



Australian Government

Better regulation and governance,
enhanced transparency and improved
competition in superannuation

Discussion Paper
28 November 2013

© Commonwealth of Australia 2013

ISBN 978-0-642-74948-2

This publication is available for your use under a Creative Commons Attribution 3.0 Australia licence, with the exception of the Commonwealth Coat of Arms, the Treasury logo, photographs, images, signatures and where otherwise stated. The full licence terms are available from <http://creativecommons.org/licenses/by/3.0/au/legalcode>.



Use of Treasury material under a Creative Commons Attribution 3.0 Australia licence requires you to attribute the work (but not in any way that suggests that the Treasury endorses you or your use of the work).

Treasury material used 'as supplied'.

Provided you have not modified or transformed Treasury material in any way including, for example, by changing the Treasury text; calculating percentage changes; graphing or charting data; or deriving new statistics from published Treasury statistics—then Treasury prefers the following attribution:

Source: The Australian Government the Treasury.

Derivative material

If you have modified or transformed Treasury material, or derived new material from those of the Treasury in any way, then Treasury prefers the following attribution:

Based on The Australian Government the Treasury data.

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are set out on the It's an Honour website (see www.itsanhonour.gov.au).

Other Uses

Inquiries regarding this licence and any other use of this document are welcome at:

Manager
Communications
The Treasury
Langton Crescent Parkes ACT 2600
Email: medialiaison@treasury.gov.au

CONSULTATION PROCESS

REQUEST FOR FEEDBACK AND COMMENTS

The Government seeks your feedback and comments on the measures outlined in this proposal paper. The information obtained through this process will inform the Government's approach to implementation and assist in meeting the requirements of the Office of Best Practice Regulation.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please email responses in a Word or RTF format. An additional PDF version may also be submitted.

All information (including name and address details) contained in submissions will be made available to the public on the Treasury website, unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain in confidence should provide this information marked as such in a separate attachment. A request made under the Freedom of Information Act 1982 for a submission marked 'confidential' to be made available will be determined in accordance with that Act.

CLOSING DATE FOR SUBMISSIONS: 12 FEBRUARY 2014

Email: superannuationconsultation@treasury.gov.au

Mail: Manager
Superannuation Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Enquiries: Enquiries regarding regulation, governance and transparency can be initially directed to Melissa Bray (02 6263 2550).

Enquiries regarding the default superannuation market should initially be directed to Victoria Gilmore (02 6240 4988).

CONTENTS

FOREWORD	5
SUMMARY.....	6
PART 1: A BETTER APPROACH TO REGULATION	7
PART 2: BETTER GOVERNANCE	9
PART 3: ENHANCED TRANSPARENCY	15
PART 4: ENHANCING COMPETITION IN THE DEFAULT SUPERANNUATION MARKET	26
ATTACHMENT A: THE MySUPER PRODUCT DASHBOARD	30
ATTACHMENT B: BETTER REGULATION AND GOVERNANCE, ENHANCED TRANSPARENCY AND IMPROVED COMPETITION IN SUPERANNUATION—FOCUS QUESTIONS	33
GLOSSARY	37

FOREWORD



Restoring stability and certainty to Australia's superannuation system is a core component of the Government's policy program to build a stronger and more prosperous economy.

The Abbott Government is committed to improving regulation and governance and enhancing transparency in the superannuation system, while keeping our pledge not to make unexpected detrimental policy changes.¹

We intend to align governance structures in the superannuation system more closely with the corporate governance principles. This may be achieved through the application of principles applied to ASX listed companies, or through the consideration of principles and guidance provided by APRA for banking and insurance industry company Boards. It also includes ensuring the appropriate provision of independent directors on superannuation trustee boards.

We are committed to improving the quality of information available to superannuation fund members and employers, which helps them to make informed decisions when comparing funds. A more informed market will lead to greater competition, consequently delivering increased value to consumers.

This discussion paper brings together superannuation prudential policy proposals from our election commitments and further policy issues necessary to provide certainty to the sector by completing outstanding aspects of the current regulatory regime.

The discussion paper also seeks to consult on opening up competition and increasing transparency in relation to default employee superannuation fund contributions through adjustments to the *Fair Work Act 2009*. This is currently missing from the superannuation system.

We will be consulting on possible taxation policy as it relates to the superannuation system through a separate process to produce a comprehensive white paper on tax reform.

The Abbott Government is mindful that policy changes must maximise benefits to members, whilst minimising the compliance burden on the sector. I welcome views on how to implement the policy intentions set out in this paper.

The deadline for submissions is 12 February 2014. Further consultation will then be undertaken on any exposure draft legislation and regulations which may be developed following consultation on this paper.

I look forward to working with the sector to provide certainty in the regulation of our superannuation system.

Senator the Hon Arthur Sinodinos AO
Assistant Treasurer

¹ *The Coalition's Policy for Superannuation, September 2013.*

SUMMARY

Having a stable and efficient superannuation system that best serves members' interests is integral to improving the wellbeing of all Australians.

The Government is keen to ensure that superannuation regulation maximises benefits to members, while minimising disruption and compliance costs to the sector. We are adopting a better approach to regulation which promotes improved, lower cost regulation, where regulation is required. This discussion paper seeks specific feedback on the regulatory costs of proposed policy measures.

Feedback is sought on governance and transparency issues contained in the Government's superannuation election commitments. This feedback is sought ahead of the development of possible legislation and regulation.

Ensuring best practice governance settings which hold superannuation trustees to account and appropriately manage conflicts of interest is important to protect members' interests and ensure a stable and efficient superannuation system.

Comments are sought on how best to ensure the appropriate provision for independent directors on superannuation trustee boards. Issues canvassed include how 'independence' could be defined and what could constitute optimal board composition.

Recognising the benefits of providing the sector with certainty, the Government will complete outstanding aspects of the current regulatory regime.

Comments are sought on how to structure a choice product dashboard to address an existing gap in the disclosure framework for superannuation products. Providing a single standardised set of information for choice investment options will aid transparency and empower fund members and employers.

Similarly, disclosure of portfolio holdings information is aimed at increasing the transparency of how superannuation funds are invested, which, among other benefits, will enable members and analysts to assess the level of diversification and risk in particular superannuation products. Comments are sought on which model of portfolio holdings disclosure would best achieve an appropriate balance between improved transparency and compliance costs.

Comments are sought on the best way to improve transparency and competition in the employee default superannuation funds market. In particular, comments are sought about the existing model (which commences on 1 January 2014); whether the model proposed by the Productivity Commission in 2012 for the selection and ongoing assessment of funds to be listed as default funds in modern awards is more appropriate; or whether some new model would best allow for a set of transparent and objective criteria in the selection and ongoing assessment of superannuation funds eligible for nomination as default funds in modern awards.

PART 1: A BETTER APPROACH TO REGULATION

Significant regulatory change in the superannuation sector over recent years has added to uncertainty and increased compliance burdens.

The Government is committed to working with the sector to reduce its regulatory burden, while also promoting certainty. This will benefit all Australians. Regulation is not the default position for this Government and will only be imposed where unavoidable.

While committed to deregulation, the Government recognises the importance of the superannuation system in providing adequate income support for Australians upon retirement. The compulsory nature of superannuation also provides further impetus for appropriate regulation.

To ensure a stable and efficient superannuation system that best serves members' interests, some regulation is necessary. However, the extent of regulation must be considered with compliance costs in mind, as members will suffer the consequences if the system is not operating efficiently.

The Government is committed to working closely with the sector in a timely manner.

This discussion paper asks for comments on the regulatory impacts that should be taken into account when considering the proposed policy measures. For instance, do the proposed measures impose broad regulatory costs, such as opportunity costs and competition impacts, that should be considered? Where possible, respondents are asked to provide an estimate of the costs incurred in complying with proposed regulation.

To improve the quality of regulation, the Government is committed to ensuring all regulatory measures undergo a Regulatory Impact Assessment, to establish the precise impact of regulation on businesses, not-for-profit organisations and individuals. This assessment includes the quantification of compliance costs associated with regulation. To inform this analysis, the Government welcomes information from interested parties.

Where possible, submissions are encouraged to identify whether the proposal would generate additional compliance costs (or savings) compared to the status quo. Note that for new regulation, the base case would be the scenario where there is no regulation. For proposals that amend regulation, the base case would be the previous, non-amended regulatory situation. There are several different types of compliance costs parties should consider.

- Administrative costs—costs incurred primarily to demonstrate compliance with the regulation or to allow government to administer the regulation (for example, keeping records, filling in forms, conducting internal audits and inspections, making an application or conducting tests).
- Substantive compliance costs—costs that directly lead to the regulated outcome (for example, training, providing information to third parties, inputs to comply with a plan or test, operations, purchase and maintenance of plant and equipment and installing safety devices).
- Delay costs—expenses and loss of income incurred through having to complete an application requirement or wait for an application approval (for example, waiting for approval of a building permit).

Respondents are invited to use the Business Cost Calculator to estimate costs.² The Government would appreciate being provided with the input parameters to the cost calculator as well as the final result.

Focus question

1. The Government has committed to identifying (in dollar terms) measures that offset the cost imposed to business of any new regulation. What suggestions do you have for how the regulatory compliance burden can be reduced?

² Available at <http://www.dpmc.gov.au/deregulation/obpr/bcc/index.cfm>.

PART 2: BETTER GOVERNANCE

Good governance arrangements are fundamental to the stability and efficiency of Australia's superannuation system. The Government is committed to ensuring that the integrity of the system is enhanced through appropriate governance structures.

SUPERANNUATION GOVERNANCE FRAMEWORK

Superannuation funds regulated by the Australian Prudential Regulation Authority (APRA) are structured around trustee arrangements—there is a separation between members and trustees, with trustees managing funds on behalf of members. Typically in the current governance framework for APRA-regulated superannuation funds a corporate trustee, comprising a number of individual directors, controls the fund's assets and operates it for the benefit of its members and beneficiaries.

Strong governance arrangements are needed to ensure fund members' interests are paramount in the minds of trustees. The trustee (and its directors) has fiduciary obligations to members and beneficiaries, which require taking ultimate responsibility for the fund and an obligation to manage the assets of the fund with competence, diligence, prudence and honesty.

A feature of the current governance framework is the requirement for some trustee boards to have equal representation. The *Superannuation Industry (Supervision) Act 1993* (SIS Act) requires that the board of a corporate trustee for a standard employer-sponsored fund of five or more members, must consist of equal numbers of employer representatives and member representatives.³ This reflects that originally the vast majority of funds were single employer sponsor corporate funds and equal representation ensured both stakeholder groups had oversight and responsibility for the fund's operations.

Equal representation is not mandatory for all fund types.⁴ It does not apply, for example, if there is no standard employer sponsor in relation to the fund or where all members have chosen the fund and there is no employer with a relationship with the fund apart from making contributions for the member. Nor does it apply to self-managed superannuation funds (SMSFs), where the trustees are the members, or to small APRA funds.

Most APRA-regulated funds are public offer funds which also receive contributions from standard employer sponsors; that is, some members may choose to join the fund by direct arrangement with the trustee, while others join because of an arrangement between their employer and the trustee. In those cases there may be an independent trustee, but for certain groups of members drawn from a single employer, the trustee must have in place advisory policy committees which must comprise equal representation of the employer sponsor and that group of members. Policy committees are not required in cases where the trustee board has equal representation, even if it is not required to do so under the SIS Act.

3 There can also be an additional independent director if such an appointment is permitted under the individual fund's governing rules and requested by the employer or member representatives on the board.

4 As at 12 November 2013, 76 non-public offer trustees of superannuation funds out of 185 in total (41 per cent) are required by legislation to have equal representation. Of the 168 RSE licensees which completed APRA's June 2013 baseline data collection, 14 public offer RSE licensees of superannuation funds advised APRA that they chose to have an equal representation board structure in their governing rules.

Another feature of the superannuation governance framework is the management of conflicts of interest. Under new covenants in the SIS Act, it is incumbent on trustees and directors to be conscious of conflicts of interest, actively managing them and ensuring that priority is given to beneficiaries of the fund.

APRA's conflicts of interest prudential standard and associated guidance material requires superannuation trustees to have a conflicts management framework and policies.⁵

In addition, from 1 July 2013, trustees must maintain a register of relevant duties (which includes duties of directors sitting on other trustee boards) and a register of relevant interests (which includes remuneration paid as a director on another trustee board) under APRA's prudential standards.⁶

PROPOSED GOVERNANCE CHANGES—OPERATION OF SUPERANNUATION TRUSTEE BOARDS

Given superannuation funds are expected to increase in significance and size, Australia's superannuation governance framework must be strengthened to ensure a stable and efficient system that improves the wellbeing of all Australians.⁷

The Government believes that having appropriate provision of independent directors on superannuation trustee boards is a vital step towards strengthening the superannuation system.

Independent directors provide an external, dispassionate perspective, enabling boards to benefit from a diversity of views and provide a check on management recommendations. By being free from relationships that could materially interfere with their judgment they can provide an objective assessment of issues.

This paper seeks feedback on how to improve governance arrangements at minimum cost and disruption to superannuation funds.

GOVERNANCE OUTSIDE OF SUPERANNUATION

In terms of context, it is useful to outline governance arrangements outside of superannuation.

The ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations* (ASX Principles) recommends that a majority of the board of a listed entity should be independent directors. The chair of the board of a listed entity should be an independent director and should not be the same person as the CEO of the entity.

With the exception of S&P/ASX 300 companies, there is no legal requirement for listed companies to have independent directors. It is a recommendation only and a company can choose not to comply, but then must report in their annual report on an 'if not, why not' basis.

5 <http://www.apra.gov.au/Super/PrudentialFramework/Documents/Final-SPS-521-Conflicts-of-Interest-July-2013.pdf> and <http://www.apra.gov.au/Super/PrudentialFramework/Documents/Prudential-Practice-Guide-SPG-521-Conflicts-of-Interest-July-2013.pdf>.

6 Trustees will be required to disclose registers of relevant duties and relevant interests from 1 July 2014.

7 This discussion paper does not cover SMSFs. SMSFs are excluded from the proposed reform because of their fundamentally different structure in that the directors/trustees and the fund members are one and the same.

This approach gives a listed entity the flexibility to adopt alternative corporate governance practices, if its board considers those to be more suitable to its particular circumstances, subject to the requirement for the board to explain its reasons for adopting those alternative practices.

For banking and insurance entities, APRA requires boards to have a majority of independent directors at all times and an independent chair. These requirements are contained in APRA's prudential standard on governance for banks, life insurers and general insurers (CPS 510). The definition of independent director in the standard is consistent with that used in the ASX Principles.

For managed investment schemes, the *Corporations Act 2001*⁸ requires a compliance committee be established if less than half of the directors are external.⁹

ISSUES

The remaining sections of this Part will outline implementation issues relating to the Government's governance policy. Issues canvassed include the:

- definition of 'independence';
- proportion of independent directors;
- process for appointing directors;
- management of conflict of interest;
- ongoing effectiveness of superannuation trustee boards; and
- implementation issues.

WHAT SHOULD 'INDEPENDENT' MEAN FOR SUPERANNUATION FUND TRUSTEES AND DIRECTORS?

There are a number of definitions of independent across the corporate sector.

In relation to either a trustee or a director of a trustee board, the SIS Act describes independent as someone that is not a member of a fund, an employee of an employer-sponsor or a representative of a trade union. However, this definition means that someone who has an existing or previous relationship with a superannuation fund, either as a service provider or former employee, could still be defined as independent.

The ASX Principles for company directors consider independence from an arm's length viewpoint. The ASX Principles explicitly list factors that preclude directors from being independent. These include whether the director:

- is or has been employed in an executive capacity by the entity or any of its related entities within the last three years;

8 Section 601JB of the *Corporations Act 2001*

9 The role of the compliance committee is to monitor the responsible entity's compliance with the compliance plan for each managed investment scheme, which amongst other things sets out arrangements for identifying and holding property, valuing the property, holding records and audit.

- is a substantial shareholder of the entity; and
- is a principal of a material professional adviser or consultant to the entity.

Whilst these principles are targeted explicitly to listed companies, the principles could be adapted and used for superannuation funds.

The *Review into the governance, efficiency, structure and operation of Australia's superannuation system* (Cooper Review) also defined independent based on being at arm's length from the fund. It outlined the principle of a non-associated trustee-director to mean a person who generally has no historic connection with the fund or the appointer.

This definition sets a higher standard than an independent director in the SIS Act and the ASX Principles. For example, a director could be independent under the SIS Act but have had an association with the fund in the past.

Focus question

2. What is the most appropriate definition of independence for directors in the context of superannuation boards?

PROPORTION AND ROLE OF INDEPENDENT DIRECTORS

A threshold issue is the number of independent directors. While a greater number of independent directors could result in a greater diversity of views, this needs to be balanced against employer and employee groups continuing to have their perspectives heard on the operation and running of superannuation funds.

A number of different approaches for determining the proportion of independent directors are possible.

The ASX Principles recommend that the board of a listed company have a majority of independent directors.

The ASX Listing Rules for S&P/ASX 300 companies require at least two independent directors, subject to requirements around the composition of the company's audit committee.

The Cooper Review recommended one-third of non-associated directors (in cases where the board has equal representation) or a majority of non-associated directors (where the board does not have equal representation).

APRA requires the boards of banking and insurance entities to have a majority of independent directors.

An additional issue is whether trustee boards should ensure the independence of the chair. This would be broadly consistent with the ASX Principles, where the chair of the board of a listed entity should be an independent director. Similarly, APRA requires banking and insurance entities to have an independent chair.

Focus questions

3. What is an appropriate proportion of independent directors for superannuation boards?
4. Both the ASX Principles for listed companies and APRA's requirements for banking and insurance entities either suggest or require an independent chair. Should superannuation trustee boards have independent chairs?

PROCESS FOR APPOINTING DIRECTORS ON SUPERANNUATION TRUSTEE BOARDS

Currently, directors are appointed in various ways depending on the type of fund.

- The appointment of directors on the board of industry funds is generally dependent on each fund's governing rules.
 - For boards with equal representation, member director appointments are often made by a union or a body representing unions. Employer representatives may be appointed by employer associations.
 - Other industry funds have appointed an independent chair or have adopted other non-traditional equal representation structures.
- For retail funds, directors of the fund board are often appointed by a related body corporate.
- In the case of corporate funds, the company typically appoints half of the trustee board, with the other half being member representatives, either elected or otherwise appointed in accordance with processes that are usually documented in the trust deed or governing rules of the fund.

Given the current diversity in approaches to appointing directors, the mechanism to appoint independent directors needs to be carefully balanced in order to avoid unnecessary complexities for funds whilst ensuring there is a due process for appointments.

Focus questions

5. Given the way that directors are currently appointed varies across funds, does it matter how independent directors are appointed?
6. Should the process adopted for appointing independent directors be aligned for all board appointments?

MANAGEMENT OF CONFLICTS OF INTEREST

Having independent directors can assist in managing potential conflicts of interest, particularly where directors are appointed at arm's length from the fund.

As outlined earlier in this discussion paper, a feature of the superannuation governance framework is the management of conflicts of interest. Effective from 1 July 2013, it is incumbent on trustees and directors to be conscious of conflicts of interest, actively manage them and ensure that priority is given to beneficiaries of the fund.

From 1 July 2013, trustees must maintain a register of relevant duties (which includes duties of directors sitting on other trustee boards) and a register of relevant interests (which includes remuneration paid as a director on another trustee board) under APRA's prudential standards. Trustees will be required to disclose registers of relevant duties and relevant interests from 1 July 2014.

In addition, APRA's conflicts of interest prudential standard and associated guidance material requires superannuation trustees to have a conflicts management framework and policies.

Focus question

7. Are there any other measures that would strengthen the conflict of interest regime?

ONGOING EFFECTIVENESS OF SUPERANNUATION TRUSTEE BOARDS

Factors relevant to the ongoing effectiveness and performance of superannuation trustee boards include board renewal, turnover and appraisals of directors.

Ongoing monitoring and flexibility aid superannuation funds' ability to respond appropriately to change.

Fresh ideas on boards can be encouraged through facilitating turnover of board members by having a maximum appointment period for directors. However the benefits of refreshing directors need to be weighed up against the costs of loss of experience of directors on particular funds.

Having directors on boards subject to regular appraisals of their performance, whether by key performance indicators or otherwise, can provide an incentive for directors to perform effectively.

Focus questions

8. In relation to board renewal, should there be maximum appointment terms for directors? If so, what length of term is appropriate?
9. Should directors on boards be subject to regular appraisals of their performance?

IMPLEMENTATION ISSUES

As outlined above, the Government is keen to ensure that greater independence on superannuation trustee boards is implemented in a way that minimises the regulatory and compliance burden on funds.

Consideration needs to be given to what mechanism could be used to deliver this reform. Requirements could be legislated, implemented through APRA's prudential standards powers,

determined through industry self-regulation or a combination. Whichever method is used, some legislative change is needed to revise the existing equal representation legislative provisions.

Having the requirements in legislation can provide greater clarity to funds on governance requirements.

However, establishing APRA prudential standards may provide greater flexibility and may be less prescriptive than legislation. It would also be consistent with the approach to banking and insurance entities whose governance requirements are contained in APRA's prudential standard on governance for banks, life insurers and general insurers (CPS 510).

An even more flexible option could be to allow the industry to self-regulate. Self-regulation could suffer from level playing field problems if some funds chose to opt-out for various reasons.

Focus questions

10. Would legislation, an APRA prudential standard, industry self-regulation or a combination be most suitable for implementing changes to governance? What would the regulatory cost and compliance impacts of each option be?
11. What is the appropriate timeframe to implement the Government's governance policy under each option?
12. Given that there will be existing directors appointed under a variety of terms and conditions, what type of transitional rules are required?

PART 3: ENHANCED TRANSPARENCY

The Government is committed to increasing the quality of information available to superannuation fund members and employers. Improving disclosure will increase transparency and allow consumers and employers to make more informed decisions about superannuation products. Transparency is critical to the efficiency and operation of a market-based savings system. It improves understanding, awareness and engagement at various levels.

There are two outstanding aspects of the current regulatory regime examined in this paper: the choice product dashboard and portfolio holdings disclosure. In both cases, legislation is already in place, but regulations that provide the detailed requirements of the reforms remain outstanding.

The Government's commitment to enhancing transparency will be considered in light of the Government's aim to reduce regulation and compliance costs.

PART 3A. CHOICE PRODUCT DASHBOARD

A product dashboard is a one page document that provides core information about a superannuation product. It is displayed in a standard format, which enables easy comparison of a product's features such as fees, risk and return targets.

The requirement for how a product dashboard for MySuper products is displayed is contained in the Superannuation Legislation Amendment (MySuper Measures) Regulation 2013.¹⁰ The broad legislative requirements are in place for product dashboards for other superannuation products (that is 'choice' products).¹¹ However, there are no regulations prescribing the detail of these requirements and this section considers what elements are appropriate for a choice superannuation product dashboard and whether it will deliver the intended benefit to consumers.

RATIONALE

The Cooper Review found that transparency and comparability are critical to the efficiency and operation of a market-based savings system, even where participation is compulsory. This would suggest that superannuation fund members should have a minimum amount of information when considering investment options. The Cooper Review recommended that this be provided through the development of a plain English product dashboard that would provide members with a standardised format in which to compare core information (risk and return targets, fees and costs) across superannuation products.

The aim of the proposed choice product dashboard is therefore to serve as an effective comparative tool for members, and the market generally, to assess whether a particular investment option meets their objectives.

This section will examine:

- what the choice product dashboard could look like, including whether it should be the same as the MySuper product dashboard;¹² and
- the costs and benefits of adding a liquidity measure to the product dashboard.

Given the aim of the product dashboard is to allow fund members, employers and analysts to easily scan across superannuation products, there may be benefits in maintaining the same measures on the choice product dashboard as those on the MySuper product dashboard.

However, during consultation on the MySuper product dashboard regulations it was suggested that, in the context of the choice product dashboard, consideration should be given to:

- allowing trustees to set their own return target for choice investment products as not all products are benchmarked against the consumer price index (CPI) (the benchmark used to compare MySuper products);
- including a net investment return measure (in addition to net return);
- including an additional risk measure to capture longer term inflation risk, to enhance the level of accuracy of information disclosed;

10 A MySuper product is a simple, cost-effective default superannuation product.

11 A choice product is a superannuation product where a member has made a choice that their superannuation would not be in a MySuper product or their own self-managed super fund.

12 An example MySuper product dashboard, a summary of the current product dashboard requirements for MySuper products and feedback from consumer testing of the MySuper product dashboard can be found at Attachment A.

- adding a measure of liquidity to the product dashboard; and
- allowing additional carve outs from the product dashboard requirements for choice products.

Focus question

13. Should a choice product dashboard present the same information, in the same format, as a MySuper product dashboard? In answering this question you may wish to consider, if the choice product dashboard is to present different information, what should it include and why?

NET INVESTMENT RETURN VERSUS NET RETURN

The MySuper product dashboard uses a measure for the investment return target, and investment return, which is net of both administration and investment fees. These measures are calculated using returns from the last 10 whole financial years, or the offering period of the product.

Return target

The investment return target describes the real return that the trustee will try to achieve for the investment option and provides members with an indication of the likely outcome of investing in a particular investment option.

For the MySuper product dashboard, the return target is measured as an estimate of the percentage rate of net return that exceeds the growth in the CPI.

This is a suitable measure for a MySuper product, given the standardised nature of these products. However, in the choice environment, trustees can often offer a wide range of investment options with different objectives. Some options will have a 'CPI-plus' investment target, but many may not. Forcing products invested in shares, for example, or an index fund, to adopt such a return target may not be a realistic proposition for trustees, and may not be in the best interests of members.

Net investment return

A net investment return is an investment return net of investment costs only (administration costs are not taken into account).

During consultation on the MySuper product dashboard regulations there was some support for using net investment return as the most appropriate measure of an investment's return, as it was considered to be the most accurate representation of what a trustee aims to achieve for all members of a product. It was noted however, that because the net investment return does not include administration fees it does not represent the actual return to members.

Net return

A net return is an investment return net of all associated costs and it represents the return that is actually paid to members.

A difficulty with disclosing a net return for a product is that administration fees (often charged as dollar-based fees) can be different, as a percentage, for each member depending on their account

balance. These difficulties could be overcome by calculating a net return with reference to a representative member.

Net return is the measure that is used on the MySuper product dashboard, acknowledging that in most cases in the MySuper environment, the products that are offered have the same options, benefits and facilities offered to all members.

Focus questions

14. Is it appropriate to use a single benchmark (CPI plus percentage return) for all choice product return targets?
15. Should both net investment return (investment return net of investment costs only) and net return (investment return net of all associated costs) be used to measure a product's investment return on the choice product dashboard? In considering this question, you may wish to consider:
 - If including an additional measure for a product's investment return would add unnecessary complexity.
 - If both net investment return and net return are used on the choice product dashboard, whether they should also be used on the MySuper product dashboard.
 - Whether it is appropriate to use a single time horizon, for example 10 years, when calculating target net return and net return for the range of possible choice products.

MEASURING A PRODUCT'S INVESTMENT RISK

During earlier consultation on the product dashboard it was generally agreed that the Standard Risk Measure (SRM), the level of investment risk as measured by the estimated number of negative net investment returns over a 20 year period, should be used as the measure of investment risk on the MySuper product dashboard. The SRM is an industry agreed measure of short-term risk developed by the Association of Superannuation Funds of Australia and the Financial Services Council.¹³

Concerns have subsequently been raised that the presentation of a singular short-term volatility risk may not provide a complete picture in respect of the risk associated with superannuation products. It has been suggested that, by itself, this measure may lead to adverse outcomes, such as members investing away from volatility risk only to be affected by inflation risk in the future. To avoid this, it has been suggested that a measure of long-term risk should also be included in the product dashboard. For example:

Short-term investment risk (currently included on the MySuper product dashboard)	High/Medium/Low The level of investment risk as measured by the estimated number of negative net investment returns over a 20 year
--------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------

¹³ *Standard Risk Measure Guidance Paper For Trustees, July 2011 and Standard Risk Measure, Implementation Guidance For Trustees, December 2012*

period.

Long-term investment risk (proposed)	The probability that the time weighted net investment return is less than the rate of increase in AWOTE ¹⁴ plus xx per cent over a 20 year period. ¹⁵
------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Focus question

16. Should the choice product dashboard include both a short-term (volatility) and long-term (inflation) risk measure? In considering this question, you may wish to consider:
- Is the SRM model the best measure of short-term investment risk?
 - What would be the most suitable measure of long-term risk to include on the product dashboard?
 - Is it possible to present a long-term risk measure in a similar format to the short-term risk measure (that is High/Medium/Low)?
 - Would including an additional risk measure add unnecessary complexity to the product dashboard?

ADDITIONAL CARVE OUTS

The *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012* carved out certain choice investment options from the product dashboard requirements. These carve outs recognise that the requirement to produce product dashboards for certain choice investment products would not provide meaningful information to members. The exclusions apply if:

- the assets under the investment option are invested only in one or more of the following:
 - a capital guaranteed life insurance policy where the contributions and accumulated earnings may not be reduced by negative investment returns or any reduction in the value of assets in which the policy is invested;
 - a life policy providing benefits based solely on the realisation of a risk and not related to the performance of an investment; and
 - an investment account contract that is held solely for the benefit of that member, and relatives and dependants of that member—to cover legacy products such as endowment and whole of life policies.

¹⁴ Full-time adult average weekly ordinary time earnings.

¹⁵ This measure of long-term investment risk has been proposed by the Institute of Actuaries of Australia.

- the sole purpose of the investment option is the payment of a pension to members, such as an allocated pension investment option; or
- the assets of the fund invested under that investment option are only invested in another single asset, such as individual financial products offered on a platform.

The carve out provisions for choice product dashboards could be widened to include other investment options where the requirement to produce a product dashboard would place an unnecessary burden on trustees with little or no benefit to members. This may include certain legacy products.

Focus question

17. Are additional carve outs from the choice product dashboard obligations required? If so, why are these additional carve outs required? In considering this question, you may also wish to consider identifying where the gaps in the current carve out provisions are.

A LIQUIDITY MEASURE

The Cooper Review recommended that a product dashboard include a projected liquidity measure that would indicate to members whether or not the investment option was outside the normal 30-day portability rules, by classifying the option according to the degree of liquidity, that is, high, medium or low.¹⁶

The SIS Act allows for regulations to prescribe new dashboard measures. However, regulations for the MySuper product dashboard did not include a liquidity measure as more time was required to develop a meaningful measure.

Including a liquidity measure in the product dashboard would provide members with an indication of how quickly they would be able to move their money out of a fund. There is already a requirement for trustees to meet portability requirements within 30 days. A liquidity measure may invite active members to become more risk averse if products that invest in illiquid assets are rated as higher risk. A liquidity measure may also discourage trustees from investing in illiquid assets such as infrastructure.

Focus question

18. Should a measure of liquidity be included on the choice and/or MySuper product dashboard? If so, what would a suitable measure be?

¹⁶ The portability provisions in Division 6.5 of the *Superannuation Industry (Supervision) Regulations 1994* require a trustee to rollover or transfer the whole or the nominated part of a member's benefits as soon as practicable and in any event within 30 days of the member requesting this in writing.

IMPLEMENTATION ISSUES

Legislation is in place to enact a choice product dashboard, but regulations that provide the detailed requirements of the reforms remain outstanding. The legislation requires funds to make a choice product dashboard publically available from 1 July 2014.

The Government's commitment to enhancing transparency will be considered in light of the Government's aim to reduce regulation and compliance costs.

Focus question

19. Should the commencement date for the choice product dashboard be delayed beyond 1 July 2014? If so, what date would be suitable for its commencement? What would be the benefits and costs to such a delay?

PART 3B. PORTFOLIO HOLDINGS DISCLOSURE

Portfolio holdings disclosure is aimed at increasing the market, as well as members', awareness of what specific investments are being made by superannuation funds. This would enable members and analysts to better assess the level of diversification and risk in particular products.

RATIONALE

The Cooper Review concluded that superannuation fund trustees should disclose details of their portfolio holdings. This disclosure should focus on information that a professional adviser would reasonably require to understand the nature and extent of a fund's investments and exposures.

The review also noted that the Australian superannuation system largely lacked systemic transparency—that is, broader disclosure to academics and analysts, including portfolio holdings disclosure. There was too little high quality information available to experts who would be able to use it for the ultimate benefit of members as a whole. The review stated that Australia lagged behind international best practice on portfolio disclosure and transparency, this drove the view that there should be new standards for web-based systemic disclosures in a range of areas.¹⁷

The benefits of portfolio holdings disclosure could support decision making by fund members as well as professional advisers. To achieve this, the information would need to be presented at a product level, showing what assets are held in each investment option offered by a fund. It would also need to be in a format that allowed members to draw meaningful conclusions.

This section examines the current legislative requirements for portfolio holdings disclosure, considers the feedback received from previous consultation and details options available to progress portfolio holdings disclosure.

17 The CFA Institute report *Periodic Reporting for Retail Investment Funds in Asia Pacific: An Investor's Perspective* published in January 2013, compared portfolio holdings disclosure between different jurisdictions including Australia, China, Hong Kong, India, Japan and Singapore, and identified Australia as the only jurisdiction that does not currently require some level of portfolio holdings disclosure.

CURRENT PORTFOLIO HOLDINGS DISCLOSURE REQUIREMENTS

The Corporations Act 2001 requires superannuation fund trustees to provide fund members with details of each investment (or each combination of investments in a group of associated enterprises) that has a value in excess of five per cent of total assets in the annual report.

Legislative amendments have recently been made that require trustees to disclose the type and value of assets that their funds invest in, on a full look through basis, from 1 July 2014.¹⁸ Specifically, trustees will be required to disclose information that is sufficient to identify each of the investments in financial products or other property acquired with superannuation fund assets and the value of those assets. This includes disclosure of the superannuation assets or financial products held by collective investment vehicles (such as managed investment schemes). This would require trustees to present an aggregate list of assets in which the superannuation fund had invested.

The amendments also require the entities that the superannuation fund's assets are invested with, such as managed investment schemes, to report to fund trustees on those investments. Thereby supporting the look through. This obligation applies where there are chains of investment, such as a superannuation fund investing in a managed investment scheme, which then invests in another managed investment scheme, which holds the assets. This results in a chain of reporting where each party reports to the entity that invested in it, so that there is a series of reports from one party to the next, all the way up to the superannuation fund.

In addition, trustees will be required to provide details of their large exposures at three-monthly intervals to APRA from 1 July 2014.¹⁹ A materiality threshold of one per cent of the total assets of the registrable superannuation entity (RSE) will be used and information will be required to be reported at an entity level. Trustees will be required to look through associated entities (such as managed investment schemes operated by related entities), but will not need to look through non-associated entities. They will report the holdings of the first non-associated entity with no look through. This will require reporting of assets held by the trustee, including investments in collective investment vehicles.

PREVIOUS CONSULTATION ON EXPOSURE DRAFT REGULATIONS

Exposure Draft Model

The Treasury consulted on draft portfolio holdings regulations in April and May 2013. These draft regulations proposed that funds disclose all of their holdings, including assets invested in entities not directly owned by the fund, such as in collective investment vehicles. This would have required the disclosure of the investment by the superannuation fund in the collective investment vehicle. For this to occur, the collective investment vehicle would need to advise the superannuation fund what it has invested in. On the basis of the information provided by the collective investment vehicle, the superannuation fund would then disclose both its direct and indirect investments to its members.

The draft regulations oblige trustees to disclose their funds' assets on a more granular basis. It required disclosure of the assets held by or attributed to each product or investment option offered

¹⁸ A look through involves looking through intermediate structures to the underlying assets. For example, if a superannuation fund owned units in a managed investment scheme, and that managed investment scheme owned shares in a company, the superannuation fund would disclose that it owned shares in the company.

¹⁹ See *Superannuation Reporting Standard SRS 532.0 – Investment Exposure Concentrations*.

by a superannuation fund. This was intended to allow members to compare assets across products more readily.

Submissions from across industry raised various concerns, particularly around the requirements to disclose commercial-in-confidence and market sensitive information, the degree of look through involved and the requirement to disclose disaggregated data.

Alternative Models

Consultation with industry on the draft regulations raised two other models for the disclosure of portfolio holdings.

The first alternative model would require superannuation fund trustees to disclose their direct fund holdings only (such as units in a collective investment vehicle), but not investments made by that collective investment vehicle.

A new obligation would subsequently fall on the responsible entity of a collective investment vehicle to disclose their asset holdings.

This model has broader implications, in that all Australian-domiciled collective investment vehicles would be required to disclose their asset holdings, regardless of whether a superannuation fund had invested in them.

A second alternative model would be based around the APRA reporting requirements that will come into effect from 1 July 2014. This would involve a partial look through.

Trustees would look through associated entities, such as managed investment schemes operated by related entities, and disclose the assets they hold. However, trustees would not need to look through non-associated entities; if a trustee held units in a managed investment scheme operated by an unrelated entity, the trustee would disclose those units (rather than the assets behind them).

This could reduce the costs of portfolio holdings disclosure, given that trustees would be reporting data to APRA on this basis in any event.

Focus questions

20. Which model of portfolio holdings disclosure would best achieve an appropriate balance between improved transparency and compliance costs? In considering this question, you may wish to consider the various options discussed above:
- Should portfolio holdings disclosure be consistent with the current legislative requirements (that is, *full* look through to the final asset, including investments held by collective investment vehicles)?
 - Should the managers/responsible entities of collective investment vehicles be required to disclose their assets separately? To give effect to this requirement, legislation would require all collective investment vehicles to disclose their asset holdings, regardless of whether some of its units are held by a superannuation fund.
 - Should portfolio holdings disclosure be limited to the information required to be provided to APRA under *Reporting Standard SRS 532.0 Investment Exposure Concentrations*?
21. What would be the compliance costs associated with each of these models for portfolio holdings disclosure?
22. Should portfolio holdings information be presented on an entity level or at a product (investment option) level?

MATERIALITY THRESHOLD

During previous consultations, it was also suggested that a materiality threshold be included, to address concerns around disclosure of sensitive information.

A materiality threshold sets the level of disclosure required by trustees. It can be set at a minimum asset size or at a percentage of assets that would not be disclosed. For example, feedback from industry suggested setting a materiality threshold of five per cent of a fund's total asset holdings. This would require trustees to disclose at least 95 per cent of their portfolio holdings and could allow selective disclosure, which would permit trustees to decide which five per cent not to disclose. An anti-avoidance provision could be introduced, to prohibit the creation of structures to circumvent the threshold.

A materiality threshold could address industry concerns regarding portfolio holdings disclosure. Requiring trustees to disclose their entire portfolios could reveal commercially sensitive aspects of their business, from individual holdings to portfolio construction. It could also reduce the ability of superannuation funds to invest in projects where non-disclosure agreements are required. A materiality threshold could allow industry to maintain confidentiality around certain holdings.

However, a materiality threshold may give rise to unintended consequences and could allow for potential forms of portfolio manipulation. In the case of a minimum asset size threshold, whereby trustees disclose assets greater than one per cent of the total assets of the fund, there is scope to classify assets narrowly, so as to fall under the threshold. Additionally, a threshold of five per cent with selective disclosure may be confusing for members. For example, trustees may continuously hold an investment, but may not disclose it every year.

In the absence of a materiality threshold, under section 1020F of the *Corporations Act 2001*, the Australian Securities and Investments Commission (ASIC) has discretionary powers to grant relief from the portfolio holdings disclosure obligations imposed on trustees under section 1017BB. This includes exempting a trustee from disclosing particular assets. ASIC can also impose suitable limitations or conditions on relief (for example, relief only applies for a specific time period or while the information remains confidential).

Focus questions

23. Is a materiality threshold an appropriate feature of portfolio holdings disclosure?
24. What is the impact of a materiality threshold on systemic transparency in superannuation fund asset allocation?
25. What would be the most appropriate way to implement a materiality threshold?

IMPLEMENTATION ISSUES

Legislation is in place to enact portfolio holdings disclosure, but regulations that provide the detailed requirements of the reforms remain outstanding. The legislation requires funds to make information relating to their investment of assets publicly available from 1 July 2014.

The Government's commitment to enhancing transparency will be considered in light of the Government's aim to reduce regulation and compliance costs.

Focus question

26. Should the commencement date for portfolio holdings disclosure be delayed beyond 1 July 2014? If so, what date would be suitable for its commencement? What would be the benefits and costs to such a delay?

PART 4: ENHANCING COMPETITION IN THE DEFAULT SUPERANNUATION MARKET

Since the 1980s, most industrial awards, which set minimum terms and conditions of employment for employees, have included terms about superannuation and have specified default superannuation funds — that is, funds into which superannuation contributions may be paid. Since 2005, most employees, including those who derive their terms and conditions of employment from an award, have been able to choose the superannuation fund into which their superannuation contributions are made. Where an employee covered by an award does not choose a superannuation fund for themselves, their employer chooses the fund into which they will make superannuation contributions for the employee, but is limited to choosing one of the default funds specified in the relevant award. Where an award does not list a default fund, the employer can contribute to any fund that complies with the relevant superannuation legislation.

In 2012, the previous government asked the Productivity Commission to conduct an inquiry into the assessment and selection of default superannuation funds in modern awards. The Productivity Commission's inquiry followed longstanding concerns from some sectors about a lack of transparency and contestability in the way default superannuation funds are listed in awards.

In its report, which was publicly released on 12 October 2012, the Productivity Commission agreed that the existing system for assessing and selecting default superannuation funds was neither transparent nor contestable.

The Productivity Commission noted that industrial parties, that is, employer and employee organisations, play a central role in determining which superannuation funds are listed in awards. This is because under workplace relations laws, they have standing to apply to the Fair Work Commission²⁰ (FWC) to make changes to awards and are entitled to be heard when the FWC is considering changes to the awards. There is the potential for a conflict of interest where representatives of the employee or employer association (and often both) appearing before the FWC are also represented on the board of an industry superannuation fund.

In its report, the Productivity Commission presented data that of the 122 modern awards, 109 list a default superannuation fund or funds. Across all modern awards, there are 66 distinct funds that can be identified on APRA's list of current funds, consisting of 46 industry funds, 11 retail funds, six public sector funds and three corporate funds.

The Productivity Commission made a number of recommendations for reforming the process for the selection and ongoing assessment of default products in modern awards. Its key points are presented below.

²⁰ The Fair Work Commission is the statutory body that can make or vary modern awards.

Key points from the Productivity Commission's Recommendations

- Default superannuation arrangements for those employees who derive their default superannuation product in accordance with modern awards have provided market stability, and net returns of default funds have generally exceeded those of non-default funds. However, the arrangements could be improved.
- The primary principle governing default superannuation arrangements for modern awards should be the promotion of the best interests of employees.
 - The selection of default products for awards should be merit rather than precedent based, and should encourage improved performance through competition.
- The criteria that the Australian Prudential Regulation Authority will use for MySuper product authorisation provide a first filter for the selection of products.
- The Commission recommends a set of non-prescriptive factors to be considered as a second stage 'quality filter' when selecting default products for modern awards.
 - The factors relate to: investment objectives and performance (as primary factors); fees and costs; governance practices (particularly mechanisms in place to deal with conflicts of interest); insurance; intra-fund advice; and administrative efficiency.
- The process for the selection and ongoing assessment of default products in modern awards should be reformed. Decisions on the listing of default products should be made by a new Default Superannuation Panel within Fair Work Australia (FWA).²¹
 - The panel should consist of the FWA President (or delegate) and an equal number of full-time members of the tribunal and part-time independent members appointed for their expertise in finance, investment management or superannuation advisory services.
 - The part-time members should not be representatives of organisations or parties to awards, but should be appointed as independent members based on expertise.
- Superannuation funds should be given standing to apply to, and be directly heard by, the panel, in order to have their products assessed for listing in modern awards. The panel should transparently assess cases on their merits, using the factors identified by the Commission, and any other factors deemed relevant by the panel.
- The panel should list all MySuper products for each modern award that meet the factors for consideration (which may prove to be a long list). No express limit should be placed on the number of products that may be listed in any given modern award.
 - The panel should identify in each modern award, wherever possible, a small subset of those listed products judged as best meeting the interests of the relevant employees.

²¹ Fair Work Australia has since been renamed the Fair Work Commission.

- The panel should conduct ongoing assessments and undertake a periodic wholesale reassessment of the products listed in modern awards.
- The process should apply at least for the medium term, given the uncertainty regarding the number, mix and quality of MySuper products to be offered from 2013.
 - The process should be reviewed in 2023 and this review should include consideration of the appropriateness of allowing employers to select any MySuper product as a default superannuation product.

Productivity Commission 2012, *Default Superannuation Funds in Modern Awards*, Report No. 60, Final Inquiry Report, Canberra, Page 2.

The Productivity Commission considered its approach would maintain stability in the superannuation market, increase transparency in the way funds were listed and increase competition by potentially allowing a wider range of funds to be listed as default funds in modern awards. The recommendation that a quality filter should be applied when selecting default funds was based on a view that there is an administrative burden for employers (particularly new employers) being required to choose from a potentially large number of diverse MySuper products and that MySuper authorisation alone may not ensure that the funds selected would meet the best interests of the employees covered by the award.

In response to the Productivity Commission's report, the previous Labor government amended the *Fair Work Act 2009* to require the FWC to review default superannuation funds in modern awards every four years, with the first review starting from 1 January 2014. While the review will commence after 1 January 2014, any variations to awards will not take effect before 1 January 2015 at the earliest.

These amendments went far beyond what was recommended by the Productivity Commission and require the FWC to conduct a two stage process to select default funds. The first stage is conducted by an expert panel, which will assess applications from superannuation funds seeking to be listed as default funds in modern awards and put together a default superannuation list of suitable funds. The expert panel consists of a chair, three other full-time members of the Commission and three part-time members who have knowledge of or experience in finance, investment management or superannuation.


In the second stage of the process, a Full Bench of the FWC will list up to 15 default funds in each modern award, based on their assessment of the most suitable funds from the default superannuation list and after they have heard views from parties. This is different to the model proposed by the Productivity Commission. Only employers and employees and their representative organisations are entitled, under the *Fair Work Act 2009*, to make submissions to the Full Bench; the Act does not entitle superannuation funds to appear before the Full Bench.²² Unlike the Productivity Commission's model, the *Fair Work Act 2009* limits the number of default funds to 15, encouraging a manageable number for employers to choose from, but preventing the FWC selecting the most appropriate number that they determine relevant for each award.

²² The FWC can inform itself in any manner it considers appropriate, which does not preclude it from seeking input or agreeing to hear submissions from superannuation funds.

Focus questions

27. Does the existing model (which commences on 1 January 2014) meet the objectives for a fully transparent and contestable default superannuation fund system for awards, with a minimum of red tape?
28. If not, is the model presented by the Productivity Commission the most appropriate one for governing the selection and ongoing assessment of default superannuation funds in modern awards or should MySuper authorisation alone be sufficient?
29. If the Productivity Commission's model is appropriate, which organisation is best placed to assess superannuation funds using a 'quality filter'? For example, should this be done by an expert panel in the Fair Work Commission or is there another more suitable process?
30. Would a model where modern awards allow employers to choose to make contributions to any fund offering a MySuper product, but an advisory list of high quality funds is also published to assist them in their choice, improve competition in the default superannuation market while still helping employers to make a choice? In this model, the advisory list of high quality funds could be chosen by the same organisation referred to in focus question 29.
31. If changes are made to the selection and assessment of default superannuation funds in modern awards, how should corporate funds be treated?

ATTACHMENT A: THE MYSUPER PRODUCT DASHBOARD



Home
Personal
Business
Investments
Calculators
Forms

Home > Superannuation & retirement > JKL MySuper Dashboard

JKL MySuper Dashboard

How super works

Investment options

Performance

Growing super

Combining your super

Accessing super

Insurance

Use this dashboard to compare this XYZ MySuper with other MySuper products. Go to ASIC's [MoneySmart website](#) for more information on how to pick the right MySuper fund for you.

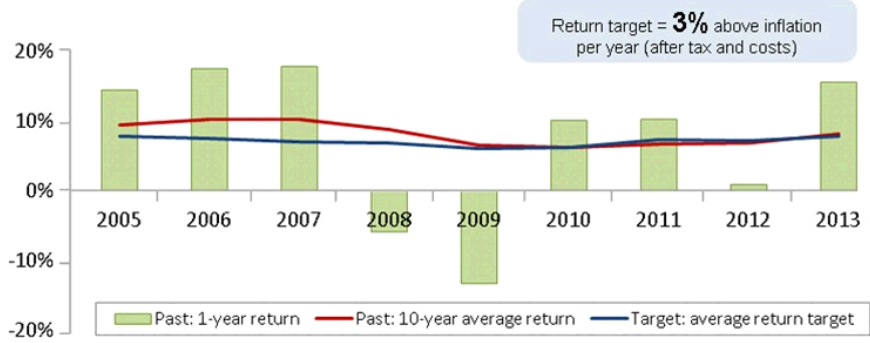
Return

10 year average return of 7.1% as at 30 June 2013.

Return target

Return target for 2014-2023 of 3% per year above inflation, after fees and taxes. Future returns cannot be guaranteed. This is a prediction.

Comparison between return target and return



Past performance is not necessarily an indication of future returns.

Level of investment risk

High

Negative returns expected in 5 out of every 20 years

The higher the expected target return, the more often you would expect a year of negative returns.

Statement of fees and other costs

\$437 per year

Fees and other costs for a member with a \$50,000 balance.

Glossary links:

- [Return](#)
- [Return Target](#)
- [10 year average](#)
- [Fees and other costs](#)

Last updated: 08 Nov 2013

PRESCRIBED COMPONENTS OF THE PRODUCT DASHBOARD

Return target and net return

The investment return target describes the real return that the trustee will try and achieve for the investment option, and provides members with an indication of the likely outcome of investing in a particular investment option.

The net return (as prescribed in the Australian Prudential Regulation Authority's *Reporting Standard SRS 700.0 Product Dashboard*) is the net investment return less administration fees and costs, and advice fees, costs and taxes. The MySuper product dashboard uses a net return for a representative member. A representative member is a member with an account balance of \$50,000 at the end of the financial year who is fully invested in the given investment option and who does not incur any activity fees during the reporting period.

Comparison between return target and return

This aspect of the product dashboard aims to provide accountability for the return target specified for the investment option, by assessing the stated target against historical performance.

The intent of this measure is to provide members with an indication of whether the target is reasonable and has been achieved previously.

Regulations prescribe that this information (annual return, moving average return target and moving average return) must be presented as a graph on a MySuper product dashboard.

Investment risk

Investment risk can be defined as the probability or likelihood of occurrence of losses relative to the expected return on any particular investment. The Cooper Review considered risk to be an integral part of the objectives of an investment option, as any given level of return implies a given level of investment risk.

The MySuper product dashboard uses the Standard Risk Measure (SRM), the level of investment risk as measured by the estimated number of negative net investment returns over a 20 year period, as the measure of investment risk. The SRM is outlined in the *Standard Risk Measure Guidance Paper for Trustees July 2011* and *Standard Risk Measure, Implementation Guidance for Trustees December 2012* issued by the Association of Superannuation Funds of Australia, and the Financial Services Council.

Statement of fees and other costs

The origin of this measure is the Cooper Review's recommendation for trustees to calculate a total annual expense ratio (TAER). The objective of the TAER was to provide an indication of the overall efficiency of the investment option (at an investment option level).

The product dashboard, in contrast, requires a disclosure of the average fees and other costs charged in relation to the investment option. However, the broad intent remains the same as recommended by the Cooper Review.

The statement of fees and costs for the MySuper product dashboard includes the annual investment, administration and advice fees and costs for a representative member, excluding

activity fees and insurance fees and costs, in respect of the current financial year and is calculated for a representative member in the current financial year.

SUMMARY OF RESULTS OF CONSUMER TESTING OF THE MYSUPER PRODUCT DASHBOARD

ASIC conducted consumer testing of the MySuper product dashboard in September 2013. The results of this testing were largely positive, however, some points around the presentation of measures on the dashboard were raised and will need to be considered. Points raised include that:

- consumers want to easily compare dashboards side by side to find fund/product information;
- consumers did not fully understand some of the information presented and the graph was too complex (lines overlaid on bar charts are too complex and a simple graph has more visual appeal and is easier to absorb than text);
- there was some confusion around the terms 'return target' and 'current return target';
- consumers would appreciate having additional information available via a mouse rollover or hyperlink;
- terms like CPI and AWOTE should be avoided;
- risk is difficult to understand and has potential to confuse, but there was no evidence the term 'high risk' scares or alienates consumers; and
- the location of the risk and fees section on the dashboard influences how the member assesses the merits of super funds.

ATTACHMENT B: BETTER REGULATION AND GOVERNANCE, ENHANCED TRANSPARENCY AND IMPROVED COMPETITION IN SUPERANNUATION— FOCUS QUESTIONS

Part 1: A Better Approach to Regulation

1. The Government has committed to identifying (in dollar terms) measures that offset the cost imposed to business of any new regulation. What suggestions do you have for how the regulatory compliance burden can be reduced?

Part 2: Better Governance

What should ‘independent’ mean for superannuation fund trustees and directors?

2. What is the most appropriate definition of independence for directors in the context of superannuation boards?

Proportion and role of independent directors

3. What is an appropriate proportion of independent directors for superannuation boards?
4. Both the ASX Principles for listed companies and APRA’s requirements for banking and insurance entities either suggest or require an independent chair. Should superannuation trustee boards have independent chairs?

Process for appointing directors on superannuation trustee boards

5. Given the way that directors are currently appointed varies across funds, does it matter how independent directors are appointed?
6. Should the process adopted for appointing independent directors be aligned for all board appointments?

Management of conflicts of interest

7. Are there any other measures that would strengthen the conflict of interest regime?

Ongoing effectiveness of superannuation trustee boards

8. In relation to board renewal, should there be maximum appointment terms for directors? If so, what length of term is appropriate?
9. Should directors on boards be subject to regular appraisals of their performance?

Implementation issues

10. Would legislation, an APRA prudential standard, industry self-regulation or a combination be most suitable for implementing changes to governance? What would the regulatory cost and compliance impacts of each option be?

11. What is the appropriate timeframe to implement the Government's governance policy under each option?
12. Given that there will be existing directors appointed under a variety of terms and conditions, what type of transitional rules are required?

Part 3: Enhanced transparency—choice product dashboard and portfolio holdings disclosure

Part 3A. Choice product dashboard

13. Should a choice product dashboard present the same information, in the same format, as a MySuper product dashboard? In answering this question you may wish to consider, if the choice product dashboard is to present different information, what should it include and why?

Net investment return versus net return

14. Is it appropriate to use a single benchmark (CPI plus percentage return) for all choice product return targets?
15. Should both net investment return (investment return net of investment costs only) and net return (investment return net of all associated costs) be used to measure a product's investment return on the choice product dashboard? In considering this question, you may wish to consider:
 - If including an additional measure for a product's investment return would add unnecessary complexity.
 - If both net investment return and net return are used on the choice product dashboard, whether they should also be used on the MySuper product dashboard.
 - Whether it is appropriate to use a single time horizon, for example 10 years, when calculating target net return and net return for the range of possible choice products.

Measuring a product's investment risk

16. Should the choice product dashboard include both a short-term (volatility) and long-term (inflation) risk measure? In considering this question, you may wish to consider:
 - Is the SRM model the best measure of short-term investment risk?
 - What would be the most suitable measure of long-term risk to include on the product dashboard?
 - Is it possible to present a long-term risk measure in a similar format to the short-term risk measure (that is High/Medium/Low)?
 - Would including an additional risk measure add unnecessary complexity to the product dashboard?

Additional carve outs

17. Are additional carve outs from the choice product dashboard obligations required? If so, why are these additional carve outs required? In considering this question, you may also wish to consider identifying where the gaps in the current carve out provisions are.

A liquidity measure

18. Should a measure of liquidity be included on the choice and/or MySuper product dashboard? If so, what would a suitable measure be?

Implementation issues

19. Should the commencement date for the choice product dashboard be delayed beyond 1 July 2014? If so, what date would be suitable for its commencement? What would be the benefits and costs to such a delay?

Part 3B. Portfolio holdings disclosure

Presentation of portfolio holdings

20. Which model of portfolio holdings disclosure would best achieve an appropriate balance between improved transparency and compliance costs? In considering this question, you may wish to consider the various options discussed above:
- Should portfolio holdings disclosure be consistent with the current legislative requirements (that is, *full* look through to the final asset, including investments held by collective investment vehicles)?
 - Should the managers/responsible entities of collective investment vehicles be required to disclose their assets separately? To give effect to this requirement, legislation would require all collective investment vehicles to disclose their asset holdings, regardless of whether some of its units are held by a superannuation fund.
 - Should portfolio holdings disclosure be limited to the information required to be provided to APRA under *Reporting Standard SRS 532.0 Investment Exposure Concentrations*?
21. What would be the compliance costs associated with each of these models for portfolio holdings disclosure?
22. Should portfolio holdings information be presented on an entity level or at a product (investment option) level?

Materiality threshold

23. Is a materiality threshold an appropriate feature of portfolio holdings disclosure?
24. What is the impact of a materiality threshold on systemic transparency in superannuation fund asset allocation?
25. What would be the most appropriate way to implement a materiality threshold?

Implementation issues

26. Should the commencement date for portfolio holdings disclosure be delayed beyond 1 July 2014? If so, what date would be suitable for its commencement? What would be the benefits and costs to such a delay?

Part 4: Improved competition in the default superannuation market

27. Does the existing model (which commences on 1 January 2014) meet the objectives for a fully transparent and contestable default superannuation fund system for awards, with a minimum of red tape?
28. If not, is the model presented by the Productivity Commission the most appropriate one for governing the selection and ongoing assessment of default superannuation funds in modern awards or should MySuper authorisation alone be sufficient?
29. If the Productivity Commission's model is appropriate, which organisation is best placed to assess superannuation funds using a 'quality filter'? For example, should this be done by an expert panel in the Fair Work Commission or is there another more suitable process?
30. Would a model where modern awards allow employers to choose to make contributions to any fund offering a MySuper product, but an advisory list of high quality funds is also published to assist them in their choice, improve competition in the default superannuation market while still helping employers to make a choice? In this model, the advisory list of high quality funds could be chosen by the same organisation referred to in focus question 29.
31. If changes are made to the selection and assessment of default superannuation funds in modern awards, how should corporate funds be treated?

GLOSSARY

Term	Explanation
APRA	Australian Prudential Regulatory Authority
APRA-regulated fund	All superannuation funds regulated by APRA under the SIS Act, but does not include SMSFs.
ASIC	Australian Securities and Investments Commission
ASFA	Association of Superannuation Funds of Australia
ASX	Australian Stock Exchange
AWOTE	Average Weekly Ordinary Time Earnings
Choice product	A choice product is a superannuation product where a member has made a choice that their superannuation would not be in a MySuper product or their own self-managed super fund.
Choice product dashboard	The same as a MySuper product dashboard but for a fund's choice products.
Corporate superannuation funds	A corporate fund is arranged by an employer, for its employees.
CPI	Consumer Price Index
Default fund	The superannuation fund to which an employer's superannuation guarantee contributions will be paid if the employee does not direct the employer to make the contributions to a fund chosen by the employee.
FSC	Financial Services Council
Full look through	Disclosure of interests in non-directly invested entities.
FWA	Fair Work Australia
FWC	Fair Work Commission

Term	Explanation
Industry superannuation funds	Industry funds are funds formed to provide access to superannuation for employees working in a particular industry (although an increasing number of industry funds are now open to the public).
Legacy product	Generally, an older-generation superannuation product held by fund members that is no longer available for issue to new members.
MIS	Managed Investment Scheme. A scheme in which people contribute money to acquire interests to benefits produced by the scheme.
MySuper product	A MySuper product is a simple, cost-effective default superannuation product.
MySuper product dashboard	A publicly released table setting out the net return target, level of investment risk, statement of fees and other costs and net return performance of a super fund's MySuper product.
Portfolio holdings disclosure	Disclosure of where and how much a super fund has invested in specific areas.
Retail superannuation funds	A retail superannuation fund offers superannuation products on a commercial basis.
RSE	Registrable Superannuation Entity
Small APRA funds	Small APRA funds are super funds regulated by APRA with less than five members.
SMSFs	Self managed superannuation funds
SRM	Standard risk measure
Systemic transparency	Disclosure by a trustee, typically on the fund's website, of a wide range of information, including fund documents and details about fund processes and fund management, making this information available to regulators, academics, analysts, advisers and interested members.
TAER	Total annual expense ratio