May 2021

Treasury Laws Amendment (Your Future, Your Super) Regulations and associated measures

ABOUT US

Super Consumers Australia (Super Consumers), formerly known as the Superannuation Consumers' Centre, is an independent, not-for-profit consumer organisation formed in 2013. Super Consumers was first funded in 2018. We work to advance and protect the interests of low and middle income people in the Australian superannuation system.

During its start up phase Super Consumers has partnered with CHOICE to deliver support services. Set up by consumers for consumers, CHOICE is the leading consumer advocate that provides Australians with information and advice, free from commercial bias.

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Introduction

The release of the Your Future, Your Super regulations and associated measures have considerably strengthened the protections for consumers in the Your Future, Your Super package. In particular the inclusion of administration fees in the performance test will further focus the minds of superannuation funds to deliver the best net outcomes for their members.

It is time Australia's superannuation system ensures all consumers have a single high performing superannuation fund.

There should now be no reason for any delay to a super fund performance test on 1 July 2021. Funds have known about the proposed test for months and MySuper funds should have always been structured to beat a passive benchmark.

The Bill recognises that superannuation fund trustees are ultimately responsible for the outcomes their members receive. It has been disappointing to see industry lobby groups attempt to delay or water down the legislation because of barriers that are totally within the industry's power to control. For example, the small number of funds that still have inappropriate insurance offers, such as limited cover for those in certain occupations, is something they could have resolved themselves. Despite knowing about these problems, they have been negligent in providing appropriate insurance to their members and should face regulator scrutiny. We are supportive of efforts to drive more direct change on these laggard funds who have exposed their members to risk with their inappropriate insurance offers.

These concerns can and should be easily addressed. Funds should move away from industry specific default insurance and the performance test should cover more trustee directed products.

The Ministerial express power to prohibit expenditure or investments, even when they are in the best financial interests of members, should be removed or be reassigned to the Regulator with a proper process around how it should be exercised.

Summary of Recommendations

Recommendation 1: Superannuation funds must move away from industry specific default insurance. Occupational exclusions and restrictions should be banned or alternatively funds with these terms in default insurance should not be subject to stapling.

Recommendation 2: In order to strengthen the stapling framework in relation to underperforming funds, APRA's existing toolkit should be supplemented with the power to merge or close and redistribute the membership of underperforming funds.

Recommendation 3: To inform public debate, Treasury should release conclusive data on the proportion of the market proposed to be covered by the performance test.

Recommendation 4: The performance test should be expanded to include single-sector options and retirement phase Trustee Directed Products (TDPs) with account based pensions**.**

Recommendation 5: To inform consumers in products outside of the TDP regime, trustees should ensure members have access to relevant APRA benchmarks against which to compare their individual performance.

Recommendation 6: The YourSuper comparison tool should include targeted information relating to insurance, risk and performance benchmarks.

Recommendation 7: The Notice of an Annual Members' Meeting to members should include information relating to shareholder profits.

A Single Default Account

Account stapling will end the inefficiency and retirement income erosion created by millions of unintended multiple accounts. It will also make super much easier for people to manage. Without fixing this issue the system would create an additional 850,000 unintended multiple accounts each year.[1]

Inadequate insurance offerings and their interaction with stapled accounts

There are clear obligations on funds to design their insurance policies properly.[2] Prior to account stapling, funds already had an obligation to design appropriate insurance products. While this is a fund responsibility, we see a role for regulatory pressure to make these obligations clear. Funds need to take a less industry specific approach to insurance design and focus more on their actual members' circumstances.

ASIC estimates that 86% of superannuation members with insurance are on the default settings.[3] This means default insurance settings are extremely important to the superannuation system.

In December 2020, ASIC reviewed the value for money that members receive from default insurance offered through superannuation. It was a scathing assessment that found funds had a wide variation in the design and pricing of insurance default as well as significant shortcomings in providing and understanding their own data. There was a clear ASIC mandate that trustees should refine the design and pricing of default insurance to better meet their regulatory obligations and promote the best interests of their members.[4]

Some industry participants have claimed that stapling will cause consumers to be placed in inappropriate insurance if they are stapled to a fund from an industry in which they no longer work. But this issue is not the fault of stapling. It is the fault of funds which, despite being called out by the regulator, continue to offer inappropriate default products. Instead of fixing insurance issues, funds use them as an excuse to argue for carve outs.

There are a small number of funds which have ‘occupational exclusions or restrictions’ which would render their default insurance extremely difficult to claim on for people working in a ‘high risk’ industry. This may unwillingly restrict people from receiving full cover, exclude income protection offerings or require them to meet a restrictive Total and Permanent Disability definition.

[1] Treasury estimates, Your Future, Your Super Budget Papers
[2] Section 52 of the SIS Act 1993
[3] ASIC Report 675: Default insurance in superannuation: Member value for money
[4] ASIC Report 675: Default insurance in superannuation: Member value for money

Funds we are aware of that have 'hazardous' occupation terms include:

- **Aon Master Trust (SmartMonday)** - Some occupations may not be eligible for for any insurance cover in the fund because the trustee and the insurer considers them too hazardous
- **Asgard** - Special Risk Occupations are subject to individual consideration by the insurer and special terms may apply
- **IOOF** - Hazardous occupations are restricted from Income Protection and must apply a modified TPD definition
- **Colonial First State First Choice Super** - MySuper cover does not apply to people in special risk occupations
- **Super Directions for business** - Ineligible for cover if you are in an 'excluded occupation'
- **MLC Masterkey Business Super** - Special Risk Occupations are restricted from Income Protection. Some jobs are classified as not insurable
- **BT MySuper** - Special Risk Occupations must apply a modified Income Protection definition

Income protection is typically offered at the discretion of the trustee rather than as an automatic default. The fact that some funds are actively choosing to design and offer income protection with occupational exclusions is inconsistent with acting in the best interests of their membership.

This is something these funds could have resolved themselves. Despite knowing about these problems, they have clearly been negligent and should face regulator scrutiny.

The majority of funds though do offer occupation agnostic insurance. Super Consumers Australia recently investigated the default superannuation offerings of AustralianSuper, Hostplus[5], HESTA and REST which cover 6.4 million Australians. These are large funds that are likely to be defaulted to people when they first start working because of their link to hospitality, retail and health jobs. **None of these funds apply any exclusions or restrictions based on occupations for individuals with default insurance cover.** This is significant because if individuals changed jobs to 'hazardous' jobs while stapled to these funds they would still be covered by their existing insurance option.

We have been calling on the small number of super funds with restrictive terms in their default insurance to remove them. We do not see them as aligned with existing obligations on trustees to design appropriate insurance for their members.[6] **For the sake of clarity, the government could also consider explicitly banning these types of exclusions.** This would mean all default offerings do not discriminate based on risk of employment.

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[5] Hostplus applies occupational exclusions if an individual switches out of default or personally applies to be a member. HostPlus is in a position to inform its members who choose to take up non-default cover of the potential implications.
https://hostplus.com.au/insurance/what-does-your-insurance-cover/excluded-occupations.
[6] Super Consumers Australia, 2020, 'Restrictive definitions in default TPD insurance policies'

Too often proposed policy insurance and superannuation solutions are focussed on the circumstance of the individual rather than on the deficient funds. In this debate, proposed amendments call for default individuals changing jobs into a ‘dangerous’ occupation to not be stapled to their current fund, even when their current insurance is adequate.[7]

This industry solution will be difficult for the Commissioner of Taxation to administer because they will need to liaise with each employer to determine the risk of the new occupation. At the same time it will also not address the deficient default insurance that will continue to exist in the market. **The proposal will embed multiple superannuation accounts, multiple insurance accounts and the industrial occupation nature of superannuation design for a portion of the default market.** There are also no quality controls on the selection of a new default fund.

In essence, this industry proposed carve out will be costly, inefficient and won’t address the underlying problem just because a small number of funds have occupational exclusions. Approximately, a million people change jobs each year and may be subject to this framework.

Alternatively, we propose policy could be directed to encourage funds to design default offerings that are appropriate for stapling. In other words, the legislation could be amended to only allow a fund to be a stapled fund if it offers default insurance without ‘occupational exclusions or restrictions’. This would encourage super funds to alter their offerings, so as not to lose members when they change jobs. It would also ensure that individuals in the default system are always protected when they change jobs. The Commissioner should have a register of funds that have deficient insurance and render them unable to be stapled.

We understand this may have premium implications. However, given the risk level across the community is not changing these premium changes should level out across the sector. For example, funds which traditionally catered to lower risk industries may see premium increases to cater for new members from higher risk industries. Meanwhile funds from traditionally high risk industries may see their premiums decrease, as the risk level of their membership becomes more diverse. This will lead to a much more competitive superannuation system overall as consumers will not be held back from finding the best performing fund because of a fear that their insurance will be inappropriate.

This option would also leave the choice open to funds to offer default insurance with occupational restrictive terms if they deem that decision to be in the best interests of their existing members. But it may lead them to losing members over time as they are not offering an appropriate insurance offering for the general population.

Super Consumers Australia recommends the following methods of addressing this issue in preferential order:

[7] https://parlinfo.aph.gov.au/parlInfo/download/legislation/amend/r6672_amend_cd10f78d-6dbb-41cb-8e67-035c4fe8e95a/upload_pdf/1218%20TLA%20(Your%20Future,%20Your%20Super)%20Bill%202021_Patrick.pdf;fileType=application%2Fpdf

1. Enforce the existing law to ensure public offer funds are meeting their obligations to offer appropriate insurance; or
2. The immediate banning of the use of ‘occupational exclusions or restrictions’ in default insurance; or
3. A fund cannot be classified as ‘stapled’ if it offers ‘occupational exclusions or common restrictions’ in its default insurance offering.

Underperforming funds and stapling

Some industry players have proposed amendments that would limit consumers being stapled to a current underperformer. **However the legislation already solves for this problem by driving performance improvements among funds covered by the performance test.** It would also have limited application in getting people into better performing funds in a timely way, as it requires a change of jobs to have any impact. Finally, there is no guarantee in the existing default system that the new fund they may find themselves in will be any better than their existing fund, in fact it may be worse. This is an ill thought out idea by the industry players advocating for it and is motivated only by self-preservation.

However, there is scope to speed up the rate at which funds improve and save consumers from funds that fail to make sufficient improvement. APRA’s toolkit to manage underperformance could be enhanced by giving it the power to enforce mergers. It is a power the regulator has in the banking[8] and insurance sector, but lacks in superannuation.

Super Consumer Australia recommends:

1. In order to strengthen the stapling framework in relation to underperforming funds, APRA’s existing toolkit should be supplemented with the power to merge or close and redistribute the membership of underperforming funds.

Tiebreaker requirements are a stepping stone to ‘best in show’

Super Consumers Australia supports the tie breaking rules for the first iteration of stapling to be implemented on 1 July 2021.

The tiebreaker requirements are applied when an individual has two or more existing funds that meet the basic requirements. We see this framework as an important stepping stone to a better default allocation system and ultimately a solution to the remaining stock of multiple accounts.

[8] Financial Sector (Transfer and Restructure) Act 1999

As online standard choice forms are likely to be the norm in the not-to-distant future, Treasury should consider how this framework can consolidate multiple accounts when the Commissioner is required to apply tiebreaker rules.

The tiebreaker rules present a perfect opportunity to test case a ‘best-in-show’ type arrangement which allows the Commissioner to select or recommend a single high-performing and consolidate an individual's remaining multiple accounts.

We would welcome consulting with Government on how these arrangements may be included into the next iteration of the stapling framework.

Underperformance test

Super Consumers supports the inclusion of fund administration fees in the proposed underperformance test. The regulations considerably strengthen the application of the test. There should now be no reason for any delayed application on 1 July 2021 for MySuper products. MySuper funds have had months to come to terms with the proposed test and should have always been structured to beat a passive benchmark by 0.50%.

More coverage needed

Australians will trust and gain more confidence in engaging with the superannuation system if the test is applied equally across all relevant superannuation products. This will allow people to shop with confidence in the superannuation market, in the knowledge that underperformance where it exists will be highlighted.

APRA most recently in a Question on Notice to the Senate Economics Legislation Committee detailed that the proposed definition of ‘trustee-directed products’ (TDP) capture approximately two-thirds of total member assets of APRA-regulated superannuation entities based on data as at 30 June 2020.[9]

Treasury analysis is reported to estimate that 90 per cent of the APRA-regulated superannuation entities will be subjected to the government’s new performance test.[10]

In order for industry certainty and clarity, we recommend Treasury make this information public as soon as possible.

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[9] Australian Prudential Regulation Authority: Answers to questions on notice from a public hearing in Sydney on 7 April 2021 (Received 13 April 2021), https://www.aph.gov.au/DocumentStore.ashx?id=d48e3eef-4628-46b9-bbf1-f19491f0f8f9

[10]https://www.afr.com/politics/federal/90pc-of-super-funds-targeted-under-performance-tests-20201217-p56o8q

Failure to cover relevant options will see people subject to investment options that face no scrutiny, leaving trustees or portfolio designers with no incentive to lift performance.

The following products should be included in the performance test or other like test:

Single-sector options

The current definition of TDP excludes products that are single-sector investment options. Understanding that these options are typically used in bespoke diversified strategies, it does not mean that they should not be subject to a benchmark.

Firstly, attaining a benchmark for a single-sector investment will be extremely simple. This would involve measuring the performance of this investment against a single APRA index.

Secondly, members who are using a single-sector investment, bespoke or not, deserve to be informed if their option is underperforming the benchmark for that sector. Just because a member may have specifically chosen this investment for a certain strategy, it still would have the intention of outperforming the market. Members provided with this information will then be able to determine if the asset selection is still appropriate for their strategy.

The inclusion of single-sector options will also flow-through to many platform options that are also excluded from the legislation.This will further increase the coverage of the Your Future, Your Super package ensuring that even people who have developed their own mix of investment options can test their performance against a relevant index.

Retirement products

Currently the performance test does not cover investment options that are linked to the decumulation phase. The stated rationale for this is that these products have broader aims than accumulation products, which should be primarily focussed on investment performance.

This premise is incorrect for the overwhelming majority of decumulation phase options. The main difference between an accumulation portfolio strategy and a decumulation portfolio strategy is the level of risk and volatility built into the offer. This is to account for the sequencing and volatility risk for older Australians drawing down on their retirement income. This difference should have no impact on a trustee's obligation to design a portfolio that performs above its stated benchmark for individuals in retirement. Indeed these products are invested in the same asset classes as accumulation products and should be treated as such.

Willis Towers Watson, a leading global advisory firm that provides superannuation investment consulting services to a broad range of superannuation funds, states that, "the investment objectives of pension options should be broadly similar to accumulation options. It makes little sense spending your entire working life targeting one set of investment outcomes, only to change the target materially when retirement hits".[11]

For example, AustralianSuper's Choice Income product invests with the same asset allocation as its MySuper default offering.[12] This is consistent for most funds that offer retirement products with account based pensions.

For funds that alter their strategy, there is no reason to suggest they should not be targeting a return above their passive benchmark.

We acknowledge that the proposed performance test may not be suitable for assessing the performance of emerging products, commonly referred to as 'Comprehensive Income Products for Retirement' (CIPRs). The Retirement Income Review highlighted that these types of products will play an increasingly important role in ensuring that people have adequate income in retirement. As this market emerges it will be critical that these products are of a high quality and deliver the intended benefits. Comparison of these products will also drive greater awareness of their existence, which will be important for takeup rates as this market develops. However, we see the need for a more nuanced test to assess these products as they emerge.

Addressing retirement phase products with account based pensions now will allow time for focus on developing a comprehensive performance and efficient drawdown framework for emerging products through the upcoming retirement income covenant process.

Third party investment strategy management

The definition of TDP excludes products where the trustee offers for a third party to manage the investment strategy for the member's superannuation interest. This typically includes options delivered through a product 'platform'.

We understand the reasoning supplied by the Government in that they wish to test products that the trustee is solely responsible for. However, as the Productivity Commission found it appears superannuation trustees are 'outsourcing' their best interests duty for members that are using platforms and wrap accounts to product providers.[13] This can lead to poor outcomes for consumers if these offerings remain unscrutinised.

Benchmark portfolios are able to be tailored to almost all asset allocations. The Productivity Commission suggested that all funds should be required to benchmark all choice investment options, including options delivered through a member-directed investment 'platform'. They found a concerning attitude on the part of retail funds towards choice members using platforms and warp accounts. This is because funds did not provide performance data for these

[11] https://www.firstlinks.com.au/strategy-retirement-pension-options
[12] https://www.australiansuper.com/tools-and-advice/learn/product-disclosure-statements
[13] Finding 9.4, Productivity Commission Inquiry Report: Superannuation: Assessing efficiency and competitiveness, p61

investments on the grounds that they reflected the choice of the member, guided by financial advisers.[14]

Evidence from the Hayne Royal Commission highlighted that funds 'preference advisers' interest over their members. There are also many examples of advisers providing superannuation switching advice to higher-cost platforms on the basis of better returns. In 120 files (51%) ASIC found that the advice provider did not demonstrate full compliance with the best interests duty and related obligations when looking at advice in super.[15] This is strong evidence that the obligation on financial advisers to act in members best interests has not on its own has not been an adequate protection.

Switching advice needs to leave the client in a better financial position. It is important that platforms, which are responsible for millions of retirement accounts, be subject to performance test scrutiny. Otherwise a consumer who has switched into one of these funds will have no way of determining if their new fund is performing to an adequate standard. Information about performance against these benchmarks should also be relevant in assessing if a financial adviser has acted in a client's best interests.

In many cases, platforms do provide trustees with requisite control over the product because they have a limited selection of assets that can be invested in. They also regularly benchmark their investment options to passive benchmarks.

Super Consumers Australia understands the relative difficulty in testing these products at the individual level and so it is important that any solution not be administratively burdensome.

We recommend platform providers be required to prominently display an individual's net (of all relevant fees) investment performance against an appropriate benchmark on the platform. Platform providers should use relevant APRA indices to compare the individual's performance. We understand this is a common feature already built into many platforms so would require little additional cost for providers to implement.[16] Our proposed amendment would ensure all consumers are presented with this basic comparison information so they can better judge their own performance or the performance of their financial adviser. Acknowledging that consumers in this part of the market have made an active choice the repercussions for the fund trustee would not be the baring of new members if individuals underperform. However, this information should be considered relevant in assessing whether a financial adviser has acted in a client's best interests in advising the take up of a platform or on the investment mix within it.

Super Consumers recommends

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[14] Productivity Commission Inquiry Report: Superannuation: Assessing efficiency and competitiveness, p445
[15] ASIC Report 639, p30 https://download.asic.gov.au/media/5395538/rep639-published-3-december-2019.pdf
[16] AustralianSuper member direct platform and reports, https://www.youtube.com/watch?v=4jr0f4PRW_w

1. To inform public debate Treasury should release conclusive data on the proportion of the market proposed to be covered by the performance test.

2. The performance test should be expanded to include single-sector options and retirement phase TDPs with account based pensions.

3. To inform consumers in products outside of the TDP regime trustees should ensure members have access to relevant APRA benchmarks against which to compare their individual performance.

New-funds

The regulations propose that new superannuation products are afforded a five year exemption from the performance test as they are given the chance to establish. Super Consumers agree that it is reasonable in order to encourage new market entrants and give them time to develop a track record before assessment against the performance test. However, we recommend that given they will not be subject to the performance test new funds should be subject to heightened surveillance by regulators. This surveillance should cover a range of issues, including misleading and deceptive conduct. New super fund 'Spaceship' was subject to penalties after ASIC found it was misleading and deceiving customers about its investment options.[17]

We also note that APRA is able to exercise discretion to apply a performance test to a superannuation fund with less than five financial years of performance history. We see this as appropriate. APRA could use it in instances where a fund has a long track history of relevant performance, for example in the case of Vanguard and its proposed market entrance. Alternatively it could be used to apply scrutiny to products which APRA has significant concern over in order to assist consumers in judging performance.

There should be clear determinative factors which encourage APRA to apply this discretion. These should include:

- APRA should undertake the performance test methodology on these funds each year for informational purposes.
  - This will provide a clear picture for APRA to determine if the fund is likely to fail the performance test over the 8 year rolling timeframe and take corrective action.
  - APRA can explore the reasons for such failure and determine if they should be subject to the legislated performance test and the resultant consequences.
- If product fees are a certain threshold above other like product fees on the market.
- If the product is offering an investment option which is inherently more risky:
  - An aggressive active strategy
  - An alternative investment strategy

[17] https://asic.gov.au/about-asic/news-centre/find-a-media-release/2018-releases/18-098mr-superannuation-trustee-and-promoter-penalised-for-false-and-misleading-conduct/

Administration fees

Super Consumers strongly supports the inclusion of administration fees in the performance test methodology. In recommending an elevated outcomes test, the Productivity Commission indicated that all fees should be included in the assessment of a product's investment performance, given that "the most relevant outcome for members is the returns they receive after taxes and fees."[18]

We have determined no specific concerns with the methodology applied to administration fees and the use of a $50,000 representative balance. The proposed method will achieve its intent to ensure the test focuses on the final member outcome and encourage funds to reduce their administration to the median fee in the market.

$50,000 has been APRA's standard balance for measuring returns and fees and this accords with the most recent data, which shows the member weighted median of the average MySuper account balance is $47k.[19]

There is a risk that some funds may restructure their pricing to manipulate this model in future years, although that risk is low. Firstly, funds are subject to public member outcomes assessments that can be used to apply pressure to funds undertaking questionable behaviour. Secondly, funds that undertake a process to significantly alter their fee pricing will be required to document and justify to APRA that it is clearly in their members best financial interests to do so.

In a previous analysis undertaken by Super Consumers Australia, we have used the 'member weighted median' administration fee rather than median fund. This is more representative of the median member experience across the entire market rather than just the median fund. The member weighted median fee is typically lower than the unweighted median. Using the December 2020 APRA heatmap, we found the median total fees and costs disclosed on a MySuper product with a representative $50,000 balance was 0.35%, while the member weighted median was 0.27%.This is a likely consequence of larger funds benefiting from economies of scale that they pass on to members in lower fees. Using this benchmark would encourage more funds to reduce their fees. Treasury should consider if this definition is more appropriate to drive improved member outcomes.

The regulations also propose that MySuper products administration fee will be assessed against other MySuper products. Whereas TDPs will be compared to other TDPs. Excluding the MySuper median fees from the TDP benchmark will lower the bar on these products as MySuper products tend to have lower fees. TDPs may contain features that MySuper products

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[18] Productivity Commission Inquiry Report: Superannuation: Assessing efficiency and competitiveness, p109

[19] We use the median average account balance because data on the median account balance of each fund is not available but we can derive the average from APRA data.

do not have and should be charged. Traditionally, these features have been excess to a members' requirement.[20]

The form and content requirements for the notice

We strongly support the proposed form and content requirements for the underperformance notice. It is sufficiently clear to a consumer that their fund is underperforming and they should consider moving to a new fund. We warn against any weakening of this wording or message during this consultation in order to restrict the movement of consumers out of underperforming funds.

The notice also appropriately nudges consumers to the YourSuper comparison tool and adequately explains how to choose a super fund and the role risk may play. This explanation of risk should also appear on the YourSuper comparison tool.

Consumer testing should be conducted on the impact of the notice once it has been distributed for underperforming funds. This will determine if improvements should be made in order to better facilitate the transfer of members out of underperforming funds.

Ranking products on the YourSuper comparison tool

The YourSuper comparison tool has the potential to be a game changer for superannuation consumers. The ability for people to effectively compare products and services has a direct bearing on whether they can act on this information and switch providers.[21] If the tool is able to balance simplicity and accessibility, while being interactive and tailored, it will be best served to facilitate engagement.

Importantly, the tool must facilitate an efficient consolidation or switching of superannuation products. This will include flagging if a person has multiple accounts and integrating with the ATO MyGov service to allow easy consolidation.

The ranking formula is crucial to the tool's success. Super Consumers Australia supports the ability for the tool to be ranked by net returns and then total annual fees. This will allow consumers to determine funds by their two most important factors. It is our understanding that the tool will use a consumer's actual or inputted balance size to determine their indicative net returns and fees giving them the most accurate results for their circumstances.

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[20] "*There is evidence that some members who use these products are unwittingly buying a degree of control over their super at the price of materially lower retirement incomes.*" Productivity Commission Inquiry Report: Superannuation: Assessing efficiency and competitiveness, p40
[21] Consumer Policy Research Centre, Five preconditions of effective consumer engagement – a conceptual framework, 2018, p34.

A risk with the current proposal is that a person is unable to determine the appropriateness of a product for their life stage or risk profile, as no reference is made to risk or strategy. For example, a fund with a high risk strategic allocation may be highly ranked on a net return basis but be completely inappropriate for an individual approaching retirement who requires a more conservative strategy.

However, we understand 'risk' is an imperfect measure with limited consumer comprehension of its meaning.[22] Regardless, we still see a role for it to play in performance comparison. This is particularly important for consumers who are more engaged and better able to engage with these considerations. One way to target these consumers with relevant information about risk would be to develop an additional filter to allow them to add risk information to the basic comparison metrics.

There is a role for the ATO in conducting ongoing consumer testing to deliver a ranking that is the most easily understandable by consumers and facilitates choices that are beneficial to their retirement. This will also ensure that consumers are able to be guided about the strategy that each product has adopted.

We also recommend improvements relating to the information that the tool will display in order to inform consumers who are making a decision on a superannuation product. These include:

- Information regarding the default insurance offering of each product:
    - Including any occupational exclusions or common restrictions,
    - A potential warning that a fund's insurance is not appropriate for high risk occupations,
- A consumer explanation of what an underperforming fund means.

Information that is relevant to more engaged consumers should also be provided as an option for this cohort. This may include:

- Detailed insurance data
    - Premium structure, including any variable components;
    - the benefit level and type of insured benefits made available
- Inclusion of a product's performance against their benchmark.
    - This will indicate how well a fund is performing against a passive counterpart to allow a consumer to determine how much value they are providing.

The ATO's ongoing consumer testing should facilitate these improvements and determine whether the tool is working as intended.

Super Consumers recommends

[22] Submission to Productivity Commission, Professor Hazel Bateman and Professor Susan Thorp, p3, https://www.pc.gov.au/__data/assets/pdf_file/0014/230531/subdr200-superannuation-assessment.pdf

1. The YourSuper comparison tool should include targeted information relating to insurance, risk and performance benchmarks.

Portfolio holdings disclosures

Superannuation belongs to consumers. This means transparency about how money is being invested should be paramount. Funds have long avoided providing this detail despite portfolio holdings disclosure obligations in section 1017BB of the Corporations Act. We welcome these regulations, which specify the way in which portfolio holdings must be disclosed.

From a consumer point of view, both options will satisfy transparency requirements. As stated in the explanatory statement, most members will rely on professional advisers or reports by professional investors and analysts, which are expected to make use of data being disclosed through interpretation and communication of it more generally to the market.

Except for any conclusive detrimental cost evidence, Super Consumers Australia supports as much transparency as possible which is reflected in option 2.

Notice of an Annual Members' Meeting

Super Consumers Australia supports the regulations which detail what must be provided in the notice to annual members' meetings. Ensuring RSE licensee information is provided in a single location, prior to annual meetings should improve transparency and accountability across the super system.

Not only will this improve the ability for members to locate and digest information, but industry, regulators and advocacy groups will benefit from improved transparency.

The itemised information proposed to be disclosed particularly including, marketing expenses, political donations, payments to industry bodies and related parties will be a significant positive change for consumer outcomes. Currently, this information is either not required, scattered in disclosure that is not detailed and often left to ad-hoc parliamentary committees. This has not been conducive to any accountability on behalf of super funds who spend large amounts on marketing and lobby groups.

Given the proposed changes to the best interests duty and the requirement for superannuation funds to keep adequate documentation, providing this itemised information should not be an additional cost burden on funds and members. In fact, these requirements should assist in providing a template for super funds to validate and justify their expenditure.

The notice could also be strengthened by requiring funds to disclose information about profit and how this profit was dispersed (e.g. via share buybacks or dividends). This disclosure would increase accountability for funds because members will be able to more easily determine if their funds payment to shareholders are justified in light of the value added to the business. This information should be displayed in a simple, itemised fashion so it can be compared to other fund expenditure.

A properly functioning business needs appropriate balance between shareholder and customer interests if it is to continue to innovate, grow and deliver better long term outcomes for both shareholders and members. Giving members of a superannuation fund profit information will help foster this appropriate balance of interests.

Super Consumers recommends

1. The Notice of an Annual Members’ Meeting to members should include information relating to shareholder profits.

Use of goods or services to influence employers

Super Consumers Australia supports the strengthening of the prohibition of goods and services to influence employers.

Ensuring that employers can not be influenced by trustees will mean that default funds are chosen on their merits rather than on alternative external factors which may be influential to a decision.