KEY POINTS

MySuper

Overview

Default superannuation funds are those funds to which employers make compulsory superannuation contributions for employees who do not choose a fund to receive those contributions. For these employees, a default fund is selected by their employer, or nominated through an industrial award or enterprise agreement. Of almost 12 million Australians who currently hold a superannuation account, approximately 80 per cent have their compulsory superannuation contributions paid into a default superannuation fund.

The existing regulatory framework for the superannuation system is based on the recommendations of the 1997 Financial System Inquiry (Wallis) report. The Wallis report argued that superannuation members could generally be treated as rational and informed investors able to make their own decisions about their superannuation. However, the Super System Review found that many consumers do not have the interest, information or expertise required to make informed choices about their superannuation.

Therefore, access to a safe, low cost and simple default superannuation product is essential to help many Australians' retirement savings go further. Australians do not get a bill in the post, but they can currently pay around $85 a month in superannuation fees, which is more than the average person's monthly mobile phone bill.

What is MySuper?

MySuper is a new low cost and simple superannuation product that will replace existing default funds.

The standards that a MySuper product must meet will be set out in legislation and enforced by the Australian Prudential Regulation Authority (APRA). Funds that do not operate as default funds, such as self managed superannuation funds (SMSFs) or choice products, will not have to comply with these additional standards.

Superannuation funds will be allowed to provide MySuper products from 1 July 2013. When fully implemented, any employee will be able to elect to have their superannuation paid into a MySuper product. However, it will not be compulsory for an employee to use a MySuper product.

It is expected that most trustees of superannuation funds will choose to provide a MySuper product, subject to meeting the new requirements. Superannuation funds will still be able to offer different products, and will not be compelled to offer a MySuper product.

Why will MySuper make a difference?

For many fund members, the array of unnecessary and complex features within superannuation products makes comparisons between products difficult and costly. MySuper products will have a simple set of product features, irrespective of who provides them. This simplification will enable members to compare funds more easily based on a few key differences — cost, investment performance and the level of insurance coverage. It will also ensure that members do not pay for unnecessary 'bells and whistles' they do not use.

In addition, trustees of MySuper products will face higher performance requirements which will be enforced by APRA, including a specific duty to deliver value for money. If trustees fail to meet these duties, APRA will have the power to revoke their licence. This will ensure a sharper focus on fees and costs.

In addition, after an appropriate transitional period, only a MySuper product will be eligible to operate as a default product. This means a fund's default product must meet the MySuper standards to continue to accept contributions for employees who have not chosen a fund, or to be specified as a default fund in a modern award or enterprise agreement.

Since the majority of employees have their employer contributions paid to a default fund, this creates a powerful incentive for funds to offer a product that meets the higher benchmark set for MySuper if they want to continue to accept contributions from members of default funds.

Key features

The key features of MySuper will be:

- new duties for trustees, including a specific duty to deliver value for money as measured by long-term net returns, and to actively consider whether the fund has sufficient scale;
- a single diversified investment strategy, suitable for the vast majority of members who are in the default option;
- comparable data on long-term net returns published by APRA;
- restrictions on unnecessary or excessive fees, including:
  - banning commissions in relation to retail investment products and group insurance[3];
  - new standards for the payment of performance fees to fund managers;
  - a ban on entry fees charged to new members;
  - exit fees limited to cost recovery; and
  - switching fees not payable to the trustee in their personal capacity;
- a fair and reasonable allocation of costs between MySuper and other products;
- standardised reporting requirements written in plain English;
- a requirement to accept all types of contributions[4]; and

3 The *Future of Financial Advice* consultation process will continue in relation to commissions on individual risk products.

4 Contributions including, but not limited to, superannuation guarantee contributions, salary sacrifice contributions, after-tax contributions, spouse contributions and rollovers.

- life, and total and permanent disability (TPD) insurance (where available, depending on occupational and demographic factors) offered on an opt-out basis.

MySuper products may include intra-fund advice or offer retirement income stream products that are in the best financial interests of members, but these features will not initially be mandatory.

MySuper products will be subject to more transparent and comparable reporting standards. Having standardised features, plain English reporting and a single investment strategy will make it easier for members and employers to compare the performance of MySuper products.

To facilitate member and employer comparison of products, APRA will be required to collect and publish data on the performance of MySuper products, including in relation to a fund's underlying investments.

Consistent with its existing powers in relation to the banking and insurance industries, APRA will be provided the ability to issue prudential standards in relation to superannuation. Prudential standards are a form of subordinate legislation, disallowable by the Parliament, which can be used to provide additional detail on prudential matters. Prudential standards will give APRA greater flexibility in its oversight of MySuper products and in undertaking its broader prudential regulation of the superannuation industry.

An additional $29.9 million over four years (from 2011-12) will be provided to APRA and the Australian Securities and Investments Commission (ASIC) to implement and monitor the new arrangements. The costs of implementing MySuper will be recovered through increases to the annual levy on APRA-regulated superannuation funds.

Following an appropriate transitional period, MySuper products will be the only products eligible to accept contributions from employers on behalf of employees who do not choose a fund. The Government is committed to ensuring a smooth transition to the new MySuper arrangements. Therefore, the transitional period will be determined following consultation with industry, employee, employer and consumer groups.

The Government has announced it will request Fair Work Australia to review the default superannuation funds named in modern awards so that, following the transitional period, only those products meeting the MySuper criteria continue to be included in those awards as default funds.

Further, the Government will ask the Productivity Commission to design a process for the selection and ongoing assessment of the superannuation funds to be included in modern awards or enterprise agreements as default funds. The Productivity Commission review will seek to ensure that this process is transparent, competitive and subject to systemic review. The review will be completed before MySuper products are able to be offered from 1 July 2013.

Benefits

MySuper will improve outcomes for the majority of members who do not wish to be actively involved in choosing their superannuation arrangements, while maintaining freedom of choice for those members who do. Members wishing to make active choices with their superannuation will still be able to opt for an alternative product, or manage their own superannuation affairs through an SMSF.

The emphasis of MySuper is on delivering value for money for members. By focussing the trustee's obligations on net returns, MySuper is expected to put downward pressure on fees and deliver higher retirement incomes for members. MySuper is estimated to reduce the total fees paid by superannuation fund members by around $550 million per year in the short term, rising to around

$1.7 billion per year over the longer term. For a 30 year old worker on average weekly earnings, MySuper, in conjunction with SuperStream, could result in an extra $40,000, or 7 per cent, in retirement savings (with around 80 per cent of this attributable to MySuper).

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

Next steps

The Government will establish a MySuper sub-group of the overarching consultative group in early 2011 to progress the implementation of MySuper. Initial consultation will focus on detailed design and implementation issues, with subsequent consultation on exposure draft legislation.

A number of reforms relating to financial advice, commissions and disclosure issues will be subject to consultation through the Government's *Future of Financial Advice* processes.

SuperStream

Overview

'SuperStream' is the name given by the Super System Review to its package of measures designed to enhance the 'back office' of superannuation. When implemented, these measures will improve the productivity of the superannuation system and make the system easier to use.

The Review identified significant costs imposed by existing administrative processes. These include the excessive costs and complexity arising from manual processing of both money transfers and data, the lack of standardised formats, and poor and incomplete data.

SuperStream includes proposals to:

- improve the quality of data in the system;
- allow the use of tax file numbers (TFNs) as the primary account identifier;
- encourage the use of technology to improve processing efficiency; and
- improve the way fund-to-fund rollovers are processed and the way contributions are made.

The Government supports the broad direction of the Review's SuperStream recommendations. It will establish a SuperStream consultative sub-group, with industry, employer and consumer participation, to undertake detailed consultation on data standards and the design and implementation of the SuperStream measures.

The SuperStream sub-group will consider the appropriate data sets to be provided for superannuation contributions, rollovers between funds and benefit payments. It will also consider the processes to be followed when key data is absent.

The Government notes the Review's recommendation that the use of standardised forms and common data standards for electronic transactions be mandatory, and will consider the need to mandate these after an appropriate transitional period.

The Government recognises that the introduction of the broader SuperStream recommendations, including electronic processing and common data standards, will impose additional costs on the industry in the short term. However, streamlining administration will deliver considerable benefits over the longer term.

There will be costs to Government to implement the TFN and account consolidation changes, and to update systems and forms to be compliant with new data and e-commerce standards as recommended by the SuperStream proposals. These costs will be offset by a temporary industry levy on APRA-regulated funds, on a cost recovery basis.

The Government is committed to extending the use of an individual's TFN as the primary identifier of member accounts from 1 July 2011. This measure will assist individuals and trustees to locate and consolidate lost accounts and reduce unnecessary costs to the superannuation industry.

Current rules governing how a superannuation fund can use members' TFNs can restrict the ability of trustees to improve the way their funds are administered. Some of these restrictions will be removed to allow superannuation fund trustees to use TFNs to:

- identify member accounts; for example, a superannuation fund trustee can use TFNs to confirm that two superannuation accounts held in the same name but with differing addresses, belong to the same person if the TFN details match; and

- facilitate the consolidation of multiple superannuation accounts held by the same member in either the same superannuation fund or across multiple funds.

The measure will improve superannuation fund administration by providing trustees with a method of quickly and accurately identifying member accounts and facilitating account consolidation if acceptable to the member. Use of members' TFNs will continue to be subject to appropriate legislated safeguards to ensure the privacy and security of members' personal information.

The Government is also committed to the 'Securing Super' proposals which formed part of the Government's broader Protecting Workers' Entitlements Package.

Specifically, under the Securing Super commitments, employees will receive:

- information on their payslips about the amount of superannuation actually paid into their account; and

- quarterly notification from their superannuation fund if regular payments cease.

This policy will help ensure that superannuation entitlements are paid in a timely manner, and that employers and employees are given more information about their superannuation payments (including superannuation guarantee payments and salary sacrificed payments).

Employers will receive additional information from superannuation funds to assist them with managing their superannuation payments. Specifically, superannuation funds will be required to provide employers and employees with electronic notification if regular superannuation payments are not being made.

Benefits

Under SuperStream, excessive costs caused by manual processing of both money transfers and data in superannuation will be significantly reduced. This will be achieved by encouraging electronic transmission of linked financial and member data and using standardised formats. Ernst & Young has estimated the SuperStream proposals could save the industry up to $1 billion per year. Much of the benefit of these savings should flow through to members in the form of lower fees and charges.

An enhanced role for the Australian Taxation Office (ATO) is envisaged in facilitating a more efficient back office for superannuation.

Improved data quality and search processes should lead to a reduction in the number of inactive or lost member accounts in the system. The use of member TFNs as the primary identifier is critical to this process, as it will provide the superannuation industry with a member identifier that can be used to improve fund administration. The benefits to superannuation fund trustees include:

- access to a robust identification method;
- lower fund administration costs; and
- identification and possible elimination of duplicate member accounts.

Fund members will also benefit from the extended use of member TFNs through:

- the potential for reduced multiple accounts which will mean members no longer need to pay administration fees on multiple accounts; and
- the potential for fewer lost superannuation accounts.

A member's right not to quote a TFN will be respected. Appropriate safeguards will be in place to ensure funds only use TFNs for legislated purposes, and that a member's privacy is protected.

Through the Government's Securing Super initiatives, employers and employees will be given more information about their superannuation payments (including superannuation guarantee payments and salary sacrificed payments). This will:

- help increase employers' compliance with superannuation obligations;
- help in a more timely recovery of superannuation guarantee charge from employers;
- assist in minimising the timeframe between a superannuation guarantee shortfall arising and the employee becoming aware of the unpaid superannuation guarantee;
- provide employees with timely information that allows them to readily follow-up with the employer or the ATO where there has been non-payment of superannuation; and
- encourage employees to be better engaged with their superannuation.

Next steps

The Government will establish a SuperStream sub-group of the overarching consultative group early in 2011 to progress the design and implementation of SuperStream. It is anticipated the broader SuperStream package will be progressed on a phased basis, with most measures in place by

1 July 2015. However, it is expected that the arrangements relating to common data standards and electronic transmission of linked personal and financial data will be settled by 1 July 2012.

The Government is committed to facilitating the use of an individual's TFN as the primary identifier of member accounts from 1 July 2011. The Government will consult with relevant stakeholders on the draft legislation.

The Government will also consult with relevant stakeholders on the Securing Super measures.

Self Managed Superannuation Funds

Overview

The Government supports and will implement many of the Super System Review's recommendations to reform the SMSF sector. Given the significant role SMSFs play in Australia's superannuation system, it is important that there is appropriate oversight of SMSF service providers; that fund investments are consistent with the purpose of superannuation; and that fraudulent activity is curbed.

The SMSF registration and rollover processes will be amended to reduce the incidence of funds being illegally released from SMSFs. Proof of identity checks will be required for all people joining an SMSF, whether they are establishing a new fund or joining an existing fund. Identification measures will not apply retrospectively except for existing SMSFs wishing to organise rollovers from an APRA-regulated fund.

New penalties will be introduced to prevent illegal early release. Criminal and civil sanctions will be introduced for illegal early release scheme promoters and amounts illegally released early will be taxed at the superannuation non-complying tax rate, with an additional penalty that takes into account the individual circumstances. Also, the superannuation legislation will be amended to enable the ATO to enforce the requirement for SMSF assets to be separated from personal or employer assets.

The ATO will be provided with new regulatory powers to prevent and penalise breaches of the superannuation legislation. A sliding scale of administrative penalties will be introduced for less serious cases of non-compliance and will be payable by the trustee, not from the assets of the SMSF.

The ATO will also be given the power to issue trustees with a direction to rectify contraventions within a specified timeframe and to enforce mandatory education for trustees where there is non-compliance with the superannuation legislation, particularly less serious non-compliance, so that these trustees are aware of their obligations.

Knowledge and competency requirements will be developed for SMSF service providers. ASIC will develop a mandatory SMSF specialist knowledge component of Regulatory Guide 146 to impose minimum training requirements on financial advisers providing services to SMSFs.

ASIC will also be appointed as the registration body for SMSF approved auditors. ASIC will determine the qualifications and minimum ongoing competency and knowledge standards required for eligibility to be registered, taking into account existing professional competencies and knowledge standards. The ATO will monitor compliance with the approved auditor standards.

Approved auditors will also be required to meet independence standards as part of their ongoing registration. ASIC will examine existing auditor independence standards that may be applied and, if necessary, develop new independence standards.

The Government will undertake a review of leverage in two years time, covering all superannuation funds across the industry. This review will determine what impact leverage has had on the superannuation industry and whether such arrangements should be permitted to continue.

The Government has previously announced that it will continue to allow SMSFs to invest in collectables and personal use assets, provided they are held in accordance with tightened legislative standards. These legislative standards will be developed in consultation with industry and will apply to new investments from 1 July 2011, with all holdings of collectables and personal use assets to comply by 1 July 2016.

The Government does not support some of the Review's recommendations in relation to the SMSF sector. The ATO will not be provided with the power to issue binding rulings in relation to SMSFs. Data on SMSF borrowing will not be collected from credit providers, but will be collected directly from SMSFs as part of the ATO's collection and publication of SMSF data. Investment in in-house assets will not be prohibited and SMSF trustees will not be required to provide information to members on an annual basis.

The implementation of reforms to the SMSF sector will necessarily involve some costs to the ATO and ASIC. These costs will be offset by an increase to the annual SMSF levy with effect from the 2010-11 financial year. The increase to the SMSF levy will be determined once the total costs of implementation are known.

Benefits

More than 815,000 SMSF trustees will benefit from these reforms.

These reforms will improve SMSF integrity and increase community confidence in the SMSF sector. They will also improve the operation and efficiency of the sector by enabling more efficient transactions, including rollovers from APRA-regulated funds.

Minimum standards for professional services provided to SMSFs and the improved availability of information on the SMSF sector will assist SMSF trustees in decision making and will make managing their retirement savings easier. These reforms will also assist with decision making for those considering establishing an SMSF.

The reforms will improve analysis and transparency of the SMSF sector and enable better comparison with the APRA-regulated sector.

Changes to the SMSF regulatory framework and registration process will ensure tax concessions provided to superannuation are used for retirement income purposes and that superannuation benefits are preserved for retirement. They will reduce the risk of SMSFs being used for illegal or illegitimate purposes.

Next steps

The Government will establish an SMSF sub-group of the overarching consultative group in early 2011 to progress the implementation of the SMSF reforms. Initial consultation will focus on detailed design and implementation issues, with subsequent consultation on exposure draft legislation.

Most measures will commence on 1 July 2012. Tighter legislative standards for investments in collectibles and personal use assets will apply to new investments from 1 July 2011, with all holdings of collectables and personal use assets to comply by 1 July 2016. Amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* will commence on 1 July 2013 and amendments to the SMSF registration process will commence on 1 July 2014.

Governance, integrity and other regulatory settings

Overview

The Government supports the objectives of the Super System Review's recommendations aimed at heightening the obligations of superannuation fund trustees to manage their fund's superannuation assets prudently and in the best interests of all the members of the fund.

Given that superannuation savings will form a major part of retirement income for many Australians, it is vital the community has complete confidence that the regulatory framework surrounding superannuation is robust and that superannuation funds are managed efficiently and prudently.

The Government will consult with stakeholders on the recommendations made by the Review in this area.

As investment decisions are rightly a matter for trustees, the Government will not require superannuation fund trustees to make particular investments, including in infrastructure. Requiring superannuation funds to invest in particular assets would limit the capacity of trustees to pursue investment opportunities that maximise returns to members. This could reduce the retirement incomes of Australians and jeopardise the long-term success of the Government's retirement income policy.

Nor will the Government be making changes to the current arrangements for equal representation on trustee boards. While, outside the existing requirements, the composition of a trustee board will remain a matter for the board to determine, the Government will refer to APRA the need for additional guidance for trustees on appropriately managing conflicts of interest.

As noted earlier, the Government will give APRA the ability to issue prudential standards in relation to superannuation, consistent with its existing powers in relation to the banking and insurance industries. Prudential standards are a form of subordinate legislation, disallowable by the Parliament, which can be used to provide additional detail on prudential matters. Prudential standards will give APRA greater flexibility in its oversight of MySuper products and in undertaking its broader prudential regulation of the superannuation industry.

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

The Government considers the current capital requirement for superannuation fund trustees should be replaced with a risk-based approach applying to all APRA-regulated funds that requires financial resources to be held against operational risk. Currently, members of public offer superannuation funds receive some protection through the capital requirement that must be met by the trustees of those funds. However, this requirement has not increased since 1993 and is not calibrated to the risks faced by individual funds. The Government will consult closely with industry on whether such financial resources should be held in the form of trustee capital or as an operational risk reserve within the fund, and will also consult on a method for calculating such a requirement. New requirements would be phased in over an appropriate transitional period.

Benefits

Heightening the requirements placed on superannuation trustees will improve trustee and fund decisions, efficiency and effectiveness, and so help grow member superannuation entitlements.

Many trustees outsource fund administration and a few large administrators have come to play a key role in the smooth functioning of Australia's superannuation system. Ensuring that trustees who deal with administrators have appropriate controls and arrangements in place will make it less likely that members will suffer from operational failures on the part of administrators. Employers also benefit when trustees ensure that the administration of their employees' superannuation accounts is well managed.

Introducing a new risk-based system for maintaining financial resources against operational risk will better protect members from losses due to failures in the governance of their fund or in the business processes, systems or staff it employs. Employers can also be confident that the default funds they select for their employees will be better able to safeguard their employees' superannuation benefits against operational risk.

Next steps

The Government will establish a sub-group of the overarching consultative group in early 2011 to consider the Review's recommendations in this area, and to consult on design and implementation issues.

The timing for the commencement of measures in this area, including any relevant transitional arrangements, will be determined following consultation.