On 29 May 2009, the Government commissioned the Super System Review (the Review), chaired by Jeremy Cooper, to make recommendations to ensure the superannuation system has a sharper focus on operating in members' best interests. The Review's final report was handed to the Government on 30 June 2010.

Stronger Super represents the Government's response to the Review's recommendations. The reforms will make our superannuation system stronger and more efficient, and will help to maximise retirement income for members and make the system easier to use including for employers.

The key elements of the reforms are:

- the introduction of ***MySuper***, a new simple, cost-effective default superannuation product;
- making the process of everyday transactions easier, cheaper and faster through the ***SuperStream*** package of measures;
- clearer duties for directors of superannuation trustee boards and other measures to improve the ***governance and integrity*** of the superannuation system; and
- improved integrity and increased community confidence in the ***self managed superannuation fund sector***.

These reforms are expected to reduce the average fees paid by members by up to 40 per cent.

In February 2011, the Government established the Stronger Super Peak Consultative Group, chaired by Paul Costello and comprising members from industry, employer, employee and consumer groups. The role of the group was to advise the Government on how best to implement the reforms while ensuring a consistent, integrated approach in respect of the various elements of the reforms. The Peak Group was supported by four specialist working groups (covering MySuper, SuperStream, self managed superannuation funds (SMSFs) and governance).

This document provides details of the Government's decisions on key design aspects of the Stronger Super reforms. These decisions have been informed by the extensive consultation process.

NEXT STEPS

Stronger Super is one of the most significant reforms to superannuation since the introduction of the superannuation guarantee and will cover a broad range of issues. Therefore, legislation to implement the reforms will be introduced in tranches over the coming months. Consultation with stakeholders will be undertaken on each tranche of legislation.

Before the end of this year, the Australian Prudential Regulation Authority (APRA) will also commence consultation with stakeholders on the development of prudential standards that will form part of the regulatory framework for the superannuation system. The Government will release draft legislation to establish APRA's ability to make prudential standards and to make necessary consequential amendments to legislation and regulations.

Due to the breadth and longevity of the SuperStream program of reforms, the SuperStream working group will continue to meet regularly until the end of 2011. The working group will continue work on the data and e-commerce standards with a view to having the proposed contributions and rollovers data standards published in early 2012. It is expected that an Advisory Council for SuperStream will be established in early 2012.

2. MySuper

2.1 Background

MySuper is a new, simple and cost-effective superannuation product that will replace existing default products. MySuper products will have a simple set of product features, irrespective of who provides them. This will enable members, employers and market analysts to compare funds more easily based on a few key differences. It will also ensure members do not pay for any unnecessary 'bells and whistles' they do not need or use.

All existing superannuation funds will be able to apply to offer a MySuper product.

Members wishing to make other choices with their superannuation will still be able to opt for an alternative product, or manage their own superannuation affairs through a self managed superannuation fund.

MySuper will lower the costs for employers in selecting a default fund, as they will have better information to assist with their choice, and the confidence that any MySuper product will meet minimum standards and offer a cost-effective superannuation plan for their employees.

2.2 Transition to MySuper

The Government previously announced that superannuation funds will be able to offer MySuper products from 1 July 2013.

From 1 October 2013, employers must make contributions for employees who have not made a choice of fund to a fund that offers a MySuper product in order to satisfy superannuation guarantee requirements. Additional transitional arrangements will be developed to deal with situations involving funds nominated in enterprise agreements.

In order for a superannuation fund to be named in a modern award, it will have to offer a MySuper product. Fair Work Australia will review the default superannuation funds named in modern awards to ensure that they offer a MySuper product. The Government will undertake further consultation on these arrangements to ensure a smooth transition for employers, employees and industry.

Trustees of superannuation funds offering MySuper products will need to transfer the existing balances of their default members to a MySuper product by 1 July 2017. These arrangements will ensure the vast majority of default members obtain the full benefits of MySuper, while allowing almost six years for industry to prepare for and manage the transition. As part of the legislative design process, the Government will consult on a mechanism to allow for this period to be extended in certain, limited circumstances, recognising there may be instances where existing obligations affect a trustee's ability to transfer balances.

Trustees will not have to transfer the existing member balances that relate to an entitlement to a defined benefit or relate to certain legacy products. As part of the legislative design process, the Government will consult further on the legacy products that will be exempt from the transfer of existing balances to a MySuper product.

The Government also recognises that, under the proposed framework for transition, questions could arise as to whether a trustee has fulfilled its fiduciary obligations to act in the best interests of members. Further consideration of the protection trustees may require in these circumstances will also be undertaken in consultation with stakeholders at the legislative design phase.

2.3 Pricing of MySuper products

As part of Stronger Super, the Government announced that each superannuation fund would be able to offer one MySuper product with a single, diversified investment strategy. Consultations considered whether the one MySuper product should be offered at a single price (that is, fee structure) for all members or could be offered at different prices.

The Government has decided that funds choosing to offer MySuper must offer a product with a single investment strategy and a standard set of fees available to all prospective members. However, employers will be able to negotiate with funds to obtain a discounted administration fee for their employees. This recognises that there may be administrative efficiencies in dealing with some employers that warrant a lower administration fee. The Government will determine the parameters under which a trustee will be able to offer a discounted administration fee within the MySuper regulatory framework.

The Government has also decided that funds will have the flexibility to offer employers with more than 500 employees a MySuper product tailored to the needs of the particular workplace. These products will be able to differ from a fund's main MySuper product in terms of investment strategy, member services and fees.

To maintain transparency of these arrangements, the details of all separately tailored MySuper products and discounted administration fees will be required to be reported to APRA and will also need to be separately published by trustees.

2.4 Branding

As part of Stronger Super, the Government announced that while each fund will be limited to offering one MySuper product, further consideration would be given to whether separate brands of MySuper products can be offered within a fund.

The Government has decided it will provide a limited exception aimed at cases where there is a pre-existing and distinct MySuper or default product acquired by a fund as a result of a merger or takeover. Funds will need to apply to APRA for approval to offer more than one brand of MySuper product.

2.5 Single, diversified investment strategy

2.5.1 Level of risk and investment return target

As part of Stronger Super, the Government announced that a MySuper product will have a single, diversified investment strategy.

The Government will require MySuper trustees to clearly articulate the targeted rate of return (over a rolling ten year period) and level of risk that the trustee has determined is appropriate for its MySuper members. APRA will consult with the industry to determine appropriate metrics for the standard reporting of the return and risk targets for MySuper products. Trustees will also be required to use the same approach for calculating and presenting this information in the new product dashboard.

2.5.2 Lifecycle investment options

The Government previously announced it would further consider whether a lifecycle investment approach could be a MySuper trustee's single investment strategy. Lifecycle investment options enable trustees to automatically move members into a different investment mix based on their age and can be particularly relevant as part of a transition to retirement.

Trustees are best placed to decide whether a lifecycle investment option is best suited to their members. Therefore, the Government has decided that trustees will be allowed to use a lifecycle investment option as the single investment strategy for their MySuper product. APRA will be asked to develop guidance for trustees on issues related to the way in which they develop and maintain a lifecycle investment approach for a MySuper product.

2.6 Authorisation of MySuper providers

The Government announced that trustees wanting to offer a MySuper product will be required to hold a specific MySuper licence issued by APRA.

After consulting with APRA and the industry, the Government has decided that trustees will not be required to apply to APRA to hold a specific MySuper licence. However, trustees will be required to apply to APRA to be authorised for each MySuper product they wish to offer. This approach will build upon existing processes, avoid duplication and ensure APRA is given sufficient power to regulate MySuper.

2.7 Fees

Fees a member can be charged in MySuper products will be limited to:

- administration fee;
- investment fee (including a performance-based fee, subject to the limitations outlined below);
- buy and sell spreads (limited to cost recovery);

- exit fee (limited to cost recovery); and
- switching fee (limited to cost recovery).

In addition, trustees may charge fees for certain member-specific costs initiated by the member or a court; for example, account splitting following a family law decision.

All fees charged for MySuper products must be able to be included under these standard descriptions. This will make it simpler for members to understand what they pay and to compare fees against other MySuper products.

Trustees will not be limited on the types of fees that can be charged in choice products.

The Government has decided on parameters for performancebased fees consistent with those recommended in the Super System Review. In any performance-based fee arrangement with a fund manager in respect of assets of the MySuper product, trustees must include the following provisions:

- a reduced base fee that reflects the potential gains the investment manager receives from performancebased fees, taking into account any fee cap;
- measurement of performance on an after-tax (where possible) and after-costs basis;
- an appropriate benchmark and hurdle for the asset class reflecting the risks of the actual investments;
- an appropriate testing period; and
- provisions for the adjustment of the performancebased fee to recoup any prior or subsequent underperformance (for example, high water marks, clawbacks, vesting arrangements and rolling testing periods).

If a performancebased fee arrangement does not contain each of these provisions, a trustee must be able to justify that the differing arrangement continues to be in the best financial interests of the members of the MySuper product.

2.8 INSURANCE

2.8.1 MySuper and choice products

As part of Stronger Super, the Government announced that all APRA-regulated funds will be required to offer life and total and permanent disability (TPD) cover on an opt-out basis (where available, depending on occupational and demographic factors) and would consult on implementation.

The Government has decided that trustees must, at a minimum, allow members to opt-out of life and TPD insurance within 90 days of the member joining a fund, or on each anniversary of the member joining the fund. However, if trustees are unable to obtain opt-out cover at a reasonable cost, trustees of MySuper products will be required to offer compulsory insurance, while trustees of choice products can either offer compulsory insurance or no insurance. These arrangements will not apply to defined benefit funds that have insurance cover as part of the benefit design.

The Government also announced that it would consider whether income protection insurance should be offered on an opt-out basis to members of all APRA-regulated funds. Following consultation, the Government has decided that it will be left to the trustee's discretion whether to offer income protection insurance, on an opt-in or opt-out basis or at all.

These changes mean that a member's superannuation will not be reduced by premiums for insurance cover that the trustee has determined is not suitable for their members.

Currently, some members are being charged premiums for own occupation cover in TPD insurance policies and other types of insurance that may not be released to them when an insurance payment is made for them, because the circumstances do not meet a condition of release.

The Government will end this practice. The Government believes it is in the best interests of members to align insurance definitions with the conditions of release so that insurance is consistent with the purpose of superannuation and that insurance monies are available to members at the time of their disability.

The Government considers that this change needs to made as rapidly as possible and will consult with industry on an appropriate timeline for the phase-out of existing policies that are not consistent with definitions of life, TPD and income protection insurance that will be incorporated in the legislation.

Furthermore, to improve transparency and comparability of insurance provided through superannuation, the Government will consult on an approach to ensure that policy terms are disclosed in a standardised way.

2.8.2 Default insurance in MySuper products

MySuper products will be required to offer a standard, default level of life and TPD insurance. Members of MySuper products will be able to increase or decrease their insurance cover (if offered by the trustee) without having to leave the MySuper product.

There may be particular factors at a workplace level that influence the appropriate level and structure of insurance for employees at that workplace. Therefore, within a MySuper product, it will be possible for the standard insurance cover to be replaced by a default insurance strategy tailored to meet the specific requirements of the employees of a particular employer.

2.9 Post-retirement products

The Government has decided that a MySuper product will only cover the pre-retirement phase initially. The Government will consult with relevant stakeholders on whether MySuper products should be required to include a post-retirement offering at some time in the future and the framework that should apply.

2.10 Capital gains tax (CGT) rollover for MySuper reforms

The Government will continue to consult key stakeholders on CGT consequences that may directly arise from transitioning to MySuper and to what extent, if any, CGT rollover relief is appropriate.

Submissions can be made to cgt_super_roll-over@treasury.gov.au and must be received by 21 October 2011.

3. SuperStream

3.1 Background

SuperStream is a comprehensive package of reforms designed to enhance the 'back office' of superannuation and includes measures to:

- implement the new data and e-commerce standards for superannuation transactions;
- allow the use of tax file numbers (TFNs) as the primary locator of member accounts;
- facilitate account consolidation and improve the treatment of contributions made without sufficient member details; and
- establish an advisory governance body to advise on the implementation and maintenance of the standards.

The Government's Securing Super reforms will also:

- provide better information about the amount and timing of superannuation payments to employees; and
- provide notification from funds to members on whether contributions have or have not been received.

The reforms introduced through SuperStream and Securing Super will improve the productivity of the superannuation system:

- The adoption of data standards will result in more automated and timely processing of transactions, improved efficiency, an easier system for employers to use, fewer lost accounts and more timely flow of money to members' accounts.
- Reducing the number of multiple member accounts will reduce administration fees and insurance premiums on multiple accounts paid per member and maximise retirement benefits.
- Through the Government's Securing Super initiatives, employees will be able to better monitor their contributions.
- The SuperStream Advisory Council will provide a structured forum for stakeholders to advise Government on issues on the implementation and maintenance of the protocols and data and service standards.

Industry submissions to the Super System Review estimated that savings up to $1 billion annually are achievable from the SuperStream reforms.

3.2 Timely and efficient superannuation transactions and improved flow of super to member accounts

It is estimated that the Australian superannuation system processes more than 100 million transactions per year, at a cost of over $3.5 billion.

Several aspects of the current system are inefficient.

- There are no mandated data or transmission requirements for transactions within the superannuation system. This has resulted in funds:
  - having different data requirements and formats for processing data and payments; receiving poor quality data leading to members being incorrectly enrolled in funds with a resultant risk of multiple accounts being created;
  - receiving insufficient member information preventing the correct allocation of contributions.
- There is widespread use of manual payment (cheque) and data transfer (paper forms) mechanisms that contribute to poor data quality and result in processing delays, duplicated and lost accounts that all add costs to the system.

SuperStream will implement reforms to address inefficiencies in back office processing by:

- improving the quality of data in the system;
- allowing the use of tax file numbers (TFNs) as the primary locator of member accounts;
- encouraging the use of technology to improve processing efficiency; and
- improving the way fund-to-fund rollovers are processed and the way contributions are made.

The Super System Review recommended the development of standardised forms and common data standards to support electronic transactions for superannuation. It also recommended that these standards should be compatible with the Standard Business Reporting (SBR) framework and provide for linked personal and financial data transmission.

SBR will be used as the platform to develop the taxonomy and message structures for superannuation transactions, along with the use of eXtensible Business Reporting Language (XBRL) for exchanging information. Additionally, the payment standard prescribed by the Australian Payments Clearing Association (APCA) and international financial messaging standards prescribed by the International Organisation for Standardisation (ISO20022) will be used.

Consultations also highlighted that, to achieve the necessary improvements in data quality there was a need to mandate the use of data and payment standards across all superannuation transactions involving member contributions and rollovers.

The Government will legislate to mandate the use of the new data and payment standards for superannuation transactions and reporting to Government in order to maximise the efficiencies.

The Government is mindful of the implementation issues the introduction of the data and e-commerce standards raises for small employers and will continue to consult with employer groups on the best and most practical ways to achieve these objectives for small employers.

Smaller employers will be able to utilise the free services offered by the Medicare Small Business Superannuation Clearing House to streamline their processing.

The adoption of data and e-commerce standards will have substantial benefits for all participants and will enable participants to communicate by using standardised business terms, while electronic transmission will allow for a more automated and timely processing of transactions with fewer errors. This will result in improved efficiency, an easier system for employers to use, fewer lost accounts and more timely flow of money to member accounts.

In particular:

- Superannuation funds will receive member information and linked payments in a standard electronic format removing substantial manual processing. Improvements to the quality of member information received from employers will reduce costs associated with rework arising from incomplete or incorrect information;
- Employers will be able to send contributions in a standard electronic format removing the need to submit this information to separate funds in different paper formats;
- Employees/members will have contribution payments allocated to their account more rapidly and better quality data will result in less instances of lost super arising from incorrect or incomplete data being sent to funds. A reduction in processing costs will reduce fees charged to members in the long term.

During consultation, support was expressed for a phased introduction of SuperStream initiatives from July 2012 through to July 2015. Consultation highlighted the large scale change required to support the introduction of data standards and electronic transactions for superannuation.

3.2.1 Timeline

The implementation timeline for the data and e-commerce standards is as follows:

- **Early 2012:** Data standards published and available for use by funds (voluntary uptake).
- **July 2013:** Data standards and use of e-commerce becomes mandatory for APRA-regulated funds and SMSFs for processing rollovers and accepting contributions (provided by employers in the new format).
- **July 2014:** Data standards and use of e-commerce becomes mandatory for large and medium employers making contributions.
- **July 2015:** Proposed application of data standards and use of e-commerce to small employers subject to further consultation on impacts.

The Government will continue to consult with relevant stakeholders on implementation issues.

3.3 CONSOLIDATING MULTIPLE ACCOUNTS AND REUNITING LOST SUPER

Lost and unnecessary superannuation accounts can have a significant impact on the retirement savings of individuals concerned and also add to fund administration costs.

As at June 2010, there were around 33 million superannuation accounts in Australia, being three accounts for every worker. This includes an estimated 5 million accounts recorded on the Lost Member Register.

Currently, processes for individuals wishing to consolidate accounts or obtain lost super can be cumbersome and time consuming.

The Government aims to increase retirement incomes by facilitating a steady reduction in the number of unnecessary and lost superannuation accounts. The Government's package of Stronger Super reforms will make it easier for superannuation funds and their members to locate and consolidate multiple superannuation accounts, including by allowing the wider use of TFNs.

These reforms will have considerable benefits:

- Members will have a streamlined process to consolidate accounts and avoid paying unnecessary fees, including insurance premiums, on multiple accounts. Any accounts with less than $1000 will be automatically consolidated to the current active account unless the member opts out.

- Superannuation funds will be able to search the Australian Taxation Office (ATO) registers for any lost or unclaimed superannuation as well as information on member accounts (member consent required) and advise the member that they may wish to consolidate their superannuation accounts.

3.3.1 Timeline

The timeline for account consolidation is as follows:

- **July 2011**: Funds can use TFNs as primary locator to find accounts within a fund.

- **January 2012**: Funds can use TFNs to search the ATO's current service for searching for lost accounts — but only with member consent.

- **July 2012**: Where a member has multiple accounts within a fund, funds would be required to consolidate these accounts, where possible.

- **July 2012**: The ATO will provide a new online facility for members to view their active (but not their inactive) superannuation accounts that are currently reported to the ATO, in addition to their lost accounts and other superannuation monies held by the ATO (for example, unclaimed money). Funds will also be able to search the account information, with member consent.

- **October 2013**: Funds will report all inactive accounts, lost accounts as well as active accounts to the ATO.

- **January 2014**: Commencement of auto-consolidation of lost and inactive accounts (two years without contributions or rollover) with a balance of less than $1,000 and accounts in eligible rollover funds. The process will be initiated by the ATO and conducted annually. The ATO would identify relevant accounts and advise the active fund (Fund A). Fund A would then be responsible for arranging consolidation unless the member opts out. Fund A would have a prescribed time to write to the member advising them that if they do not 'opt out' then Fund A will write to the other funds and commence the auto-consolidation process. As part of this process the member would be advised that there may be insurance cover in the other funds and they should consider this and other relevant information before making any decision. The member will have the prescribed time to advise Fund A if they do not want the accounts consolidated. If the member does not 'opt out' the current fund will then commence the consolidation process by advising the other funds which will have a prescribed period to process the consolidation.

  – In addition, members and funds (with member consent) can use the ATO online facility at any time to search for all accounts, including inactive accounts. They will be able to claim any ATO-held super monies through this online facility.

- **July–December 2014**: The enrolment process for new employees will be modified so that employees can actively consider account consolidation at this time. If the new employee does not exercise choice the default option would be to create a new account. Any lost and inactive accounts with a balance of less than $1,000 will be transferred into the new account through the auto-consolidation process previously mentioned.

In the latter half of 2014 the threshold for auto-consolidation of lost and inactive accounts would be increased to at least $10,000 subject to a review of the threshold by the Treasury, ATO and APRA. The Government will continue to consult with industry to ensure that the administration of the account consolidation process is as efficient as possible, for example, through greater use of standardised forms and processes including standard proof of identity requirements.

Cameo
Trevor is advised that ATO online can display his active and inactive super accounts and identify if he has any lost or unclaimed super. Trevor has two super accounts and decides he should consolidate them to his current active account held by GreenSky superannuation fund. Trevor accesses ATO online and elects to consolidate. When GreenSky is contacted by the ATO, GreenSky commences the consolidation process.

3.4 Enhanced New Employee Enrolment Process

As outlined above, an enhanced enrolment process will commence during July — December 2014 to ensure new employees consider account consolidation at the time of beginning new employment.

As part of the process employees will be able to access a listing of all their superannuation accounts from ATO online to assist with exercising choice. The employee can use this information and elect to have superannuation contributions made to their existing account or open a new default account.

Employees will also be able to use the information and elect to consolidate their other accounts online. The ATO will notify their active fund of their election to consolidate and the active fund will have a period of time to obtain consent and facilitate the consolidation.

Existing employees can also benefit from this process by logging onto ATO online at any time to view a list of their superannuation accounts, choosing to consolidate and electing to have the ATO notify their active fund of their consolidation request.

The enhanced enrolment process will utilise ATO online as a central portal to provide information on members' superannuation accounts and help them consider and facilitate account consolidation. This portal is available to members at any time and is not limited to the enrolment process.

The enhanced enrolment process, in conjunction with the broader measures to assist account consolidation, will reduce the number of multiple accounts and improve members' overall retirement benefits by reducing the impact of multiple administrative fees and insurance premiums.

Cameo
Grace starts a new job and logs onto ATO online. While online, she could see a list of her superannuation accounts and exercises her Choice to have contributions made to an existing account using the information displayed. At the same time Grace elects to consolidate one of her superannuation accounts from her part-time job during her university days. At her leisure, Grace logs onto ATO online to view her superannuation information including a list of all her accounts. She later elects to consolidate another superannuation account from her previous job using ATO online.

3.5 No TFN contributions

The Super System Review made a number of recommendations to expand the use of TFNs to improve superannuation fund efficiency and assist with account consolidation. For this to work, employees and employers need to supply TFNs to funds.

Two options were considered by the SuperStream working group for dealing with contributions not accompanied by a TFN (no-TFN contributions):

- The employer could be required to forward the superannuation contributions concerned to the ATO, along with the identifying details that it has, and the contribution would be treated as unclaimed money. This is the option recommended by the Super System Review.

- Alternatively, the employer could be required to forward the superannuation contribution to a fund. If the fund was unable to obtain a TFN and other identifying details within a specified time frame, it would then send the money to the ATO, as part of the unclaimed money process.

The working group endorsed the second of these two options and the Government agrees with this approach. The new arrangement for the treatment of no-TFN contributions will commence from 1 July 2013.

3.6 Regular information to employees on employer contributions

Currently, the law only requires payslips to report an employee's entitlements to superannuation, accrued during the pay period, even though the employer may not make the actual contribution until after the end of the quarter. Employees do not always know if their employer has failed to make contributions on their behalf.

Similarly, funds send out statements to members to notify them of contributions that have been made on their behalf for that year. These are sent on an annual basis and can be issued up to eighteen months after the pay period in which superannuation was supposed to be paid.

As a result of the time lag in the receipt of information, employees do not always receive information on their contributions in time to take action if contributions have not been made.

As part of the Securing Super package, the Government will legislate to ensure that employers identify when superannuation will be paid to employees, and that employees are given more information to better monitor their contributions.

3.6.1 Payslip reporting

From 1 July 2012, employers will be required to report on payslips an 'expected payment on or before' date in addition to the current entitlement during the pay period. In many cases this will be the superannuation guarantee due date, or a due date under a workplace agreement or award. In some cases, however, where they remit contributions sooner, employers may choose to disclose an earlier date.

This will provide up-to-date information to employees on when they can expect superannuation contributions and will allow them to follow up with their superannuation fund to confirm that payments have been made by the due date.

From 1 July 2013, subject to there being no significant payroll system costs, payslip reporting of actual contributions paid rather than just accrued contributions will commence, including the provision of information about which fund the contributions are being paid into.

Cameo
Matthew works for a building company and is a member of XYZ Fund. He gets paid on a fortnightly basis. For pay period 2–13 July 2012, his employer will put on his payslip that he is entitled to \$206 of superannuation guarantee payments and that the expected payment date will be on 28 October (as his employer remits superannuation guarantee payments on a quarterly basis).

3.6.2 Fund notification

In addition to payslip reporting (by employers), funds will be required to either issue six monthly statements which show contributions made or, report electronically to members on whether they have 'received' or 'not received' any superannuation contributions for that quarter. Funds could offer web portals, so that members can check their contributions online.

Compulsory notification will commence from 1 July 2013. The six-monthly statements commonly issued by funds which show contributions made would discharge this obligation.

Cameo
As Matthew has provided electronic contact details to this fund, XYZ fund could send Matthew a quarterly SMS from 1 July 2013 to inform him that contributions have been made on his behalf for that quarter and that he can seek further information by logging onto the fund's web portal for transactions during that quarter. Matthew can then compare the payments of superannuation recorded on his payslip and the quarterly transaction statement and address any discrepancies at an early stage.

3.7 ADVISORY COUNCIL

The SuperStream working group chaired by Treasury has been overseeing the development of data and e-commerce standards since March and will continue to perform this role until the end of 2011.

The Government recognises that there needs to be continuity in the governance and oversight of the SuperStream data and e-commerce standards as the design details are finalised and implementation commences. Consequently, the Government has decided to establish a SuperStream Advisory Council to provide advice to Government on these matters when the working group winds up.

The Advisory Council members will be appointed by the Government and will meet regularly to monitor the implementation of data and e-commerce standards. The Council will provide a structured forum where stakeholders identify improvements in the standards and the protocols around them and make recommendations for changes to Government. The Council will also report to Government on what the agreed measures of success for SuperStream are showing.

The Advisory Council will be supported by a secretariat located within the Government.

Further details on the membership and meeting arrangements will be announced by the Minister in due course.

It is expected that the Advisory Council for SuperStream will be established in early 2012.

4. Self managed superannuation funds

4.1 Background

Given the significant role SMSFs play in Australia's superannuation system, it is important that there is appropriate oversight of SMSF service providers, that fund investments are consistent with the purpose of superannuation and that fraudulent activity is curbed. To achieve these outcomes, the Government will:

- introduce independence requirements for SMSF auditors to ensure that SMSF audits can be relied upon to provide an objective assessment of compliance with the superannuation legislation; and
- introduce a requirement for related party transactions to be conducted through a market, or accompanied by a valuation if no market exists, to increase the transparency of these transactions and ensure that related party transactions are not used to circumvent legislative requirements.

These reforms are expected to boost Government and public confidence in the SMSF sector and aim to ensure that this growing sector can continue to prosper in an enhanced environment.

4.2 SMSF auditor registration

Discussions with stakeholders regarding the framework for SMSF auditor registration are ongoing. The Government will make an announcement on this issue when announcing its decision on the replacement of the accountants' exemption as part of the *Future of Financial Advice* reforms.

4.3 SMSF auditor independence

The Super System Review recommended that ASIC should develop approved auditor independence standards, which SMSF auditors must meet as part of their ongoing registration requirements. The Review suggested that the independence standards should include that the auditor and auditing firm should not provide non-audit services to the SMSF.

The Government considers that prescriptive standards are not appropriate because an assessment of auditor independence requires a holistic assessment of the individual circumstances surrounding an audit engagement. Prescriptive standards cannot address all situations and can lose relevance over time as services evolve. Instead, the principle-based approach used in the Accounting Professional and Ethical Standards Board's (APESB) *APES 110 — Code of Ethics for Professional Accountants* is more appropriate because it allows the individual circumstances of an audit engagement to be taken into account and requires auditors to be independent both in fact and in appearance.

The Government will legislate to require SMSF auditors to comply with APES 110 as a condition on their registration and will request the APESB to develop guidance for SMSF auditors on how APES 110 applies in the SMSF context. Guidance will assist with SMSF auditors' understanding of independence.

4.4 Transactions involving related parties

The Super System Review recommended that the superannuation legislation should be amended so that acquisitions and disposals between SMSFs and related parties must be conducted through a market where one exists. If no underlying market exists, the transactions must be supported by a valuation from a suitably qualified independent valuer.

Concerns were raised in consultation that requiring related party transactions to be conducted through a market could involve transaction risk and result in increased costs. However, non-market transactions are not transparent and are open to abuse. Abuse can occur through transaction date and asset value manipulation to achieve more favourable outcomes in terms of contributions caps and capital gains tax.

The Government will legislate to require related party transactions to be conducted through the market where one exists. If no market exists, the transaction must be supported by a valuation from a suitably qualified independent valuer.

The ATO's publication of valuation guidelines, which was also recommended by the Super System Review, will provide guidance for obtaining valuations for related party transactions where there is no underlying market.

APRA will consider whether similar restrictions should apply to APRA-regulated funds.

4.5 Other SMSF issues

Following consultation, all of the other SMSF recommendations will be implemented in line with the Government's response to the Super System Review in December 2010, with one exception. The Government considers that SMSFs should have the flexibility to tailor their trust deeds and that SMSF trustees should be aware of the obligations imposed by their trust deed. Therefore, the Government will not amend the superannuation legislation to automatically deem anything permitted by the superannuation or taxation legislation to be permitted by SMSF trust deeds.

5. GOVERNANCE

5.1 BACKGROUND

In Stronger Super, the Government announced its in-principle support for a number of recommendations of the Super System Review aimed at heightening the obligations of superannuation trustees to manage their funds' assets prudently and in the best interests of the members of the fund. Consultations have focussed on the details of these recommendations.

Heightening superannuation trustee requirements will improve trustee decisions, fund efficiency and effectiveness, and thereby help grow member superannuation entitlements.

Increasing trustee awareness of the expected costs of an investment strategy, its taxation consequences and the availability of valuation information, will help enhance retirement incomes.

Introducing a new risk-based operational risk financial requirement will better protect superannuation members from losses due to failures in the operations of their fund.

5.2 TRUSTEE GOVERNANCE

The Super System Review recommended creating a new statutory office of 'trustee-director' whereby the duties, power and standards required of this office would be fully set out in the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

During consultation, a number of practical difficulties were identified with this recommendation. As a result, the Government will instead focus on addressing the particular issues identified by the Super System Review. These changes will include:

- introducing a duty for trustees and directors to give priority to the interests of fund members when that duty conflicts with other duties;
- strengthening the requirements for individual directors in relation to managing conflicts of interest;
- increasing the standard of care, skill and diligence required of trustees and directors of corporate trustees to that of a prudent person of business;
- clarifying the duties applying to individual directors of corporate trustees to act honestly and to exercise independent judgment; and
- introducing a requirement for trustees to devise and implement an insurance strategy and impose a statutory duty on trustees to manage insurance with the sole aim of benefiting members.

The Super System Review also recommended directors of corporate trustees be required to include in their deliberations the impact of their decisions on the environment, the community and the fund's reputation. The Government will ask APRA to consider whether this issue should be addressed through relevant guidance material.

5.3 INVESTMENT GOVERNANCE

The Super System Review recommended requiring trustees of APRA-regulated funds to have regard to additional factors in relation to their investment strategies. The Government will expand the covenants to which APRA-regulated fund trustees must have regard when developing an investment strategy, at either the fund or investment option level, to include its expected costs, expected taxation consequences, and the availability of valuation information.

The Super System Review also recommended that all large APRA-regulated funds should publish their proxy voting policies and procedures, and disclose their voting behaviour to members on their websites. While recognising that many trustees have arrangements in place to disclose proxy voting policies and procedures on their website, the Government will ask APRA and ASIC to address this issue. This will ensure that the voting rights attached to the assets of the fund are being managed in the interests of members.

5.4 OPERATIONAL RISK FINANCIAL REQUIREMENT

The Super System Review recommended replacing the current capital requirements for trustees with a new risk-based requirement for all APRA-regulated funds to maintain operational risk reserves.

The introduction of a risk-based financial requirement for managing operational risk was supported by stakeholders during the consultation process. The Government will introduce an operational risk financial requirement which will replace the existing trustee capital requirements after a suitable transitional period. APRA will develop a prudential standard which will set out the approach for determining the financial requirement for individual funds. The standard will also describe the roles that operational risk reserves and trustee capital will play in meeting the new financial requirement.

The content of the prudential standard will be the subject of detailed consultation between APRA and the superannuation industry.

5.5 OTHER GOVERNANCE ISSUES

In addition, the Government will:

- increase the time limit for members to lodge a total and permanent disability claim with the Superannuation Complaints Tribunal from two years to six years, unless they have lodged a claim with their trustee within two years of ceasing employment (in which case the time limit will be increased to four years). This will more closely align these times with the time limit under which a member could take a similar claim to the courts;

- support a voluntary code of governance developed by industry in consultation with APRA, rather than a code co-ordinated by APRA;

- ensure that choice trustees are required to offer a range of investment options sufficient to allow members to obtain a diversified asset mix if they choose;

- require trustees to exercise due diligence in the selection and monitoring of investment options and ensure that trustees operate in accordance with the covenants set out in subsection 52(2) (rather than just paragraph 52(2)(f)) before relying upon subsection 55(5) as a defence to liability;

- make no changes at this time to the existing requirements in relation to binding death benefit nominations; and

- require trustees, on request, to provide reasons for their decisions to members and eligible third parties (for example, claimants to death benefits) in relation to a formal complaint.

The Government, through ASIC, has also set up a centralised superannuation website, which is available at http://www.moneysmart.gov.au/.