

# ATTACHMENT — GOVERNMENT RESPONSE

Government response to the review into the governance, efficiency, structure and operation of Australia's superannuation system

Super System Review recommendations	Government response
<b>Chapter 1: MySuper and choice architecture</b>	
<b>Recommendation 1.1</b> The 'choice architecture model' should be adopted as the structure for Australia's superannuation industry.	<b>Support</b> The Government will allow superannuation funds to offer MySuper products from 1 July 2013.
<b>Recommendation 1.2</b> The SG Act should be amended so only a MySuper product is eligible to be a 'default' fund nominated by an employer.	<b>Support</b> MySuper products will replace existing default funds after an appropriate transitional period. The Government will consult with relevant stakeholders on the transitional period and other transitional issues.
<b>Recommendation 1.3</b> The relevant legislation should be amended so: (a) only MySuper products are eligible to be nominated; and (b) all MySuper products are able to be nominated, for 'default fund' purposes in awards approved by Fair Work Australia.	<b>Support</b> The Government will request Fair Work Australia to review the default superannuation funds named in modern awards so that only those funds offering a MySuper product continue to be included in modern awards as default funds following consultation with relevant stakeholders on the appropriate transitional period.
<b>Recommendation 1.4</b> In 2012, the Productivity Commission should conduct a review of the processes by which default funds are nominated in awards to assess whether the processes are sufficiently open and competitive.	<b>Support</b> The Government will ask the Productivity Commission to design a process, by 1 July 2013, for the selection and ongoing assessment of superannuation funds that are nominated as default funds in modern awards and enterprise agreements.

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<p><b>Recommendation 1.5</b></p> <p>Any fund that is a ‘successor fund’ (as defined in the SIS Act) to a fund currently nominated as a default fund under an award should, where the successor fund is a MySuper product, be accepted automatically as a default fund under the award, so that there is no impediment to consolidation for those funds that wish to do so.</p>	<p><b>Support</b></p> <p>This recommendation will be considered by Fair Work Australia’s reviews of current modern awards.</p>
<p><b>Recommendation 1.6</b></p> <p>The SIS Act should be amended to apply statutory duties to MySuper trustees to:</p> <ul style="list-style-type: none"> <li>(a) formulate and give effect to a single, diversified investment strategy at an overall cost aimed at optimising fund members’ financial best interests, as reflected in the net investment return over the longer term; and</li> <li>(b) actively examine and conclude whether, on an annual basis, its MySuper product has sufficient scale on its own (with respect to both assets and number of members) to continue providing optimal benefits to members.</li> </ul>	<p><b>Support</b></p> <p>The Government will require trustees of MySuper products to meet these heightened trustee duties. The Government will consult on whether a MySuper product’s single, diversified investment strategy can be a lifecycle investment strategy.</p>
<p><b>Recommendation 1.7</b></p> <p>The SIS Act should be amended to require trustees of MySuper products to satisfy objective criteria relating to:</p> <ul style="list-style-type: none"> <li>(a) APRA licensing;</li> <li>(b) acceptance of contributions;</li> </ul>	<p><b>Support</b></p> <p>Superannuation fund trustees wanting to offer a MySuper product will be required to hold a specific MySuper licence issued by the Australian Prudential Regulation Authority (APRA).</p> <p><b>Support</b></p> <p>MySuper products will be required to accept all types of contributions including, but not limited to, superannuation guarantee (SG) contributions, salary sacrifice contributions, after-tax contributions, spouse contributions and rollovers.</p>

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(c) single, diversified investment strategy;	<p><b>Support</b>  Each Registrable Superannuation Entity (RSE) will be able to offer a single MySuper product with a single, diversified investment strategy. The Government will further consider trustees offering a lifecycle investment option as the single investment option, and whether in limited circumstances, separate brands within an RSE can offer separate MySuper products.</p>
(d) absence of costs cross-subsidisation;	<p><b>Do not support</b>  Trustees will be required to make a fair and reasonable allocation of costs between MySuper and other products. The Government will consult further on design and implementation issues.</p>
(e) buy and sell spreads;	<p><b>Support in principle</b>  The Government will determine the types of fees that can be charged by MySuper products, including no entry fees and limits on exit and switching fees. The Government will consult further on design and implementation issues.</p>
(f) switching fees;	<p><b>Support in principle</b>  The Government will determine the types of fees that can be charged by MySuper products, including no entry fees and limits on exit and switching fees. The Government will consult further on design and implementation issues.</p>
(g) fee discounts;	<p><b>Support in principle</b>  The Government supports requiring MySuper trustees to charge all members the fees stated in their fee schedules to ensure simplicity, transparency and comparability of MySuper products. Making fees more easily comparable will assist in improving competition between MySuper products.</p>
(h) performance-based investment management fees;	<p><b>Support</b>  The Government will determine parameters under which trustees can pay performance fees to fund managers in respect of MySuper products, and will consult further on design and implementation issues.</p>

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(i) e-super disclosures;	<p><b>Do not support</b></p> <p>The Government will further consider e-disclosure requirements through existing processes for financial product disclosure. While requiring only e-disclosure of Product Disclosure Statements may reduce costs, it may also disadvantage some members.</p>
(j) retirement income stream product;	<p><b>Noted</b></p> <p>The Government will consult with relevant stakeholders on whether post-retirement products should be mandated for MySuper products at some time in the future.</p>
(k) entry and exit fees;	<p><b>Support</b></p> <p>The Government will determine the types of fees that can be charged by MySuper products, including no entry fees and limits on exit and switching fees. The Government will consult further on design and implementation issues.</p>
(l) benchmarking;	<p><b>Support</b></p> <p>The Government will ask APRA to develop a process for collecting and publishing comparable data which allows APRA to publish long-term net returns for MySuper products.</p>
(m) intra-fund advice;	<p><b>Noted</b></p> <p>The Government will consult with relevant stakeholders on whether MySuper products should be required to offer intra-fund advice and the appropriate timing of any change.</p>
(n) insurance;	<p><b>Support</b></p> <p>MySuper products will be required to offer life and total and permanent disability (TPD) cover (where available, depending on occupational and demographic factors) on an opt-out basis. The Government will consult further on implementation of this recommendation.</p>
(o) absence of commissions and like payments; and	<p><b>Support</b></p> <p>The Government has adopted this principle as part of the <i>Future of Financial Advice</i> reforms and is consulting on implementation details.</p>
(p) member engagement	<p><b>Do not support</b></p> <p>The Government considers that member engagement activities are a matter for the trustee to determine.</p>

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<p><b>Recommendation 1.8</b></p> <p>Neither advice to members (other than intra-fund advice), nor advice to employers should be 'bundled' with MySuper products.</p>	<p><b>Support in principle</b></p> <p>The Government has adopted the principle that financial advice costs should not be bundled with products as part of the <i>Future of Financial Advice</i> reforms and is consulting on implementation details.</p>
<p><b>Recommendation 1.9</b></p> <p>Advice to members of a MySuper product (other than intra-fund advice) should only be provided on request and trustees should only be able to deduct the costs of advice about superannuation from a member's account with the member's written agreement.</p>	<p><b>Support</b></p> <p>The Government has adopted this principle through the <i>Future of Financial Advice</i> reforms and is consulting on implementation details.</p>
<p><b>Recommendation 1.10</b></p> <p>The cost of advice or services provided to employers should not be borne in any way, directly or indirectly, by MySuper members.</p>	<p><b>Support</b></p> <p>The Government supports the cost of advice provided to employers not being borne by MySuper members, and will consult with relevant stakeholders on implementation details.</p>
<p><b>Recommendation 1.11</b></p> <p>Trustees of MySuper products should not:</p> <ul style="list-style-type: none"> <li>(a) pay or fund any product-based up-front or trailing commission or other similar payment; or</li> <li>(b) make or fund any payment that relates to volume,</li> </ul> <p>in respect of superannuation advice or other products or services provided to members.</p>	<p><b>Support</b></p> <p>The Government has adopted this principle through the <i>Future of Financial Advice</i> reforms and is consulting on implementation details, including on whether to extend the ban on commissions to individual risk insurance.</p>
<p><b>Recommendation 1.12</b></p> <p>Members of MySuper products should only be provided with advice about superannuation (other than intra-fund advice) under arrangements that require the member to renew the advice service each year on a renewal notice from the adviser.</p>	<p><b>Support</b></p> <p>The Government has adopted this principle through the <i>Future of Financial Advice</i> reforms and is consulting on implementation details.</p>

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<p><b>Recommendation 1.13</b></p> <p>ASIC should, in consultation with industry, devise a standard form which requires clear identification of the advice service to be provided where a fund member renews an ongoing advice service.</p>	<p><b>Support</b></p> <p>The Government is considering this recommendation further in consultation with the industry through the <i>Future of Financial Advice</i> process.</p>
<p><b>Recommendation 1.14</b></p> <p>Trustees of MySuper products should not pay premiums for insured member benefits that include or fund an up-front or trailing commission or like payment.</p>	<p><b>Support</b></p> <p>Trustees of MySuper products will not be able to pay premiums for insured member benefits that include commissions in relation to the group insurance product. The Government will consult with industry on the treatment of commissions for individual risk insurance products through the <i>Future of Financial Advice</i> process.</p>
<p><b>Recommendation 1.15</b></p> <p>Legislation should apply specific and thorough conduct and enquiry duties on persons (including trustees) providing switching advice to a MySuper member built on the current requirements of section 947D of the Corporations Act.</p>	<p><b>Support</b></p> <p>The Government supports imposing these duties in respect of advice to MySuper members, and will consult with relevant stakeholders on implementation details.</p>
<p><b>Recommendation 1.16</b></p> <p>Members should only be able to be moved involuntarily out of a MySuper product if they are:</p> <ul style="list-style-type: none"> <li>(a) transferred to an ERF;</li> <li>(b) flipped from a MySuper product in a master trust to another MySuper product in another division of that trust; or</li> <li>(c) transferred under legislative requirements such as auto consolidation of accounts or temporary resident arrangements.</li> </ul>	<p><b>Support</b></p> <p>The Government will define the circumstances where a member can be involuntarily moved out of a MySuper product, and will consult with relevant stakeholders on implementation details, including to address the practice of ‘flipping’ members to higher fee default products upon cessation of employment with a particular employer.</p>
<p><b>Recommendation 1.17</b></p> <p>The presentation of retirement forecasts should be mandatory for MySuper products, and should be developed in consultation with industry in accordance with the approach identified by the Panel.</p>	<p><b>Do not support</b></p> <p>The Government will ask the Australian Securities and Investments Commission (ASIC) to continue development of retirement forecasts that can be used by trustees, having regard to the <i>Future of Financial Advice</i> reforms.</p>

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<p><b>Recommendation 1.18</b></p> <p>The superannuation industry should have at least two years to transition to MySuper and the new choice architecture.</p>	<p><b>Noted</b></p> <p>Funds will be able to offer MySuper products from 1 July 2013. However, all existing default funds will not be required to convert to MySuper products at this date.</p> <p>Existing default funds will transition to MySuper after an appropriate period. The Government will consult with relevant stakeholders on the duration of this transition and other implementation issues.</p>
<p><b>Recommendation 1.19</b></p> <p>Both APRA and ASIC should oversee the transition referred to in Recommendation 1.18.</p>	<p><b>Noted</b></p> <p>The Government will monitor the implementation of, and transition to, MySuper.</p>
<p><b>Recommendation 1.20</b></p> <p>Trustees of choice sector products should also not be able to charge entry fees and should only charge exit fees on a cost recovery basis.</p>	<p><b>Support</b></p> <p>The Government will determine the types of fees that can be charged on choice products, including no entry fees and limits on exit and switching fees. The Government will consult further with relevant stakeholders on design and implementation issues.</p>
<p><b>Recommendation 1.21</b></p> <p>Neither advice to members (other than intra-fund advice), nor advice to employers should be bundled with choice products or with any other product in the choice architecture model, including products offered to SMSFs.</p>	<p><b>Support</b></p> <p>The Government has adopted the principle that financial advice costs should not be bundled with products as part of the <i>Future of Financial Advice</i> reforms and is consulting on implementation details.</p>
<p><b>Recommendation 1.22</b></p> <p>Advice to members of a choice product or of any other product in the choice architecture model (other than intra-fund advice) should only be provided on request and trustees should only be able to deduct the costs of advice about superannuation from a member's account with the members' written agreement.</p>	<p><b>Support</b></p> <p>The Government has adopted this principle through the <i>Future of Financial Advice</i> reforms and is consulting on implementation details.</p>

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<p><b>Recommendation 1.23</b></p> <p>The costs of advice to employers should not be borne in any way, directly or indirectly, by members of choice products or by members of any other products in the choice architecture model.</p>	<p><b>Support</b></p> <p>The Government supports the cost of advice provided to employers not being borne by members, and will consult with relevant stakeholders on implementation details.</p>
<p><b>Recommendation 1.24</b></p> <p>Trustees of choice products or of any other product in the choice architecture model should not:</p> <ul style="list-style-type: none"> <li>(a) pay or fund any product-based up-front or trailing commission or other similar payment; or</li> <li>(b) make or fund any payment that relates to volume,</li> </ul> <p>in respect of superannuation advice or other products or services provided to members.</p>	<p><b>Support</b></p> <p>The Government has adopted this principle through the <i>Future of Financial Advice</i> reforms and is consulting on implementation details, as well as whether to extend the ban on commissions to individual risk products.</p>
<p><b>Recommendation 1.25</b></p> <p>Members of choice products or of any other product in the choice architecture model should only be provided with advice about superannuation (other than intra-fund advice) under arrangements that require the member to renew the advice service each year on a renewal notice from the adviser.</p>	<p><b>Support</b></p> <p>The Government has adopted this principle through the <i>Future of Financial Advice</i> reforms and is consulting on implementation details.</p>
<p><b>Recommendation 1.26</b></p> <p>Trustees of choice products or of any other product in the choice architecture model should not pay premiums for insured member benefits that include or fund an up-front or trailing commission or like payment.</p>	<p><b>Noted</b></p> <p>The Government will consult with industry on the treatment of commissions for individual risk insurance products through the <i>Future of Financial Advice</i> process.</p>
<p><b>Recommendation 1.27</b></p> <p>Choice trustees must offer a range of options sufficient to allow members to obtain a diversified asset mix if they choose, but members can choose to be undiversified and the trustee would have no obligation to assess the appropriateness of the investment strategy chosen by the member. Trustees would be subject to new express duties in selecting and monitoring options.</p>	<p><b>Support in principle</b></p> <p>The Government will consult further with relevant stakeholders on this recommendation.</p>



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### Recommendation 1.28

A choice trustee that discharges its duties in selecting and monitoring investment options should not be exposed to civil liability in the event that a member suffers damage by reason of illiquidity or other circumstances affecting the investment option, including diminution in value or failure.

### Support in principle

The Government will consult further with relevant stakeholders on this recommendation.

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## Chapter 2: Trustee governance

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### Recommendation 2.1

The SIS Act should be amended to create a distinct new office of ‘trustee-director’ with all statutory duties (including those which would otherwise be in the Corporations Act) to be fully set out in the SIS Act, along with re-focused duties for trustees. The duties for trustee directors should include:

- (a) To act solely for the benefit of members, including and in particular:
  - (i) to avoid putting themselves in a position where their interests conflict with members’ interests;
  - (ii) to give priority to the duty to members when that duty conflicts with the trustee-director’s duty to the trustee company, its shareholders or any other person;
  - (iii) to avoid putting themselves in a position where their duty to any other person (such as another super fund or a service provider) conflicts with their duty to members;
  - (iv) to avoid putting themselves in a position where their duty to any other person (other than members) conflicts with their duty to the trustee company;
  - (v) not to obtain any unauthorised benefit from the position of trustee or trustee-director; and

### Support in principle

The Government notes the recommendation to establish a new office of trustee-director and will consider whether the proposed arrangements achieve a more accountable and efficient trustee governance regime.

The Government supports the need for heightened trustee duties and will consult with relevant stakeholders on this recommendation.

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- (vi) not to enter into any contract, or do anything else, that would prevent the trustee from, or hinder the trustee in, properly performing or exercising the trustee's functions and powers.
  - (b) To act honestly.
  - (c) To exercise independent judgment.
  - (d) To exercise the degree of care, skill and diligence as an ordinary prudent person of business would exercise in dealing with the property of another for whom the person felt morally bound to provide.
  - (e) To have specific regard to (among other matters) the likely long term consequences of any decision, including the impact of the decision on the community and the environment and on the entity's reputation for high standards of conduct.
- The duties for trustees should include:
- (a) To keep the money and other assets of the entity separate from any money and assets, respectively:
    - (i) that are held by the trustee personally; or
    - (ii) that are money or assets, as the case may be, of a standard employer-sponsor or an associate of a standard employer-sponsor, of the entity.
  - (b) To formulate and give effect to an investment strategy in respect of the fund as a whole and each investment choice option, that has regard to the whole of the circumstances of the entity including, but not limited to, the following:
    - (i) the risk involved in making, holding and realising, and the likely return from, the
    - (ii) entity's investments having regard to its objectives and its expected cash flow requirements;

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- (iii) the composition of the entity's investments as a whole, including the extent to which the investments are diverse or involve the entity in being exposed to risks from inadequate diversification;
  - (iv) the liquidity of the entity's investments having regard to its expected cash flow requirements;
  - (v) the ability of the entity to discharge its existing and prospective liabilities;
  - (vi) the expected costs of the strategy, including those at different levels of any interposed legal structures and under a variety of market conditions; and
  - (vii) the taxation consequences of the strategy, in light of the circumstances of the fund.
- (c) To formulate and give effect to an insurance strategy which includes, but is not limited to, the types of insurance to be offered and the default minimum and permissible maximum levels of cover to be offered as well as the cost and value for money to members.
- (d) If there are any reserves of the entity, to formulate and to give effect to a strategy for their prudential management, consistent with the entity's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due.
- (e) To allow a beneficiary access to any prescribed information or any prescribed documents.
- (f) To act fairly between all beneficiaries of the fund and to act impartially between beneficiaries of the same class.

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### Recommendation 2.2

Trustee-directors should not be required to have specific pre-appointment skills or training. However, APRA should consider further strengthening its administration of the 'fitness' test under the SIS Act including requiring potential trustee-directors to be fully briefed before accepting the position (or deciding to seek nomination, where applicable) as to their responsibilities and potential liabilities. The Code of Trustee Governance should address the on-going training requirements that trustees and trustee-directors must meet on an annual basis.

### Support in principle

The Government supports the need to strengthen trustee requirements and will refer the recommendation to APRA for consideration in consultation with industry.

### Recommendation 2.3

The board of the trustee must demonstrate on an annual basis that it has the collective skill set to govern the APRA-regulated fund or funds for which it is responsible and this should be one of the subjects covered in the independent annual review of the board.

### Support in principle

The Government supports the need to strengthen trustee requirements and will refer the recommendation to APRA for consideration, including whether an annual review is appropriate.

### Recommendation 2.4

The SIS Act should be amended so that it is no longer mandatory for trustee boards to maintain equal representation in selecting its trustee-directors. The Panel expects that trustees would review and amend corporate constitutions to ensure consistency with this recommendation.

### Do not support

The Government considers that the current arrangements requiring equal representation remain appropriate in ensuring members are able to participate in the management and protection of their retirement savings.

### Recommendation 2.5

The SIS Act should be amended so that policy committees are no longer mandatory where the trustee board does not have equal representation.

### Do not support

The Government considers that, where equal representation is not mandatory, policy committees remain an appropriate vehicle for ensuring members are able to participate in the management and protection of their retirement saving.

### Recommendation 2.6

The SIS Act should be amended so that if a trustee board does not have equal representation, the trustee must have a majority of 'non-associated' trustee-directors (as described in chapter 2).

### Do not support

The Government considers that, beyond the existing regulatory framework, the composition of a trustee board is a matter for the board to determine, but will refer to APRA the need for guidance on managing conflicts of interest.

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<p><b>Recommendation 2.7</b></p> <p>For those boards that have equal representation because their company constitutions or other binding arrangements so require, the SIS Act should be amended so that no less than one-third of the total number of member representative trustee-directors must be non-associated and no less than one-third of employer representative trustee-directors must be non-associated.</p>	<p><b>Do not support</b></p> <p>The Government considers that, beyond the existing regulatory framework, the composition of a trustee board is a matter for the board to determine, but will refer to APRA the need for guidance on managing conflicts of interest.</p>
<p><b>Recommendation 2.8</b></p> <p>The Corporations Act should be amended so that any provision of a trustee company constitution that prohibits any trustee-director from voting on any trustee company business (other than in the event of conflict of duty or interest) is ineffective.</p>	<p><b>Support in principle</b></p> <p>The Government will consult with relevant stakeholders on impediments to directors voting on trust company business.</p>
<p><b>Recommendation 2.9</b></p> <p>SIS Act section 101 should be amended to require a trustee to provide a member with reasons for its decision in relation to the member’s formal complaint.</p>	<p><b>Support in principle</b></p> <p>The Government considers it appropriate for members to receive reasons for a decision on a formal complaint and will consult with relevant stakeholders to determine how best to require reasons in a way that balances the costs with the benefits.</p>
<p><b>Recommendation 2.10</b></p> <p>Section 197 of the Corporations Act should have no application to a director of a company to the extent that the company is acting as a trustee of an RSE and the Corporations Act should be amended accordingly.</p>	<p><b>Do not support</b></p> <p>The Government notes the recommendation to amend the <i>Corporations Act 2001</i>, but sees no practical conflict arising from the interaction of the operation of section 197 of the <i>Corporations Act 2001</i> and section 56 of the <i>Superannuation Industry (Supervision) Act 1993</i> (‘SIS Act’) and will consult with relevant stakeholders for clarity.</p>
<p><b>Recommendation 2.11</b></p> <p>All trustees should be required, as a condition of their RSE licence, to have an appropriate level of indemnity insurance cover and to provide an annual certificate of currency to APRA.</p>	<p><b>Do not support</b></p> <p>The Government notes the recommendation to mandate indemnity insurance but considers the purchase and appropriate level of indemnity insurance to be a matter for trustees to consider as part of their risk management processes. APRA requires trustees to have a risk management strategy to deal with risks at the trustee level, including risks arising from governance and decision making.</p>

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<p><b>Recommendation 2.12</b></p> <p>The enforcement provisions of the SIS Act and the Corporations Act should be reviewed and an appropriate proportionate penalty regime should be designed to take into account the new duties imposed on trustees and trustee-directors.</p>	<p><b>Noted</b></p> <p>The Government notes the recommendation and considers it appropriate to address enforcement provisions at the time of undertaking any broader review of penalties.</p>
<p><b>Recommendation 2.13</b></p> <p>In order for a trustee-director to act as a trustee-director on the board of more than one APRA-regulated fund, the person and both boards need to attest to APRA that at the time of appointment there is no reasonably foreseeable conflict between the person's duty to the members of each fund and to the person's duty to each trustee company. There would be a transitional period for existing trustee directors with multiple board positions. APRA would need the appropriate regulatory tools to administer this requirement.</p>	<p><b>Noted</b></p> <p>The Government notes the recommendation and primarily considers it a matter for individual boards to determine whether it is appropriate to have a trustee director who is also a trustee director of another APRA-regulated fund, but will refer to APRA the need for guidance on managing conflicts of interest.</p>
<p><b>Recommendation 2.14</b></p> <p>The SIS Act should be amended so as to override any provision in the governing rules of an APRA-regulated fund that requires the trustee to use a specified service provider in relation to any services in respect of the fund.</p>	<p><b>Support in principle</b></p> <p>The Government considers that trustees should be able to select service providers but will consult with relevant stakeholders on design and implementation issues.</p>
<p><b>Recommendation 2.15</b></p> <p>A record of all gifts, emoluments and benefits (subject to an appropriate materiality threshold) provided to trustees, trustee directors and management should be kept in a register maintained by the trustee and disclosed to APRA annually as well as in the annual fund report to members and on the fund's website.</p>	<p><b>Support in principle</b></p> <p>The Government will consult on disclosure requirements and materiality thresholds in relation to the implementation of such a gift register.</p>
<p><b>Recommendation 2.16</b></p> <p>APRA should develop a prudential standard that sets out particular examples of conflicts of interest and conflicts of duty to illustrate behaviour that would not be allowed in relation to all APRA-regulated funds so as to ensure that trustee-directors and trustees observe their duty of loyalty to members.</p>	<p><b>Support in principle</b></p> <p>The Government will refer the recommendation to APRA for consideration.</p>

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### Recommendation 2.17

Trustees of APRA-regulated funds should, as a condition of their RSE licence, be required to articulate and follow a conflicts policy specifically tailored to their business structure that addresses all relevant issues regarding their role under the SIS Act and as a fiduciary to the members of the fund.

### Support in principle

The Government will refer the recommendation to APRA for consideration.

### Recommendation 2.18

An industry council (coordinated by APRA) should develop, in consultation with all stakeholders, a Code of Trustee Governance for trustees of superannuation funds and their trustee-directors to assist with identifying best practice in the industry. The Code could cover, but not be restricted to:

- (a) the imposition of a higher standard of competence and a greater commitment of time from those appointed to chair a super fund board than is required of other trustee directors;
- (b) board size, including whether a maximum is appropriate and any transitional period for successor fund transfers and mergers;
- (c) length of time in office and retirement by rotation;
- (d) development of an enhanced conflicts-handling policy, including maintenance of an affected decisions register and regular reporting to APRA;
- (e) skill set for each director to demonstrate within the first 12 months of appointment;
- (f) a skill matrix for the trustee board and analysis of how the current composition of the board provides the skills required under the matrix;
- (g) a procedure for a rigorous and independent annual review of the performance of each trustee-director and the overall collective competence and performance of the board;
- (h) gender and other diversity requirements;
- (i) tendering for and benchmarking service providers; and
- (j) minimum ongoing training requirements.

### Support in principle

The Government supports best practice in governance and that these matters be addressed, to the extent possible, by a voluntary industry code of governance and, where appropriate, by prudential standards. The Government will consult with relevant stakeholders on design and implementation issues.

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### Recommendation 2.19

If industry cannot work together to establish such a council, or cannot finalise a Code of Trustee Governance within two years, then APRA should create the Code.

### Support in principle

The Government supports best practice in governance and that these matters be addressed, to the extent possible, by a voluntary industry code of governance and, where appropriate, by prudential standards. The Government will consult with relevant stakeholders on design and implementation issues.

### Recommendation 2.20

There should be an annual audit of the trustee's performance against the requirements of the Code of Trustee Governance and the results of that audit should be made available on the fund's website.

### Support in principle

The Government supports transparency in trustee compliance with best practice governance.

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## Chapter 3: Investment governance

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### Recommendation 3.1

That section 52(2)(f) of the SIS Act be amended to include 'the expected costs of the strategy, including those at different levels of any interposed legal structures and under a variety of market conditions', as one of the factors to which APRA fund trustees must 'have regard'.

### Support in principle

The Government considers that trustees should have regard to the costs of their investment strategies but will consult with relevant stakeholders on design and implementation issues.

### Recommendation 3.2

An enforceable 'performance fee standard' should be developed by APRA in consultation with industry.

### Support

The Government, in conjunction with APRA, will determine parameters under which trustees can pay performance fees to fund managers, and will consult further with relevant stakeholders on design and implementation issues.

### Recommendation 3.3

No performance-based fees may be paid by the trustee of a MySuper product unless the payment conforms with the 'performance fee standard'.

### Support

The Government, in conjunction with APRA, will determine parameters under which trustees can pay performance fees to fund managers in respect of MySuper products, and will consult further with relevant stakeholders on design and implementation issues.



## Super System Review recommendations

## Government response

### Recommendation 3.4

That section 52(2)(f) of the SIS Act be amended to include ‘the taxation consequences of the strategy, in light of the circumstances of the fund’, as one of the factors to which APRA fund trustees must ‘have regard’, and to ensure that trustees consider those taxation consequences when giving instructions in mandates to investment managers.

### Support in principle

The Government agrees in principle with this recommendation and will consult with relevant stakeholders as to how it could be implemented.

### Recommendation 3.5

That section 52(2)(f) of the SIS Act be amended to include ‘the availability of valuation information that is both timely and independent of the fund manager, product provider or security issuer’, as one of the factors to which APRA fund trustees must ‘have regard’.

### Support in principle

The Government considers that trustees should have regard to valuation information but will consult with relevant stakeholders on design and implementation issues.

### Recommendation 3.6

All large APRA funds should publish their proxy voting policies and procedures, and disclose their voting behaviour to members on their websites.

### Support in principle

The Government considers that large APRA-regulated funds should publish proxy voting policies and procedures but will consult with relevant stakeholders on design and implementation issues.

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## Chapter 4: Outcomes transparency

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### Recommendation 4.1

With an enhanced rule-making power, APRA, in consultation with ASIC and industry, should develop outcomes reporting standards as an overlay to the existing accounting standards AAS 25 and ED 179 to facilitate consistent and comparable reporting by large APRA funds of investment performance and costs at investment option level, including for MySuper products.

### Support in principle

The Government will ask APRA to develop approaches to publishing investment performance data that would improve transparency, comparability and accountability in relation to fees, costs and investment returns, including for MySuper products. The Government will ask ASIC to develop standards for disclosure by trustees.

Super System Review recommendations	Government response
<p><b>Recommendation 4.2</b></p> <p>In addition to whole of fund reporting, APRA should publish investment return performance data for MySuper products.</p>	<p><b>Support</b></p> <p>The Government will ask APRA to develop approaches to publishing investment performance data that would improve transparency, comparability and accountability in relation to fees, costs and investment returns, including for MySuper products. The Government will ask ASIC to develop standards for disclosure by trustees.</p>
<p><b>Recommendation 4.3</b></p> <p>All funds should be required to publish on their websites an investment option performance table (as shown in table 4.1 in chapter 4) showing investment returns and costs at investment option level, in accordance with an outcomes reporting standard to be developed by APRA in consultation with ASIC and the industry.</p>	<p><b>Support in principle</b></p> <p>The Government supports improved disclosure requirements but will consult with relevant stakeholders on design and implementation issues.</p>
<p><b>Recommendation 4.4</b></p> <p>APRA should be the sole public sector agency responsible for collecting data for all public purposes in respect of all APRA funds and EPSSSs. APRA should have the primary responsibility for the publication of all superannuation data in as disaggregated a form as is consistent with privacy principles.</p>	<p><b>Support</b></p> <p>The Government supports this recommendation.</p>
<p><b>Recommendation 4.5</b></p> <p>The ATO should continue to collect data in relation to SMSFs.</p>	<p><b>Support</b></p> <p>The Government supports this recommendation.</p>
<p><b>Recommendation 4.6</b></p> <p>It should be mandatory, when referring to past performance of a MySuper product or a choice investment option, to disclose a standardised measure of the uncertainty or volatility associated with the return (an example of which is shown in table 4.1 in chapter 4). This requirement, and the volatility measure to be used, should be in an outcomes reporting standard to be developed by APRA in consultation with ASIC and the industry.</p>	<p><b>Support in principle</b></p> <p>The Government supports improved disclosure requirements but will consult with relevant stakeholders on design and implementation issues.</p>

## Super System Review recommendations

## Government response

### Recommendation 4.7

All forms of cost and fee disclosure by superannuation funds should be on a pre-tax basis, i.e. gross of tax, in accordance with an outcomes reporting standard to be developed by APRA in consultation with ASIC and the industry.

### Support in principle

The Government supports improved disclosure requirements but will consult with relevant stakeholders on design and implementation issues. APRA will be able to publish industry data which is transparent and comparable for fees, costs and investment returns.

### Recommendation 4.8

An outcomes reporting standard should be developed by APRA, after consultation with ASIC and the industry, which would deal with how investment returns have to be calculated both gross and net of all costs (administration and investment) and taxes and then disclosed only in a format governed by the standard.

### Support

The Government will ask APRA to publish industry data which is transparent and comparable for fees, costs and investment returns and ASIC to develop standards for disclosure by trustees.

### Recommendation 4.9

In consultation with industry, government should finalise the details of an investment option performance table for MySuper products and choice investment options, building on the model proposed by the Panel. APRA should then specify this in an outcomes reporting standard. Specifically, the consultation would progress the development of a standardised disclosure format containing:

- (a) gross investment returns, costs and investment returns net of all costs (administration and investment) and taxes for investment options for 1, 5, and 10-year periods; and
- (b) the number of quarters of negative investment returns the investment option has incurred in the past 10 years, or a proxy figure developed using data published by APRA for those options with a history of less than 10 years.

### Support in principle

The Government supports improved disclosure requirements but will consult with relevant stakeholders on design and implementation issues.

### Recommendation 4.10

Investment option performance table data would have to be maintained by trustees and be easily accessible on the fund's website for as long as the fund remains in existence.

### Support in principle

The Government supports improved disclosure requirements but will consult with relevant stakeholders on design and implementation issues.

## Super System Review recommendations

## Government response

### Recommendation 4.11

Trustees of large APRA funds should disclose each diversified investment option's investment return target and risk target, as shown in table 4.2 of chapter 4 in a product 'dashboard'. A similar approach should be required for undiversified options, with the underlying asset class or classes being disclosed in place of the 'investment return target'.

### Support in principle

The Government supports improved disclosure requirements but will consult with relevant stakeholders on design and implementation issues.

### Recommendation 4.12

In consultation with industry, APRA should develop an outcomes reporting standard dealing with all of the requirements for the product 'dashboard'. Specifically, the consultation should progress the development of a product 'dashboard' containing the:

- (a) net investment return target (after-tax), which should be expressed as a percentage above CPI, over a rolling 10-year period;
- (b) range of possible outcomes for a MySuper product or choice investment option (i.e. risk target) over a 10-year period in a visual, diagrammatic format;
- (c) the projected liquidity of the MySuper product or investment option;
- (d) projected Total Annual Expense Ratio (TAER) which would capture all the projected costs to at least the first non-associated entity level; and
- (e) relative ranking of overall fees (as collected and published by APRA).

### Support in principle

The Government supports improved disclosure requirements but will consult with relevant stakeholders on design and implementation issues.

## Super System Review recommendations

## Government response

### Recommendation 4.13

As part of the development of an outcomes reporting standard, APRA, in consultation with the industry, would ensure trustees report costs to APRA on a consistent basis.

The standard would prescribe:

- (a) cost categories and their composition;
- (b) requirement for cost categories to be subject to an annual audit;
- (c) 'cost categories' to be reported in the APRA annual return at the whole of fund and MySuper levels; and
- (d) costs to be disclosed to at least the first non-associated entity level.

### Support in principle

The Government will ask APRA to publish industry data which is transparent and comparable for fees, costs and investment returns and ASIC to develop standards for disclosure by trustees.

### Recommendation 4.14

Trustees offering MySuper products should be required to participate in APRA-approved benchmarking surveys that would measure their relative efficiency against peers in a number of key areas (e.g. administration costs per member, service standards) in accordance with an outcomes reporting standard to be developed by APRA in consultation with ASIC and the industry. APRA should be required to publish the results of such benchmarking surveys.

### Support

The Government will ask APRA to develop a process for collecting data which will allow the publication of appropriate information on the risks and investment returns of MySuper products.

### Recommendation 4.15

APRA should have explicit powers to collect superannuation fund data on a 'look-through' basis so that it can achieve an understanding of the fund's asset allocation, risk, returns and costs.

### Support

The Government will ensure that APRA has the power to collect superannuation fund data on a 'look-through' basis. This is essential to ensuring APRA can collect and publish comparable data on the long-term risk-categorised net returns of MySuper products.

Super System Review recommendations	Government response
<p><b>Recommendation 4.16</b></p> <p>Trustees of large APRA funds should be required to disclose their complete portfolio holdings on a six-monthly basis in accordance with an outcomes reporting standard to be developed by APRA in consultation with ASIC and the industry. This would require disclosure to APRA within 60 days after the end of each six month period, corresponding with normal financial years and half-years, and then public disclosure of the same information, on the fund’s website, three months later.</p>	<p><b>Support in principle</b></p> <p>The Government supports improved disclosure requirements but will consult with relevant stakeholders on the costs and benefits of this recommendation.</p>
<p><b>Recommendation 4.17</b></p> <p>Trustees of large APRA funds should maintain a website that provides, free of charge, systemic transparency about the fund and the fund’s management.</p>	<p><b>Support in principle</b></p> <p>The Government supports improved disclosure requirements but will consult with relevant stakeholders on the costs and benefits of this recommendation.</p>
<p><b>Recommendation 4.18</b></p> <p>Trustees should retain the last 10 years’ worth of such information and make it available on the fund’s website.</p>	<p><b>Support in principle</b></p> <p>The Government supports improved disclosure requirements but will consult with relevant stakeholders on the costs and benefits of this recommendation.</p>
<p><b>Recommendation 4.19</b></p> <p>Trustees should be required to publish on the fund website the historical Total Annual Expense Ratio (TAER), which would capture the historical costs to at least the first non-associated entity level, for each MySuper product or choice investment option within the fund.</p>	<p><b>Support in principle</b></p> <p>The Government supports improved disclosure requirements but will consult with relevant stakeholders on the costs and benefits of this recommendation.</p>
<p><b>Recommendation 4.20</b></p> <p>Government should task ASIC, in consultation with industry, other regulators and consumer groups, to establish a central website about superannuation to draw together features, including standard disclosure of legislative, tax and other super-related features, and to be a portal to other superannuation-related information. All large APRA funds would be required to link their websites to this site.</p>	<p><b>Support in principle</b></p> <p>The Government supports improved disclosure requirements but will consult with relevant stakeholders on design and implementation issues.</p>

## Chapter 5: Insurance in superannuation

### Recommendation 5.1

Life insurance cover and TPD cover (where available, depending on occupational and demographic factors) must be offered on an opt-out basis in MySuper products.

### Support

MySuper products will be required to offer life and TPD cover (where available, depending on occupational and demographic factors) on an opt-out basis. The Government will consult further on implementation of this recommendation.

### Recommendation 5.2

The requirement for a minimum level of life insurance that must be offered by eligible choice funds as set out in Regulation 9A and Schedule 1 to the Superannuation Guarantee (Administration) Regulations 1993 should be repealed.

### Do not support

The Government considers that choice trustees should offer life and TPD insurance, on an opt-out basis, and will consult further with relevant stakeholders on this issue.

### Recommendation 5.3

Trustees of MySuper products, and trustees of large APRA funds that offer insurance, should have a statutory duty to manage insurance with the sole aim of benefiting members, including:

- selecting insurance cover with regard to the cost and value for money for members;
- negotiating the terms of the insurance contract, including adequacy of the level of default cover; and
- pursuing claims that the insurer has denied in part or in total where there is a reasonable expectation of success.

### Support in principle

The Government considers that the trustees of all large APRA-regulated funds (including those funds offering a MySuper product) should manage their insurance to benefit members, but will consult with relevant stakeholders on design and implementation issues.

### Recommendation 5.4

The SIS Act should be amended to require trustees of MySuper products, and large APRA funds that offer insurance, to devise and implement an insurance strategy specifying the types of insurance to be offered and the default and permissible maximum levels of cover to be offered.

### Support in principle

The Government considers that the trustees of all large APRA-regulated funds (including those funds offering a MySuper product) should have an insurance strategy, but will consult with relevant stakeholders on design and implementation issues.

### Recommendation 5.5

APRA should issue guidance material to trustees to help them in developing an insurance strategy.

### Support in principle

The Government will refer the recommendation to APRA for consideration.

Super System Review recommendations	Government response
<p><b>Recommendation 5.6</b></p> <p>In the choice sector, trustees should be allowed to offer life and TPD insurance on an opt-out or opt-in basis, or not at all.</p>	<p><b>Support in principle</b></p> <p>The Government considers that choice trustees should offer life and TPD insurance, on an opt-out basis, and will consult further with relevant stakeholders on implementation of this recommendation.</p>
<p><b>Recommendation 5.7</b></p> <p><i>The Superannuation (Resolution of Complaints) Act 1993</i> should be amended to allow the SCT to consider complaints in respect of TPD claims when the claim has been lodged with the trustee within six years of the member ceasing employment and the complaint has been made to the SCT within two years of the trustee's decision.</p>	<p><b>Support in principle</b></p> <p>The Government notes that time limits may affect claims and will consult with relevant stakeholders regarding appropriate limitation periods in which trustees and insurers can be liable.</p>
<p><b>Recommendation 5.8</b></p> <p>The SIS Act should be amended so that the trust deed of a large APRA fund is deemed to define total and permanent disablement in the same way as the insurance policy held by the trustee at the relevant time.</p>	<p><b>Do not support</b></p> <p>The Government considers that changing the definition of total and permanent disablement could affect member entitlements. This recommendation was aimed at assisting successor fund transfers, which the Government will consider further in work underway on product rationalisation.</p>
<p><b>Recommendation 5.9</b></p> <p>Income protection may be offered on an opt-out or opt-in basis, or not at all by trustees of MySuper or choice funds.</p>	<p><b>Support in principle</b></p> <p>The Government supports income protection being offered on an opt-out basis to members of APRA-regulated funds and will consult further with relevant stakeholders on implementation of this recommendation.</p>
<p><b>Recommendation 5.10</b></p> <p>Apart from life, TPD and income protection insurance, no other type of insurance (for example, trauma insurance) should be permitted to be paid for by members through their superannuation and any existing policies outside those categories should be phased out.</p>	<p><b>Support in principle</b></p> <p>The Government will consider this recommendation further and will consult with relevant stakeholders.</p>



## Super System Review recommendations

## Government response

### Recommendation 5.11

Trustees of large APRA funds should be required to publish on their websites the terms and conditions applicable to each type of insurance offered by the fund, along with other information relevant to members, including:

- (a) a plain English explanation of the policy terms;
- (b) premium tables showing the gross premium charged for each category of member (if relevant) at each \$1,000 of cover at current age with a standard frequency of payment. Any additional cost associated with the insurance should be noted as part of this disclosure; and
- (c) TPD claim success rate on a basis to be determined after consultation with the industry.

### Support in principle

The Government will consider this recommendation further and will consult with relevant stakeholders.

### Recommendation 5.12

Up-front and trailing commissions and similar payments should be prohibited in respect of any insurance offered to any superannuation entity, including to SMSFs, regardless of rules on commissions that might apply outside superannuation.

### Noted

Trustees of MySuper products will not be able to pay premiums for insured member benefits that include commissions in relation to the group insurance product. The Government is considering this recommendation further in consultation with the industry through the *Future of Financial Advice* process.

### Recommendation 5.13

MySuper trustees should pro-actively offer intra-fund advice to members in relation to their insurance in MySuper.

### Noted

The Government will consult with relevant stakeholders on whether MySuper products should be required to offer intra-fund advice to members in relation to their insurance, and the appropriate timing of any change.

### Recommendation 5.14

The SIS Act should be amended so that binding death nominations would be invalidated when certain 'life events' occur in respect of the member. The current systems used by States and Territories under which testamentary dispositions are invalidated could be used as guidance for creating a single national model.

### Support in principle

Given the disparity of State and Territory approaches to the invalidity of testamentary dispositions, the Government will consider this recommendation further and consult with relevant stakeholders.

## Super System Review recommendations

## Government response

### Recommendation 5.15

Subject to recommendation 5.14 being implemented, the SIS Act should be amended so that binding death benefit nominations only have to be reconfirmed every five years.

### Support in principle

The Government will consider this recommendation further and consult with relevant stakeholders.

### Recommendation 5.16

After a suitable transitional period, self-insurance of any fund benefits, including death and TPD benefits, should not be permitted in any large APRA fund except defined benefit funds (or sub-plans) that are currently allowed to self-insure.

### Support in principle

The Government considers that self-insurance creates risks for the ability of APRA-regulated funds to meet member claims and should generally not be permitted but will consult with relevant stakeholders on design and implementation issues.

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## Chapter 6: Integrity of the system

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### Recommendation 6.1

New capital requirements for trustees on a risk-weighted basis should be phased-in over time:

- (a) the SIS Act should be amended so that the governing rules for all large APRA funds are deemed to include a provision enabling the trustee to maintain a dedicated and identifiable operational risk reserve separate from member account balances;
- (b) all large APRA funds must hold a minimum level of operational risk reserve, which reserve cannot be fully offset by trustee capital;
- (c) legislation should define a minimum dollar figure for operational risk reserves and a maximum amount, expressed as a percentage of assets in the fund. APRA should have the power to increase the minimum level of capital on a risk-assessed basis. Details of defining a risk weighted requirement between the minimum and maximum should be developed by APRA in consultation with industry;

### Support in principle

(a) to (d) and (f) — The Government considers that the current capital requirements for superannuation fund trustees should be replaced with a risk-based system applying to all APRA-regulated funds for holding financial resources against operational risk, but will consult with relevant stakeholders on whether such a system should require resources to be held in the form of trustee capital or an operational risk reserve within the fund. The Government will also consult on a method for calculating such a requirement.

## Super System Review recommendations

## Government response

- (d) should APRA's assessment of risk in the fund lead it to the view that it would be appropriate for the fund to hold a higher level of reserve than the maximum amount set out in legislation, APRA should use other tools available to it to cause the trustee to reduce the risk exposure of the fund;
- (e) any capital requirement that would otherwise be imposed under the trustee's Australian financial services licence in respect of non-superannuation business should be in addition to the capital requirement imposed under the SIS Act;
- (f) trustees of SAFs should be required to hold an amount of net tangible assets in their own right, calculated by APRA having regard to the operational risk reserve that would be required if the aggregate of SAFs under trusteeship were a single fund; and
- (g) the capital adequacy requirements for prudentially supervised conglomerate groups should have regard to the operational risk reserves in any superannuation fund or funds that are in the group and adequacy requirements for group trustees should have regard to the risk-weighted assets of the rest of the conglomerate group.

(e) The Government considers that any capital requirement arising from a trustee's non-superannuation business should be in addition to any requirement imposed under the SIS Act.

(g) The Government notes the Review's recommendation regarding the interaction between capital requirements for conglomerate groups and requirements for superannuation funds. These issues are the subject of consultation by APRA as part of its proposals to extend its prudential supervision framework to conglomerate groups. APRA has already released a discussion paper on the supervision of conglomerate groups, and will conduct a quantitative impact study in the coming months. APRA expects to release draft prudential standards, reporting standards and forms in respect of its conglomerate proposals for public consultation in 2011. Subject to the consultation process, APRA has advised that it expects to implement the Level 3 framework in 2012.

## Super System Review recommendations

## Government response

### Recommendation 6.2

The SIS Act should be amended to:

- (a) define 'superannuation administrator' and empower APRA to license superannuation administrators, to impose conditions modelled as appropriate on the conditions applicable to RSE licensees, and to enable APRA to impose, modify or revoke additional conditions. Licence conditions should include a risk-weighted capital requirement;
- (b) require that trustees may only use a superannuation administrator licensed by APRA for administration functions which are covered by the outsourcing operating standard. This process should be funded by a levy on those administrators;
- (c) require commercial clearing houses to be licensed as administrators; and
- (d) make clear that the trustee remains liable to the member in the first instance even if the trustee has outsourced administration to a licensed administrator.

### Do not support

Consistent with the approach for other prudentially regulated institutions, the Government does not support APRA licensing of service providers such as administrators or clearing houses. The Government does however support heightened requirements for trustees who deal with administrators and will refer the need for prudential standards in this area to APRA for consideration.

### Recommendation 6.3

Obligations imposed by way of licence conditions on external administrators should be replicated where appropriate by variations to the licence conditions of RSE licensees that operate an in-house administration system.

### Support in principle

The Government supports heightened requirements for trustees and will consult with relevant stakeholders on design and implementation issues.

### Recommendation 6.4

Section 29PD of the SIS Act should be repealed, so that the trustee is not required to make a copy of the trustee's RMP available to a member or to the employer sponsor in the case of a defined benefit scheme.

### Support in principle

The Government supports removing the requirement that trustees make a copy of their risk management plans (RMPs) available to members or employer sponsors.

### Recommendation 6.5

The SIS Act should be amended to provide that, if a trustee makes a formal decision that the RMS fully addresses all risks relevant to one or more of the RSEs under its trusteeship and documents that fact within its RMS, it is not obliged to prepare a separate RMP in relation to the nominated RSE(s).

### Support in principle

The Government supports removing the obligation on trustees to prepare a separate RMP when the risk management strategy (RMS) is considered to be covering all risks relevant to the relevant RSE and will consult with stakeholders on this recommendation.

Super System Review recommendations	Government response
<p><b>Recommendation 6.6</b></p> <p>The Risk Management Plan should explicitly include a liquidity management component to ensure that trustees identify and manage liquidity risk at both the fund level and the investment option level.</p>	<p><b>Support in principle</b></p> <p>The Government supports requiring trustees to explicitly include a liquidity management component in their RMPs.</p>
<p><b>Recommendation 6.7</b></p> <p>The exception to the portability rules for illiquid assets should be retained for choice products only, but the member’s written consent should no longer be required provided that there is adequate disclosure to the member before they select an illiquid investment option.</p>	<p><b>Do not support</b></p> <p>The existing portability rules, including the requirement for written consent for illiquid assets, will continue to apply to both MySuper and choice products. Written consent for investments in illiquid assets is necessary to ensure members are fully aware of the consequences for portability of funds.</p>
<p><b>Recommendation 6.8</b></p> <p>Subject to recommendation 6.7, the current portability rules should be retained for both MySuper and choice products.</p>	<p><b>Support</b></p> <p>The existing portability rules, including the requirement for written consent for illiquid assets, will continue to apply to both MySuper and choice products.</p>
<p><b>Recommendation 6.9</b></p> <p>The trustee’s RMP should have particular regard to liquidity characteristics of investment options offered to members in the retirement phase.</p>	<p><b>Support in principle</b></p> <p>The Government supports requiring trustees to explicitly include material relating to liquidity characteristics of investment options offered to members in the retirement phase in their RMPs.</p>
<p><b>Recommendation 6.10</b></p> <p>APRA should issue a prudential standard that focuses on funding to protect vested benefits and specifies the time period within which a defined benefit fund that is in an unsatisfactory financial position must be restored to a satisfactory financial position, in much the same way that the SIS Act presently addresses insolvency of funds and minimum requisite benefits.</p>	<p><b>Support in principle</b></p> <p>The Government agrees in principle with this recommendation and will refer it to APRA for consideration.</p>

Super System Review recommendations	Government response
<p><b>Recommendation 6.11</b></p> <p>The SIS Act should be amended so that a defined benefit fund which is technically insolvent should not be allowed to accept SG Act contributions unless the fund actuary and the trustee form the view that it is reasonable to believe that the fund will be restored to solvency within the period prescribed under the SIS Act.</p>	<p><b>Noted</b></p> <p>The Government notes the recommendation and will consider whether the current arrangements achieve the right balance between protecting <i>Superannuation Guarantee (Administration) Act 1992</i> (SG Act) contributions and ensuring funds are solvent.</p>
<p><b>Recommendation 6.12</b></p> <p>The definition of ‘superannuation contributions’ in the Corporations Act should be clarified so that there is no doubt that defined benefit contributions are afforded the same protection as accumulation contributions.</p>	<p><b>Support in principle</b></p> <p>The Government will consider this recommendation further and consult with relevant stakeholders.</p>
<p><b>Recommendation 6.13</b></p> <p>Defined benefit funds should automatically qualify as ‘default’ funds for SG Act purposes in respect of the defined benefit provided to members so long as the fund meets the requirements of the SG Act to receive contributions.</p>	<p><b>Support</b></p> <p>Defined benefit funds provide members with a certain retirement benefit regardless of the investment returns or fees. The Government considers that these funds should automatically qualify as a MySuper product in respect of defined benefit members and be able to continue to receive contributions in respect of such members that do not make a choice of fund.</p>
<p><b>Recommendation 6.14</b></p> <p>If the defined benefit fund is a hybrid fund, then the MySuper criteria must be met for accumulation members in order for the fund to be accepted as a default fund under the SG Act in respect of those members.</p>	<p><b>Support</b></p> <p>In respect of members that have an accumulation benefit, a hybrid fund will be required to meet the MySuper criteria to continue to be a default fund for those members.</p>
<p><b>Recommendation 6.15</b></p> <p>If a member has both defined benefits and accumulation benefits as part of the defined benefit fund’s benefit design, and the accumulation benefit is not necessary to meet the employer’s SG Act obligations, then the MySuper criteria do not have to be met in respect of those members.</p>	<p><b>Support</b></p> <p>If a fund’s defined benefit component satisfies the SG Act obligations of each employer making contributions to the fund, it will automatically qualify as a MySuper product and be able to continue to receive contributions from members that do not choose a fund.</p>

Super System Review recommendations	Government response
<p><b>Recommendation 6.16</b></p> <p>Trustees of defined benefit funds (or sub-plans) that are presently allowed to self-insure death and TPD benefits should continue to be allowed to do so.</p>	<p><b>Support in principle</b></p> <p>The Government supports in principle allowing trustees of defined benefit funds (or sub-plans) that are currently allowed to self-insure death and TPD benefits to continue with such practices.</p>
<p><b>Recommendation 6.17</b></p> <p>In developing investment strategies, trustees should explicitly consider both short and long term risks, consistent with their stated investment horizon. Trustees would not be required to make decisions based on ESG issues but as ESG issues represent one type of long term risk, trustees should consider ESG issues as they think appropriate.</p>	<p><b>Support in principle</b></p> <p>The Government agrees that environmental, social and governance (ESG) issues are a matter for trustees to consider.</p>
<p><b>Recommendation 6.18</b></p> <p>The government should not mandate that superannuation fund trustees participate in any particular investment class or vehicle, including infrastructure.</p>	<p><b>Support</b></p> <p>The Government agrees that investment decisions are a matter for trustees.</p>

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## Chapter 7: Retirement

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<p><b>Recommendation 7.1</b></p> <p>MySuper products must include one type of income stream product, either through the fund or in conjunction with another provider, so that members can remain in the fund and regard MySuper as a whole of life product. The Government should consult comprehensively with industry before mandating the post-retirement arrangements to apply to MySuper products.</p>	<p><b>Noted</b></p> <p>The Government will consult with relevant stakeholders on whether post-retirement products should be mandated for MySuper products at some time in the future.</p>
<p><b>Recommendation 7.2</b></p> <p>Trustees should be required to offer intra-fund advice proactively to MySuper members as they approach normal retirement age. Over time, advice should be available on as broad a range as possible of the financial issues that members will face in retirement, subject to the requirements of the sole purpose test. In the near term, advice should address investment allocation and alternative retirement products offered within the fund.</p>	<p><b>Noted</b></p> <p>The Government will consult with relevant stakeholders on whether MySuper products should be required to offer intra-fund advice and the appropriate timing of any change.</p>

Super System Review recommendations	Government response
<p><b>Recommendation 7.3</b></p> <p>Trustees should offer intra-fund advice proactively to MySuper members in the retirement phase at periodic intervals.</p>	<p><b>Noted</b></p> <p>The Government will consult with relevant stakeholders on whether MySuper products should be required to offer intra-fund advice and the appropriate timing of any change.</p>
<p><b>Recommendation 7.4</b></p> <p>Trustees must devise a separate investment strategy for post-retirement members in MySuper products which has regard to the factors as set out in section 52(2)(f) of the SIS Act as well as inflation and longevity risk.</p>	<p><b>Support</b></p> <p>The Government supports requiring a separate investment strategy for post-retirement members in MySuper and choice products which offer retirement income stream products and will consult with relevant stakeholders on implementation issues.</p>

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## Chapter 8: Self-managed super solutions

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<p><b>Recommendation 8.1</b></p> <p>The current membership limit of four members for a SMSF should not be increased.</p>	<p><b>Support</b></p> <p>The Government agrees that the current membership limit of four members for a self managed superannuation fund (SMSF) is appropriate.</p>
<p><b>Recommendation 8.2</b></p> <p>Legislation should be passed to provide the ATO with the power to issue administrative penalties against SMSF trustees on a sliding scale reflecting the seriousness of the breach. The penalties should not be payable from the corpus of the fund, and may be applied jointly or severally against the trustees or trustee directors.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders on the design of the scale of penalties.</p>
<p><b>Recommendation 8.3</b></p> <p>SIS legislation should be amended to provide the ATO with the power to issue relevant persons with a direction to rectify specified contraventions within a specified reasonable time. A breach of a direction should be a strict liability offence.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.</p>



Super System Review recommendations	Government response
<p><b>Recommendation 8.4</b></p> <p>The ATO should be given the power to enforce mandatory education for trustees who have contravened SIS legislation. Such education should be provided by a body (which could include commercial providers) approved by the regulator and would be at the cost of the trustees and not the corpus of the fund.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.</p>
<p><b>Recommendation 8.5</b></p> <p>The ATO should be given the power to issue binding rulings in relation to SMSFs, subject to the implementation of the Panel’s recommendation to restructure the SIS Act in chapter 10 of this report.</p>	<p><b>Do not support</b></p> <p>The Government does not agree with this recommendation. Binding rulings could result in an SMSF being permitted to maintain an investment that is contrary to retirement income policy. This recommendation could also lead to inconsistencies in regulatory approach in circumstances where the same legislative provisions are administered by both the Australian Taxation Office (ATO) and APRA. The ATO does, and would continue, to provide non-binding advice to SMSFs.</p>
<p><b>Recommendation 8.6</b></p> <p>The Government should task ASIC, in consultation with industry and the ‘expert advisory panel’, to develop the SMSF specialist knowledge component of RG 146, which would focus on increased knowledge and competency with respect to the SIS Act.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation. ASIC will consult with relevant stakeholders and the <i>Future of Financial Advice</i> expert advisory panel on its implementation.</p>
<p><b>Recommendation 8.7</b></p> <p>Government should legislate to require advisers to hold an AFSL where they provide advice in relation to the establishment of an SMSF. The accountants’ licence exemption should not be replaced by any new exemption or restricted licensing framework.</p>	<p><b>Noted</b></p> <p>The Government agrees that the accountants’ Australian financial services licence (AFSL) exemption should be removed, and is currently consulting with industry on an appropriate alternative to the exemption as part of the <i>Future of Financial Advice</i> process, including a restricted licensing framework.</p>

## Super System Review recommendations

## Government response

### Recommendation 8.8

Government should:

- (a) appoint ASIC as the registration body for approved auditors and give ASIC the power to determine the qualifications (including professional body memberships as appropriate) required for eligibility to be registered, set competency standards, develop and apply a penalty regime including the ability to deregister approved auditors. The registration requirements for approved auditors should be linked to minimum ongoing competency and knowledge standard; and
- (b) task the ATO to police the approved auditor standards and enable information to be appropriately shared between ASIC and ATO so as to carry out their roles effectively.

### Support

The Government agrees with this recommendation and will consult with relevant stakeholders on its design and implementation including consideration of existing professional competency and knowledge standards.

### Recommendation 8.9

Subject to the Government implementing recommendation 8.8, ASIC should develop approved auditor independence standards, which auditors must meet as part of their ongoing registration requirements, as outlined in recommendation 8.8.

### Support

The Government agrees with this recommendation. However, ASIC in consultation with relevant stakeholders will determine whether there are existing standards that can be used and will develop new approved auditor independence standards if necessary.

### Recommendation 8.10

The 2007 relaxation of the borrowing provisions and the consumer protection measures that have recently been announced should be reviewed by government in two years' time to ensure that borrowing has not become, and does not look like becoming, a significant focus of superannuation funds.

### Support

The Government agrees with this recommendation. However, a broader review of leverage will be undertaken that includes all superannuation funds across the industry. Leverage poses a risk to superannuation fund assets in both SMSFs and APRA-regulated funds because it can magnify investment losses and reduce liquidity. The review will enable consideration of whether borrowing by superannuation funds has become excessive, placing fund assets at risk, and whether such investments should be permitted to continue.

## Super System Review recommendations

## Government response

### Recommendation 8.11

Legislation should be passed to require credit providers to collect and provide relevant data to APRA that would enable the RBA to publish statistics on the level of finance being provided to superannuation funds.

### Do not support

The Government does not agree with this recommendation because it would not accurately capture the level of finance being provided to SMSFs and would, therefore, be of limited use. The Government will task the ATO to collect data on SMSF borrowing directly from SMSFs through implementation of recommendation 8.15.

### Recommendation 8.12

SIS legislation, in relation to SMSFs, should be amended so that:

- (a) the 5 per cent IHA investment limit be removed so that no IHA investments would be allowed;
- (b) SMSFs with existing IHA investments be provided a five year transitional period, in which to convert to a SAF or, alternatively, dispose of their IHA investments. No acquisitions of IHA investments would be permissible during the transitional period; and
- (c) APRA-regulated funds be exempt from these changes.

### Do not support

The Government does not agree with this recommendation because it would too severely restrict investment choice for SMSF trustees. There is no evidence that in-house asset investments within the current legislative restrictions are detrimental to SMSFs.

### Recommendation 8.13

SIS legislation relating to acquisitions and disposals between related parties in SMSFs (but not APRA-regulated funds) should be amended so that, either:

- (a) where an underlying market exists, all acquisitions and disposal of assets between SMSFs and related parties must be conducted through that market; or
- (b) where an underlying market does not exist, acquisitions or disposals of assets between related parties must be supported by a valuation from a suitably qualified independent valuer.

### Support in principle

The Government agrees in principle with this recommendation and will consult with relevant stakeholders on its design and implementation.

## Super System Review recommendations

## Government response

### Recommendation 8.14

SIS legislation, in relation to SMSFs, should be amended so that:

- (a) the acquisition of collectables and personal use assets by SMSF trustees be prohibited;
- (b) SMSFs that own collectables or personal use assets be provided a five year transitional period, in which to convert to a SAF or, alternatively, dispose of those assets. No acquisitions of collectables and personal use assets would be permissible during the transitional period; and
- (c) APRA-regulated funds be exempted from these changes.

### Do not support

The Government does not agree with this recommendation because it would restrict investment choice for SMSF trustees. Consistent with its election commitment the Government will introduce legislation to tighten, from 1 July 2011, the legislative standards on SMSF investment in collectables and personal use assets to ensure that such investments do not give rise to current day benefits for SMSF members. Any existing SMSF holdings of collectables and personal use assets that cannot comply with the legislative standards will be required to be disposed of by 1 July 2016. Subject to consideration of recommendation 8.2, contravention of the legislative standards will be a strict liability offence.

### Recommendation 8.15

Government should provide the ATO with a specific mandate to collect and produce SMSF statistics, the details of which be developed in consultation with industry, which provide greater understanding of the SMSF sector and its performance.

### Support

The Government agrees with this recommendation and will consult with relevant stakeholders on its design and implementation. The Government notes that implementation of this recommendation will include the collection of data on SMSF borrowing, as indicated in the response to recommendation 8.11.

### Recommendation 8.16

The Government should legislate to require SMSFs to value their assets at net market value.

### Support

The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.

### Recommendation 8.17

The ATO, in consultation with industry, should publish valuation guidelines to ensure consistent and standardised valuation practices.

### Support

The Government agrees with this recommendation and the ATO will consult with relevant stakeholders on draft valuation guidelines.

Super System Review recommendations	Government response
<p><b>Recommendation 8.18</b></p> <p>Government, after appropriate industry consultation, should amend the Corporations Act to ensure SMSF trustees provide all SMSF members with certain key information on an annual basis.</p>	<p><b>Do not support</b></p> <p>The Government does not agree with this recommendation. All SMSF members are also trustees and are able to access key information regarding the SMSF as they require. This recommendation would place an unnecessary administrative burden and cost on SMSFs.</p>
<p><b>Recommendation 8.19</b></p> <p>Government, after appropriate industry consultation, should amend legislation to remove SMSF trustee administrative burdens that are identified as unnecessary.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders to determine any administrative requirements which are unnecessary for SMSF trustees.</p>
<p><b>Recommendation 8.20</b></p> <p>Government should legislate so that:</p> <ul style="list-style-type: none"> <li>(a) proof of identity checks be required for all people joining an SMSF, whether they are establishing a new fund or joining an existing fund; and</li> <li>(b) identification measures should not apply retrospectively except for existing SMSFs wishing to organise rollovers from a large APRA fund.</li> </ul>	<p><b>Support</b></p> <p>The Government agrees with this recommendation. The Government notes that the Review recommends that proof of identity checks be conducted when opening the SMSF bank account. The Government will consult with relevant stakeholders on its design and implementation.</p>
<p><b>Recommendation 8.21</b></p> <p>The Panel recommends that the SMSF registration process capture the details of the person who has provided advice in relation to the establishment of the SMSF and the service providers who establish the SMSF (if they are different entities). This information should also be available to ASIC to assist in regulating AFSL holders and form part of the risk assessment process for both ASIC and the ATO.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.</p>
<p><b>Recommendation 8.22</b></p> <p>Controls should be put in place to ensure SMSFs can be neither established with, nor subsequently change their name to, the name of, or a name similar to, an existing large APRA fund and that other naming rules applicable to bodies corporate under the Corporations Act be applied to SMSFs.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.</p>

Super System Review recommendations	Government response
<p><b>Recommendation 8.23</b></p> <p>Government should provide a system (Super Fund Lookup or an alternative) to:</p> <ul style="list-style-type: none"> <li>(a) provide appropriate SMSF information to large APRA funds (which would include member level details, confirmation that identification of member/trustees has occurred and the SMSFs bank account number) to enable the large APRA fund to verify the details of SMSF membership before processing rollover requests to SMSFs; and</li> <li>(b) require the large APRA fund, upon appropriate confirmation, to immediately process the request and electronically transfer the rollover to the validated SMSF bank account.</li> </ul>	<p><b>Support</b></p> <p>The Government agrees with this recommendation. However, APRA-regulated funds will be required to process rollover requests within 30 days of confirmation of the SMSF details, rather than immediately, to be consistent with existing requirements for other rollovers. Requirements relating to rollovers will be subject to change under recommendation 9.15(c).</p>
<p><b>Recommendation 8.24</b></p> <p>Legislation should be passed to provide for criminal and civil sanctions to enable the ATO to penalise and discourage illegal early release scheme promoters.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.</p>
<p><b>Recommendation 8.25</b></p> <p>The Government should amend existing tax laws so that:</p> <ul style="list-style-type: none"> <li>(a) amounts illegally early released be taxed at the superannuation non-complying tax rate; and</li> <li>(b) an additional penalty, based on a sliding scale of penalties that takes into account the individual circumstances, should apply.</li> </ul>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.</p>
<p><b>Recommendation 8.26</b></p> <p>Legislation should be passed so that rollovers to an SMSF be captured as a designated service under the AML/CTF Act.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.</p>
<p><b>Recommendation 8.27</b></p> <p>The Government should amend the SIS Act so as to automatically deem anything permitted by the SIS Act or a tax act to be permitted by SMSF trust deeds.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.</p>

## Super System Review recommendations

## Government response

### Recommendation 8.28

Legislation should be passed so that the covenant requiring separation of fund assets from personal or employer assets, as set out in section 52(2)(d) of SIS, be replicated in a SIS operating standard.

### Support

The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.

### Recommendation 8.29

The Government should amend the investment strategy operating standard so that SMSF trustees are required to consider life and TPD insurance for SMSF members as part of their investment strategy.

### Support

The Government agrees with this recommendation and will consult with relevant stakeholders on its implementation.

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## Chapter 9: SuperStream

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### Recommendation 9.1

Relevant legislation should be amended so that in respect of employees who are members of accumulation funds, an employer must provide to the superannuation fund (or clearing house) its ABN and at least:

- (a) on first making a contribution in respect of a particular employee to that fund after the amendment comes into effect, the full name, date of birth, current address, email address (if known), mobile phone number (if known) and TFN of that employee, date of commencement of employment and the amount of the contribution being remitted in respect of that employee;
- (b) for each subsequent contribution in respect of each employee, the employee's name, TFN and the amount being contributed for that employee. If the contribution is made via a clearing house, the fund SPIN should also be required;
- (c) an employer that fails to meet the data requirements set out in (a) or (b) above becomes liable for an administrative financial penalty payable to the ATO in respect of each employee and each day it fails to meet the obligations. The ATO should have a measure of discretion about collection of the penalty. Alternatively, an employer that fails to meet the standards may be deemed to have failed to meet its SG Act obligations; and

### Supported in principle

The Government agrees in principle with this recommendation and will consult with relevant stakeholders on design and implementation issues.

### Supported in principle

The Government agrees in principle with this recommendation and will consult with relevant stakeholders on design and implementation issues.

### Noted

The Government considers that imposing penalties on employers should only be considered further after experience with the other measures which will make the system easier for employers to interact with, can be evaluated.

Super System Review recommendations	Government response
<p>(d) a fund should be prohibited from accepting as a member any person for whom there is not provided sufficient identification data (full name, address and date of birth) to provide a proper preliminary identification, and from accepting any contribution which cannot be reasonably identified as being attributable to a particular member.</p>	<p><b>Supported in principle</b></p> <p>The Government agrees that it is desirable for key data to accompany contributions and will consult further with relevant stakeholders on the best approach to achieve this objective.</p>
<p><b>Recommendation 9.2</b></p> <p>If, after having been provided a reasonable opportunity, the employee fails to provide a TFN or other required details to the employer, the employer’s SG Act obligations are satisfied if the employer electronically provides such employee identification details as it has to the ATO together with the requisite contribution. The ATO would then treat the contribution as unclaimed money. On provision of the TFN, the ATO would remit the amount held for that employee to the employer’s default superannuation fund, together with the employee’s TFN, name, date of birth and, where provided to the ATO, current address, email address and mobile phone number.</p>	<p><b>Support in principle</b></p> <p>The Government agrees that it is desirable for key data to accompany contributions and will consult further with relevant stakeholders on the best approach to achieve this objective. This will include consideration of other options such as applying existing unclaimed money processes to such amounts rather than instigating a new process for employer contributions to the ATO.</p>
<p><b>Recommendation 9.3</b></p> <p>The ATO should establish an employment web page where an employer can both register the tax status of a new employee in lieu of completing the paper TFN declaration and simultaneously advise the fund to which super contributions would be paid. The ATO would then communicate the new member details to the fund electronically.</p>	<p><b>Support in principle</b></p> <p>The Government supports initiatives to improve efficiency and will further consider this recommendation in consultation with relevant stakeholders.</p>
<p><b>Recommendation 9.4</b></p> <p>APRA should convene a stakeholder group including at least the ATO, employers, payroll providers, super administrators and trustee representatives to devise online forms covering all the common processes between:</p> <ul style="list-style-type: none"> <li>(a) the employer and the fund;</li> <li>(b) the fund and the member; and</li> <li>(c) different funds, such as occurs with ‘rollovers’.</li> </ul>	<p><b>Support in principle</b></p> <p>The Government will work with key industry stakeholders to develop and establish standardised forms for various transactions and common data standards for electronic transactions.</p>



Super System Review recommendations	Government response
<p><b>Recommendation 9.5</b></p> <p>The Government should be prepared to mandate the use of the forms, unless it is satisfied that there is near universal voluntary uptake.</p>	<p><b>Noted</b></p> <p>The Government notes the recommendation and will give consideration to the need to mandate the use of standard forms and electronic transactions after further consultation with relevant stakeholders.</p>
<p><b>Recommendation 9.6</b></p> <p>The Government should consider imposing a prescribed fee to be paid by the employer to any super fund to which the employer contributes on behalf of a member when the contribution is made other than in electronic form accompanied by sufficient details to adequately identify the member. That is, the fee will only apply if the contribution is paid by non-electronic means (such as by cheque) or if any payment is not linked with adequate member details. In order to give employers and industry time to adapt, such a fee should come into effect after education and an appropriate transitional phase.</p>	<p><b>Noted</b></p> <p>The Government notes the recommendation and will consult further with relevant stakeholders on an appropriate response.</p>
<p><b>Recommendation 9.7</b></p> <p>A condition of holding a licence to administer superannuation funds should be the capacity to provide e-commerce facilities to employers of all sizes.</p>	<p><b>Support in principle</b></p> <p>The Government agrees that administrators engaged by trustees should have the capacity to provide e-commerce facilities and will consult with relevant stakeholders.</p>
<p><b>Recommendation 9.8</b></p> <p>Treasury should convene a working group comprising representatives of relevant segments of the financial sector to devise the process for development of SBR-compatible standards that provide for linked personal and financial data transmission and facilitate related software development. The standards should address transactions between employer and fund, fund and member, and between funds.</p> <p>Development work should be financed through an industry levy.</p> <p>All administrators and clearing houses should be required to adopt these standards as a licence condition.</p>	<p><b>Support</b></p> <p>The Government agrees with this recommendation.</p> <p>The development of Standard Business Reporting (SBR)-compatible standards that provide for linked personal and financial data transmission should be considered as part of the consultation and development process associated with recommendation 9.4.</p>

Super System Review recommendations	Government response
<p><b>Recommendation 9.9</b></p> <p>As a standard licence condition, clearing houses (including administrators offering a clearing house service) should be required to provide linked member and funding data electronically to the fund within two business days of receipt of clean data.</p>	<p><b>Support in principle</b></p> <p>The Government agrees that clearing houses should be required to transmit linked member and funding data within two business days and will consult with relevant stakeholders on implementation issues.</p>
<p><b>Recommendation 9.10</b></p> <p>Having regard to the extended use of personal information proposed in SuperStream, Treasury should be tasked with preparing a Privacy Impact Assessment to help identify and assess any privacy impacts of the 'SuperStream' proposals adopted by the Government.</p>	<p><b>Support</b></p> <p>The Government supports this recommendation and Treasury will prepare a Privacy Impact Assessment to identify and assess privacy impacts of the SuperStream proposals.</p>
<p><b>Recommendation 9.11</b></p> <p>Relevant legislation should be amended to permit superannuation fund trustees and their agents to:</p> <ul style="list-style-type: none"> <li>(a) use TFNs as a primary search key to link contributions and rollovers with member accounts;</li> <li>(b) seek confirmation from the ATO in relation to each new member that the quoted TFN is correct;</li> <li>(c) seek confirmation from the ATO in relation to each requested rollover to a SMSF that the member holding the quoted TFN is a member of that SMSF; and</li> <li>(d) exchange the TFN with other trustees to identify accounts in multiple funds held by the same individual, and hence permit the trustee of the fund to which contributions are currently being made to invite the member to initiate consolidation of the accounts.</li> </ul>	<p><b>Support</b></p> <p>(a) The Government supports this recommendation and will introduce legislation to permit the use of tax file numbers (TFNs) as a primary search key from 1 July 2011. This was announced as part of the Government's Fairer, Simpler Superannuation election commitment.</p> <p>(b) and (c) The Government supports these recommendations and will consult with relevant stakeholders on design and implementation issues.</p> <p>(d) The Government supports this recommendation and will consult with relevant stakeholders on design and implementation issues.</p>
<p><b>Recommendation 9.12</b></p> <p>Necessary legislation should be enacted to permit the trustee to auto-consolidate accounts without prior reference to the member, where multiple accumulation accounts within a single fund share a common TFN and member surname and the multiple accounts have not been established by deliberate elections by the member concerned.</p>	<p><b>Support in principle</b></p> <p>The Government supports auto consolidation within a single fund provided the member is notified in advance, including of any impact on insurance cover, and has the right to opt-out.</p>

## Super System Review recommendations

## Government response

### Recommendation 9.13

The ATO should develop electronic means to display all the super funds of which an individual logging on is currently a member. Similarly, the ATO should provide an electronic facility to include all member accounts for which it holds TFN identification.

### Support

The Government supports this recommendation, subject to further consultation with relevant stakeholders.

### Recommendation 9.14

To facilitate consolidation of multiple accounts:

- (a) procedures should be established between the ATO and administrators and clearing houses so that when an employer seeks to enrol a new member, the fund administrator (or clearing house if one is used) must validate the TFN provided with the ATO to ensure that it is the number for the individual named; and
- (b) at the same time, the ATO should be required to check its data base to see whether it holds unclaimed money for that member. If so, it should advise the administrator and transfer the money. The ATO should also determine whether the member has more than one account. If the member has more than one account, the administrator of the new fund should be notified and then determine with the member whether they wish to consolidate their accounts.

### Support

The Government supports this recommendation and will consult with relevant stakeholders on design and implementation issues.

### Recommendation 9.15

Relevant legislation should be amended to:

- (a) remove from super funds the current exemption from initial customer identification requirements under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* when a member exercises a choice to join that fund, or to roll into that fund the whole or part of a benefit from another fund. Risk-based customer identification would ordinarily be satisfied if the member has

### Support in principle

The Government agrees with the overarching goal of streamlining the process for rollovers with some variation from the current recommendation.

The Government agrees that superannuation funds should be subject to the anti-money laundering and counter-terrorism provisions and will consult with relevant stakeholders on possible legislative amendments.

## Super System Review recommendations

## Government response

provided their TFN to the fund and the trustee has confirmed with the ATO that the TFN is correctly associated with the details for that member or the trustee has confirmation from its own records or another APRA-regulated fund that they have previously provided that level of identification;

- (b) enable the trustee of an APRA-regulated fund, with the authority of a member, to initiate a rollover of all or part of that member's benefit from another fund as though the member had initiated the request to the exiting fund, without further proof of the member's identity being required;
- (c) require the trustee of any fund receiving such a request to normally remit the member's balance electronically to the new fund within two clear business days, subject to a capacity for APRA to provide relief from this provision when prudential considerations require it;
- (d) amend the choice of fund form to make it more user friendly and to enable the member to tick a box requiring all super accounts to be consolidated, with the nominated APRA-regulated fund to action as above. In view of the greater engagement of most SMSF members, and risks identified in the use of SMSFs for illegal early release of superannuation, this facility should not be extended to the trustees of SMSFs at this stage; and
- (e) override any provision in the governing rules of any fund with a defined contribution component that would otherwise prevent the consolidation of member accounts.

The Government agrees that rollovers and transfers should be expedited; and that the trustee of an APRA-regulated fund, with the authority of a member, should be allowed to initiate a rollover of all or part of that member's benefit from another fund as though the member had initiated the request to the exiting fund, without further proof of the member's identity being required.

It will consult with relevant stakeholders on implementation issues.

The Government agrees that trustees should forward money within two working days (except where APRA approves a delay for prudential reasons) and will consult with relevant stakeholders.

The Government agrees in principle that the choice of fund form and account consolidation should be simplified and will further consult on design and implementation issues.

The Government agrees and will consult with relevant stakeholders on design and implementation issues.

## Super System Review recommendations

## Government response

### Recommendation 9.16

Relevant legislation should be amended so that:

- (a) an employer is required to remit salary sacrificed and SG Act contributions no less frequently than it is required to remit a member's after-tax contributions;
- (b) the timing of payment of SG Act contributions should be adjusted after SuperStream has been implemented so that SG payments align with employers' payroll cycles;
- (c) the employer is required to report on each payslip issued to an employee the amount of superannuation to be paid to the employee's fund, whether SG, salary sacrificed or after tax contributions;
- (d) the ATO is specified as the sole regulator generally responsible for compliance with all aspects of superannuation contributions, other than those relating to compliance with industrial awards. APRA should retain responsibility for overseeing the solvency of defined benefit plans and any action needed to restore a DB fund to a satisfactory financial position; and

### Noted

The need for changes in the frequency of superannuation payments will be considered further in consultation with relevant stakeholders.

### Noted

The need for changes in the frequency of superannuation payments will be considered further in consultation with relevant stakeholders.

### Support

The Government supports this recommendation and will require employers to report on payslips the amount of superannuation actually paid to the employee's fund. This was announced as part of the Government's Securing Super election commitment.

Consistent with the Government's Securing Super commitment, the Government will also require:

- employers to provide information on their employees' payslips about the amount of contributions actually paid;
- superannuation funds to notify employees and employers electronically if regular payments are not being made; and
- superannuation funds to notify employees quarterly if regular payments cease.

### Support in principle

The Government will consult further on this recommendation.

Super System Review recommendations	Government response
<p>(e) when an employee makes a complaint that an employer is not meeting its SG Act obligations, the ATO should continue, on a risk-assessed basis, to assess the employer's compliance with its SG Act obligations for all employees in the particular workplace, and not only the complainant.</p>	<p><b>Support</b></p> <p>The Government supports this recommendation.</p>
<p><b>Recommendation 9.17</b></p> <p>The Government should task Treasury with coordinating the initial implementation phase of SuperStream, and with advising on sustainable governance and oversight arrangements for the system into the future.</p>	<p><b>Support</b></p> <p>The Government agrees that Treasury should be tasked with coordinating implementation and governance arrangements for the introduction of SuperStream.</p>

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## Chapter 10: Regulatory settings

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<p><b>Recommendation 10.1</b></p> <p>APRA's mandate should be broadened to include the task of overseeing and promoting the efficiency of the funds it regulates and the system in which they operate.</p>	<p><b>Do not support</b></p> <p>The Government will ensure that the <i>Financial Sector (Collection of Data) Act 2001</i> enables APRA to collect data that will allow information to be made available on the operation and efficiency of superannuation funds.</p>
<p><b>Recommendation 10.2</b></p> <p>APRA should be given general standards-making power in relation to superannuation (including prudential matters) in order to address the recommendations in this report and to drive efficiencies in the industry.</p>	<p><b>Support</b></p> <p>The Government will give APRA the power to issue prudential standards in relation to superannuation. Prudential standards will allow APRA greater flexibility to respond to industry developments and enforce the MySuper criteria.</p>
<p><b>Recommendation 10.3</b></p> <p>That APRA's mandate be broadened to include the collection and publication of data aimed at the efficiency and outcomes of superannuation funds and research into issues arising from that data to assist trustees in achieving better outcomes for members.</p>	<p><b>Support</b></p> <p>The Government will broaden APRA's ability to collect and publish information on the operation and efficiency of superannuation funds.</p>

Super System Review recommendations	Government response
<p><b>Recommendation 10.4</b></p> <p>Legislation should be amended to give APRA an administrative power to impose fines, contestable in a court, as an alternative to criminal prosecution in relation to selected SIS Act provisions.</p>	<p><b>Support in principle</b></p> <p>The Government will consider this recommendation further and will consult with relevant stakeholders.</p>
<p><b>Recommendation 10.5</b></p> <p>The Government should explore with APRA and ASIC ways in which the two regulators can work more closely together in discharging their superannuation mandates, in particular in implementing the Review’s recommendations in relation to MySuper and increased efficiency more generally.</p>	<p><b>Support in principle</b></p> <p>The Government will ask APRA and ASIC to work closely together to implement these reforms, noting the existing strong working relationship between the regulators.</p>
<p><b>Recommendation 10.6</b></p> <p>The Government should ensure that the ATO is adequately resourced to continue its existing superannuation responsibilities, including the new functions it will administer under SuperStream and other Panel recommendations.</p>	<p><b>Support</b></p> <p>The Government will recoup the cost of implementation through industry levies.</p>
<p><b>Recommendation 10.7</b></p> <p>The Government should consider arrangements for the Productivity Commission to assess, in relation to the Review’s recommendations implemented by the Government, five years after the Government’s response to this report:</p> <ul style="list-style-type: none"> <li>(a) the implementation and impact of the MySuper regime;</li> <li>(b) the implementation and impact of the SuperStream changes; and</li> <li>(c) the functioning of the market for retirement products.</li> </ul>	<p><b>Noted</b></p> <p>The Government will consider arrangements for such an assessment, including its timing and scope.</p>
<p><b>Recommendation 10.8</b></p> <p>The Government should have the Productivity Commission assess and advise on possible improvements to the regulatory framework for superannuation five years after the Government response to this report.</p>	<p><b>Do not support</b></p> <p>The Government considers its response to the Review provides a long-term blue-print for the regulatory framework of superannuation and an important outcome is a period of certainty for members, employers and the superannuation industry.</p>

Super System Review recommendations	Government response
<p><b>Recommendation 10.9</b></p> <p>The SIS Act should be amended so that the successor fund transfer test is one of ‘no overall disadvantage’ rather than ‘equivalence’.</p>	<p><b>Support in principle</b></p> <p>The Government will consider this recommendation further in the context of the work currently underway on product rationalisation in other industries.</p>
<p><b>Recommendation 10.10</b></p> <p>The Federal Court should be given new jurisdiction to determine and facilitate product rationalisation in the superannuation industry where the successor fund transfer regime (as amended by the recommendation made in this Review) still does not fulfil legacy product rationalisation objectives.</p>	<p><b>Support in principle</b></p> <p>The Government will consider this recommendation further in the context of the work currently underway on product rationalisation in other industries.</p>
<p><b>Recommendation 10.11</b></p> <p>CGT rollover relief should be given to superannuation funds in the terms previously afforded by the <i>Tax Laws Amendment (2005 Measures No.2) Act 2005</i> and should be permanently available to the industry.</p>	<p><b>Do not support</b></p> <p>The Government does not support an extension of the existing capital gains tax (CGT) rollover relief, however, does support in principle, appropriate relief for superannuation funds which are required by APRA to merge in order to meet MySuper licence conditions and will consult with relevant stakeholders on implementation aspects.</p>
<p><b>Recommendation 10.12</b></p> <p>New Retirement Savings Accounts should not be allowed to be established after MySuper becomes effective and a mechanism should be considered for facilitating existing RSAs to be transferred to MySuper or other superannuation products.</p>	<p><b>Do not support</b></p> <p>Retirement Savings Accounts (RSAs) will be able to be offered as a choice product. However RSAs, which are capital guaranteed, will not be able to meet the conditions to be a MySuper product and therefore will not be able to be offered as a default product.</p>
<p><b>Recommendation 10.13</b></p> <p>New Approved Deposit Funds should not be allowed to be established after MySuper becomes effective and a mechanism should be considered for facilitating existing ADFs to be transferred to MySuper or other superannuation products.</p>	<p><b>Do not support</b></p> <p>APRA will continue to monitor the role of Approved Deposit Funds.</p>
<p><b>Recommendation 10.14</b></p> <p>The Government should legislate to abolish the member protection rules.</p>	<p><b>Support in principle</b></p> <p>The Government will consider this recommendation further and will consult with relevant stakeholders.</p>



Super System Review recommendations	Government response
<p><b>Recommendation 10.15</b></p> <p>The SIS Act should be amended to create a specific RSE licence class for trustees of ERFs. ERF trustees should be subject to very similar duties as apply to MySuper trustees (bearing in mind the different functions and characteristics of ERFs).</p>	<p><b>Support in principle</b></p> <p>The Government supports separate licensing of eligible rollover funds (ERFs) and additional duties for trustees of ERFs, and will consult with relevant stakeholders on implementation aspects.</p>
<p><b>Recommendation 10.16</b></p> <p>In order to have ERFs more effectively fulfil their intended function:</p> <p>(a) The RSE licence for each trustee of an ERF should be subject to the condition that they actively cross match with any active fund seeking the service. All ERF licensees must provide an online facility for people to search for lost super; and</p> <p>(b) All funds should be required to cross match with ERFs for a new member.</p>	<p><b>Support in principle</b></p> <p>The Government supports cross matching of accounts in the ERF sector to assist members to locate and consolidate their lost superannuation and will consult further on implementation issues.</p>
<p><b>Recommendation 10.17</b></p> <p>The name of the SCT should be changed to reflect more appropriately its role. 'Superannuation Appeals Tribunal' is suggested.</p>	<p><b>Do not support</b></p> <p>The Government does not support this recommendation. The Superannuation Complaints Tribunal (SCT) deals with superannuation complaints relating to the decisions and conduct of trustees, insurers, and other decision makers, rather than appeals.</p>
<p><b>Recommendation 10.18</b></p> <p>The SIS Act should be re-written and restructured to separate and to identify clearly those provisions that are common for all sectors of the superannuation industry and those provisions that are only applicable to particular sectors under the choice architecture model.</p>	<p><b>Support in principle</b></p> <p>The Government will consider this recommendation further and will consult with relevant stakeholders.</p>
<p><b>Recommendation 10.19</b></p> <p>GEERS should be extended to cover up to three months of unpaid employer SG Act contributions.</p>	<p><b>Do not support</b></p> <p>The Government announced as an election commitment that the General Employee Entitlement and Redundancy Scheme (GEERS) would be replaced with an improved Fair Entitlements Guarantee. The Government announced measures in Securing Super to strengthen SG compliance. The Government does not consider further changes necessary at this stage.</p>

