



**APRA Discussion paper  
Reporting Standards for Superannuation**

**November 2012**

**AIST Submission**

## About AIST

The Australian Institute of Superannuation Trustees (AIST) is an independent, not-for-profit professional body whose mission is to protect the interests of Australia's \$500 billion not-for-profit superannuation sector. AIST's members are the trustee directors and staff of industry, corporate and public-sector superannuation funds, who manage the superannuation accounts of two-thirds of the Australian workforce.

AIST is a registered training organisation and has recently expanded its education program to encompass the growing and changing needs of all members of the not-for-profit superannuation sector.

AIST offers a range of services including compliance and consulting services, events - both national and international - as well as member support. AIST also advocates on behalf of its members to relevant stakeholders.

AIST's services are designed to support members in their endeavour to improve the superannuation system and build a better retirement for all Australians.

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## 1 Executive Summary

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AIST is supportive of APRA's proposal to implement the Stronger Super reforms and update their reporting requirements. Although it should be understood that this undertaking by funds will incur significant cost and require additional resources, both physical and electronic, we are still aware of the public policy aim of increased transparency and ability to compare funds, as well as APRA's desire to increase their prudential management.

We have a number of concerns regarding components of the draft paper and at a principle level, we are coming to the view that the data reporting standards will need to be supported by a number of additional steps if the data reporting standards are going to be implemented in a way and by a time that supports the Government's key policy objectives.

To this end, we make the following suggestions:

- Defer elements of data collection that are not integral to Stronger Super implementation and introduce a transition period for implementation;
- Have APRA convene a number of technical workshops with the industry in December to go through the requirements at a granular level, with these being organised around the key chapters in the discussion paper. This is most needed in relation to investments and investment performance;
- Seek assurances that APRA provide further detailed guidance on look-through arrangements, such as common protocols to ensure consistency, accuracy and the avoidance of timing issues;
- Provide a moratorium on application of strict liability offences for a period; and
- Provide safe harbour provisions in relation to reliance of information provided by third parties.

There are a number of specific items within the draft paper that we wish to highlight as areas that need to be addressed:

- Review the frequency and timing of some information;
- Formalise the information sharing between regulators to reduce duplication;
- Application of AASB Exposure Draft ED 223 and implementation of SBR;
- Enforce the reporting of "net net" returns and define investment costs; and
- Remove the use of AWOTE and return to CPI as a benchmark.

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## 2 Overview

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AIST supports the role of APRA in collection and publication of industry data. We have been involved in numerous roundtable discussions with APRA and were invited to participate in the pilot program for this data collection project with a number of our member funds.

We note the vast increase in the number of reporting items and understand that APRA seeks to have RSE reporting to be more consistent with the reporting done by other prudentially regulated entities, such as banks and life companies.

We also note that whilst APRA is seeking to regularise reporting information provided by superannuation funds, which is also then used for disclosure to members, to the extent that trustee discretion in complying with the reporting requirements, including 'best endeavours' requirements apply, the less likely it is that APRA will have reliable and comparable reporting information about superannuation entities. This is also concerning if it is the intent that this information be considered by the Government, industry and consumers to be the 'source of truth' about superannuation.

However, we believe that the discussion paper still fails to address some gaps and also unnecessarily increase the compliance and reporting burden on funds, the cost of which will be incurred by members.

We note that APRA has outlined the purpose of the data collection more clearly, and that this information services the needs of a number of Government and regulatory agencies.

We think in some circumstances there have been insufficient explanation of the purpose of collection of specific pieces of data, for example, the liquidity measure. Given that any prescribed calculation on such data is intended to become a disclosure item for consumers, it is even more important to explain the purpose of the data collection. It will also assist trustees in determining such calculations.

The main concerns are as follows:

### 2.1 Insufficient lead time to comply with standards

Currently the new reporting standards are due to commence on the 1 July 2013. Our understanding is that APRA will finalise the standards in March 2013, giving the industry only 3 months to implement and ensure compliance. Given all other reforms that the industry is currently undertaking, we request that APRA consider a staggered approach by phasing in reporting standards over a two to three year transition period.

This would allow industry sufficient time to make the necessary system changes to capture, store and report on new data requirements and to base the new reporting standards around data automation. We would also like to know what processes will exist to allow corrections to data be made.

## 2.2 Frequency and timing of provision of information

Certain information is required to be reported on a quarterly basis, where such information is static and unlikely to change. We would suggest that provision of such information should be changed to an annual basis.

Further, the 28 days after quarter end requirement may not be sufficient timing for receiving updated valuations on some unlisted assets, so it is likely that there will be some lagged valuations. It may also not enable sufficient time to obtain data from international fund managers on pooled investment vehicles.

The other major concern is not so much the move from annual information to quarterly information, but timing of provision of information. The move from 25 business days to 28 calendar days (Discussion Paper ref 1.3.1) is a significant impost and custodians within the superannuation industry (on whom most superannuation funds rely) will be unable to meet this deadline. Accordingly, we suggest that the original 25 business day requirement remain as this is achievable by RSEs.

In relation to the provision of annual information, the provision of annual forms within 3 months instead of four months is also unachievable as the information required to be reported on to APRA will not have been audited by that deadline. This is an issue over which RSEs themselves have little control as they are subject to the timeframes and capacity of the Accounting industry at the relevant time. Accordingly we suggest that the information be submitted to APRA within four months after the reporting period instead of three months. This is already achievable by the superannuation industry.

## 2.3 Relevance and usefulness of data to APRA

Relating to the request for a transition period, we would suggest that the timing for data and information that may not have an immediate use be delayed. We request that APRA reassess what information they will immediately use and data which may or may not be used at a later date for statistical reporting purposes.

## 2.4 Enhanced reporting & monitoring of non-compliant/high risk funds

Some data requested appears to be aimed at the monitoring of non-compliant or high risk funds. Instead of the whole industry being subject to the same regime, we request that APRA tailor reporting requirements with enhanced monitoring only applying to non-compliant or high risk funds.

## 2.5 Ability to command information from overseas entities

Much of the new data required by APRA is not currently housed by the fund. For example, the look through requirements of investments will need to be individually sourced from all investment managers,

some of which are based overseas. The ability to command such information on a regular basis will place an onerous burden on the industry, the costs of which will outweigh any benefits.

## 2.6 Ability to command information from APRA/ASIC regulated entities

APRA has requested data from investment managers and insurers that APRA and ASIC currently have the power to regulate. We are concerned that this will result in a double-up of information provided to APRA. APRA or ASIC would be better off sharing information directly sourced from these entities rather than indirectly through superannuation funds.

## 2.7 Ability to coordinate the collation of all information

The ability to collate all information and lodge forms on a timely basis will place additional burdens on all superannuation funds. As noted above, we request that APRA reconsider the relevance of all data required and the frequency of such data. Staggering of requirements will also assist in ensuring that funds can provide meaningful information and transition over time to full compliance with the standards.

## 2.8 Quarterly and annual lodgement periods

Based on the draft standards, the ability to meet these timeframes will place an additional burden on the industry during peak times. In particular, the annual timeframe of three months after year end will place additional pressure on all service providers – auditors, accountants, custodians, and the trustee to meet the annual reporting obligations within three months of year end. Similarly, with the quarterly requirements, this will place a burden on the trustee and service providers during this time. Requesting, receiving, reviewing, collating, amending, arranging for audit of and authorising of additional data in quarterly and annual forms whilst maintaining data quality will be a huge challenge for the industry.

## 2.9 Application of requirements of AASB Exposure Draft ED 223

APRA's requirement to prepare forms based on exposure drafts issued by the AASB is not practical. Given that the AASB are yet to release a final version of the standard, we do not support funds using a fair value approach until the standard is effective. Whilst the difference in measurement is likely to be immaterial, we strongly recommend that APRA align their requirements with the effective application of the final standard. This will avoid confusion and the need to maintain different financial data for financial statement purposes and APRA reporting purposes. It is also critical to note that the AASB is also influenced by decisions made by the International Accounting Standards Board and the requirements of the current exposure draft may be subject to change.

We are concerned about the effective bring forward of accounting standards that have not been finalised by the Australian Accounting Standards Board (AASB), particularly as they remain subject to change. The preference is to report under Australian Accounting Standard 25 (AAS 25) until the AASB's

proposals for measurement of fair value under AASB ED 223 is introduced. Running two accounting standards simultaneously will add to fund costs, which would be passed on to members.

## 2.10 Implementation of SBR

Need to ensure there is a standard data dictionary for reporting, to ensure each fund/administrator is reporting the same data under the same data heading. For example inactive members are defined in different ways by different funds. In order to allow data to be comparable the definitions must be consistent across the industry.

With the Government's commitment to introducing Standard Business Reporting (SBR) it would be logical for this to be extended to this new reporting standard.

## 2.11 Reporting of "Net Net" returns

If this information is to be used in the consumer environment and to aid investment decision-making, then the concept of net net returns must be paramount. If returns are shown to members net of investment costs, and this information does not take into account administration fees, then members do not have enough information to make an overall investment decision that deals with both the product and provider. It is not clear that the concept of net net returns has been appropriately achieved in the reporting requirements.

## 2.12 Disclosure of common investment costs

The most significant public policy concern that still needs resolution in reporting to APRA and to members is the concept of common investment costs. It is important to ensure that all RSEs can demonstrate a capacity to detect all investment costs and require their disclosure from fund managers. If RSEs are unable to obtain this information from Fund Managers, for whatever reason, then this should be highlighted to members so they are aware of the proportion of assets the fund invests in where trustees are unable to ascertain the true costs of that investment. This should also be highlighted in the auditor sign-off on reporting requirements necessitating additional disclosure to members.

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## 3 Detailed chapter commentary

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### 3.1 Chapter 1 - Introduction

Firstly, we note that the volume of data collected has grown exponentially. Furthermore, the lodgement dates have been brought forward, more data is required quarterly, all annual forms now require audit, regulations are still not finalised and accounting standard changes are currently at exposure draft stage and will not apply until 2014-15.

Current inconsistencies between the accounting standards and APRA reporting (which lead to a misalignment with the funds' financial statements, including asset classes for investments) have not been fully addressed. For example, cash and cash equivalents are defined in the accounting standards. Can the same definition not be applied to APRA reporting? The proposal to apply AASB ED 223 for APRA reporting purposes' prior to it being effective only increases this misalignment.

APRA's requirement to prepare forms based on exposure drafts issued by the AASB is not practical. We strongly recommend that APRA align their requirements with the effective application of the final standard. This will avoid confusion and the need to maintain different financial data for financial statement purposes and APRA reporting purposes. It is also critical to note that the AASB is also influenced by decisions made by the International Accounting Standards Board and the requirements of the current exposure draft may be subject to change.

Further, this will effectively mean that the proposed accounting standards are brought forward. We are concerned about using accounting standards that have not been finalised by the Australian Accounting Standards Board (AASB), particularly as they remain subject to change. The preference is to report under Australian Accounting Standard 25 (AAS 25) until the AASB's proposals for measurement of fair value under AASB ED 223 is introduced. Running two accounting standards simultaneously will add to fund costs, which would be passed on to members.

Further guidance is required on the look-through reporting of investments. Details of the investment fees and taxes embedded in the returns of fund of fund investment vehicles are not currently available from the investment managers and seems unlikely to be in the future, particularly for overseas investments. A number of custodians have confirmed this. APRA seems to assume we already have this type of information. There is also likely to be a cost where more detailed investment information is required from investment managers (not currently quantifiable).

#### 3.1.1 Item 1.5 Provision of data to other government agencies

We note that one of the purposes of the data collection is to provide information to the Australian Bureau of Statistics, particularly in relation to accounting and investments. We are concerned that the need to provide information to the ABS is seen as more important than complying with existing accounting requirements (refer Discussion Paper Ref 1.4). We are concerned that APRA seeks to require RSEs to comply with the new accounting standards for reporting purposes, before they have actual application. This means that RSEs have to prepare accounts to comply with two standards

simultaneously – this is an unwarranted burden on trustees and cost on members, creating more red tape for minimal regulatory benefit. This also leaves RSEs in a difficult and unclear position as to which accounts they should properly be disclosing to members. For example, if they prepare accounts according to AAS 25, they would normally disclose these to members. However, if APRA requires accounts to be prepared under AASB ED 223 for reporting purposes, then under the operation of the proposed section 29QC (Stronger Super tranche 3), trustees may be required to use these accounts for disclosure to members, even though they do not comply with current Accounting Standards. We seek APRA's guidance about how they think funds will go about providing accounts that comply with current accounting standards if they are required to disclose accounts in a different format to members as a result of the operation of s29QC under tranche 3.

We note also that one of the purposes of the data collection is to obtain MySuper information for MoneySmart. We support the availability of MySuper information for this purpose as it empowers consumers to seek and make comparisons in relation to fees and performance of their superannuation fund against others. We are concerned however, that if APRA only collects prospective MySuper information, without any past performance information where a MySuper investment option is a rebadged default investment option, that consumers will be left in little comparative performance information on superannuation funds for a period of up to ten years. This at a time when members are risk averse post GFC and are more likely to make decisions to invest in low risk low return products that are actually unsuitable for long term investment. We suggest that if one of the purposes of the data collection is to provide information for data comparison on MoneySmart that the issue of ten year information asymmetry in relation to performance data needs to be fully thought through as this will not benefit consumers, but rather aid bad investment decision-making.

## 3.2 Chapter 2 – Levels of Data Collection

We have previously noted our support for the new levels of data collection required by APRA in above section 3.1. We also note that much of the detail noted in this chapter is covered in further chapters.

As an overall statement, the increased granularity in the investment option information will most likely require new contractual arrangements with custodians and additional information from fund managers which could lead to increased cost consideration. Additionally, we have further concern with the issue of synthetics (e.g. derivatives) where we know where the holding is but we have no idea of the underlying investment in this class.

## 3.3 Chapter 3 – RSE licensee and RSE Information

### 3.3.1 Item 3.5.1 RSE licensee profile

APRA is proposing to change the segmentation data regarding fund types to five new options which are not consistent with the current four options. We are concerned that this will render all historical data incomparable with future data. To this end, we request that APRA release details on how the new and old segmentation will be related and/or the new options be retrospectively applied.

## 3.3.2 Item 3.5.2 Director details

We support the disclosure of director remuneration; however we request that greater instruction is provided around the specific detail required. As an example, representative directors do not often directly receive monetary payments, as it is paid to their sponsoring organisation. The instructions should also be more specific as to whether it is total remuneration, regardless of whom it is paid to.

## 3.4 Chapter 4 – Financial position

### 3.4.1 Item 4.4.1 Assets

We see the inclusion of other asset categories such as property, plant and equipment viewed as a positive. APRA may also wish to include prepayments as another asset category.

### 3.4.2 Item 4.4.5 Member benefits

APRA should be mindful, as noted above, that ED 223 is an exposure draft only and the measurement basis of defined benefit liabilities may be subject to change. The current proposals in ED 223 are more akin to AASB 119 requirements as opposed to current defined benefit measurements under SIS. There is a risk that an inappropriate measurement basis of defined benefit liabilities is adopted by APRA, if they follow ED 223 and the requirements of AASB 119.

### 3.4.3 Item 4.5.1 Comparison of SRF 320.1 requirements with SRF 320.0 requirements

The reporting at a sub-fund level will provide some much needed transparency into master fund structures. However, it is likely that some master funds will find it difficult to produce a statement of financial position at the sub-fund level for assets and liabilities calculated at a fund level such as a deferred tax asset, reserves and other general fund assets and liabilities. Guidance will need to be given as to whether apportioning of such items is required, e.g. based on proportional share of member benefits if not directly attributable to a sub-fund. APRA may also wish to consider a reporting threshold for sub-funds as some master trusts have in excess of 30 sub-funds. Is APRA expecting this information for each sub-fund? The definition in the instructions could also be expanded to assist in defining the exact definition of a sub-fund.

### 3.4.4 Item 4.6.1 Movement in reserves balances

In 1.1 of the form SRF 320.2, APRA requests the amount transferred into the ORFR reserve in column 1 of the table. Column 3 is asking for the same information. This form is only dealing with reserves within a fund. In part 3 of the form, APRA requests the 'Identifier of investment option'. It is unclear what this means and should be better explained in the accompanying instructions. We recommend that all ORFR requirements be dealt with in one form.

### 3.4.5 Item 4.7 Proposed Reporting Form SRF114.0 Operational Risk Financial requirement – RSE Licensee

This form repeats the information requested in form 320.2. Some requirements are also required to be separately reported to APRA under the ORFR prudential standard e.g. the transition plan requirements

in part 5 of the form. Similar requirements are also duplicated in form 114.1 (see following). We again recommend that all ORFR requirements be dealt with in 1 form or that APRA ensures that the data is pre-populated via an automatic link to other forms upon initially entry.

### **3.4.6 Item 4.8 Proposed Reporting Form SRF114.1 Operational Risk Financial requirement – RSE**

The table for items 2, 3 & 4 should include ‘other’ for non MySuper members, not in sub-funds. There also needs to be guidance on how to split the ORFR across categories. For instance, is “funds under management” appropriate as many funds will hold the ORFR at a fund level. Item 5 repeats some of the information already requested in form 320.2.

## **3.5 Chapter 5 – Financial performance and flows**

With all reporting requirements we note that there are strict liability requirements. This will be inherently difficult to administer where there are some requirements where only estimations can be provided in the relevant timeframe, and this includes requirements relating to financial performance and flows.

### **3.5.1 Item 5.4.3 Investment income and costs**

We are fully supportive of a revision of data collection on investment income and costs, however, further rules are required around this collection to ensure that data is reported on in a consistent manner. We strongly suggest that further guidance is required from APRA in relation to this item.

At the present time there is no consistent methodology for superannuation funds to detect, calculate and pay investment fees, and some fees charged are not apparent to some trustees, particularly where they are accrued at a wholesale level in a unit price. This is not an area where a ‘best endeavours’ approach will suffice and trustees need to ensure that they require this information from fund managers.

APRA needs to provide guidance on an appropriate methodology to calculate a Fund’s investment costs which will require some trustees to change the way they communicate with Fund Managers. This will in some circumstances explicitly require information of Fund Managers that some trustees have not previously asked for, or been aware of, or not persisted with obtaining.

We suggest a separate ‘drill down’ consultation process is appropriate. This process should also take into account overseas managers, dealing with managers kept on arising from mergers, and existing contracts compared with new contracts.

### **3.5.2 Item 5.4.4 Operating income and costs**

The detailed breakdown of operating costs will require funds to review the way they identify, allocate record expenses in their general ledger. Many funds may not record this level of details, especially

around type of advice. This will require a review of general ledger coding and ensuring expenditure is appropriately coded to the right account code.

### **3.5.3 Item 5.5 Proposed Reporting Form SRF 330.1 Statement of Member Flows**

Much of this data is not readily captured such as non-mandatory employer contributions required at 1.1.3. Also, the breakdown of rollovers at item 2.1 and 2.2 is not captured. For large industry funds, this will require additional coding when processing transactions. Such data will need to be requested and provided by employers, as most employers do not provide this information.

### **3.5.4 Item 5.5 Proposed Reporting Form SRF 330.2 Statement of Financial Performance – Sub-fund**

As noted above, ability to allocate items to sub-funds may be problematic for some master funds as many of the expenses are fund level expenses, such as audit fees. Guidance will need to be given as to whether only directly attributable items should be included or whether a proportionate share of expenses should be allocated and on what basis.

### **3.5.5 Item 5.6 Proposed Reporting Form SRF 330.3 Statement of Changes in net Assets – Investment Option**

Some funds have in excess of 50 investment options, so we ask whether APRA requires this for all investment options on a quarterly basis? As investment options such as a balanced option or an equities type option usually have a strategic asset allocation based on the overall fund's pooled investment portfolio, many funds may not be able to provide the breakdown of income required in item 3 & 4 and expense items in item 8. They will be able to provide the crediting rate or unit price reflecting the sum of these items. Alternatively, a fund could use an apportioning method to allocate income and expenses from pooling of investments across expenses. APRA needs to provide further guidance on these requirements and should reassess how funds can satisfy reporting requirements when investments are pooled.

## **3.6 Chapter 6 – Investments**

### **3.6.1 Item 6.3.2 Asset classes**

Under the proposed section 29QC of *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012*, information reported in a particular way to APRA is to be reported publically in the same way.

It appears that funds will be required to describe asset classes using the APRA asset class definitions. For members, this means that the asset allocation shown in the PDS and online will mirror the asset class groupings shown by APRA (of 10 categories).

From the fund's perspective, it will complicate how we describe asset classes that do not fit into this structure. As an example, consider the "credit" asset class. A fund has two options – split this asset class

across the Australian and International “debt” asset classes, or incorporate it into the ‘other’ asset class. In both instances, the fund would need to establish a ‘sub’ asset class, to show investment in “credit”, as it is a significant percentage of some investment options and has a different risk profile to the more conventional debt asset class.

### **3.6.2 Item 6.3.4 Manner of investment (Forms 530.0B – K)**

Typically, funds hold a small proportion of cash within many asset classes. This appears not to be captured by the ‘investment type’ listed. For example, a fund manager may manage an Australian listed shares portfolio and of that portfolio around 3% may be cash. That cash is picked up as part of the total Australian listed shares asset class, not as a component of the ‘cash’ asset class. Without capturing this component, totals for asset classes would not sum up to the reported total fund value.

Additionally, there may also be other items which contribute to the total asset class value, such as derivative contracts and tax items, which again are not captured by the types listed.

### **3.6.3 Items 6.4.1 and 6.4.2 Summary asset allocation and detailed asset allocation information by asset classes**

We are supportive of APRA’s policy objective in requiring ‘look-through’ asset allocation information in order for a trustee to fully assess the investment risks to which the fund is exposed.

In order for this requirement to be effective, consistent and also comparable, it is clear that many funds will have to undertake a re-classification of asset classes within their fund. This will require clear and unambiguous guidance by APRA on what should be included in those asset classes and should be subject to further ‘drill down’ consultation with the industry.

Clearly there are some terms used by the industry which are not legal terms of art and subject to much divergent interpretation. Like risk labelling, this requires the regulator to positively determine what is required rather than apply an inconsistent ‘best endeavours’ approach. Once a consistent classification of asset classes is determined then a transition period is required for the relevant changes to be implemented.

### **3.6.4 Item 6.4.3 Counterparty credit ratings**

Counterparty credit ratings are to be supplied by the investment manager, yet the fund is to consistently apply the lower rating (where multiple ratings from different rating agencies apply), even though we must not rely on credit rating agencies.

### **3.6.5 Items 6.5.1 and 6.5.2 Summary and detailed movement information for each broad asset class.**

Reliance upon third party information will make compliance with these requirements difficult and potentially unachievable in the proposed timeframes. The funds management industry invariably provides this information once a year, not quarterly.

## 3.6.6 Item 6.6.4 Investment exposures in certain jurisdictions

The assumption made here is that the classification is based on the country of incorporation of the investment vehicle; however the investment vehicle may invest across multiple countries. How does APRA propose to deal with multi-nationals or if a manager outsources to other multi-nationals?

Furthermore, information regarding indirect international investments by asset class by type is not always readily available, and may be difficult to obtain from managers domiciled overseas. Definitions of required data will need to be very clear.

## 3.6.7 Item 6.8.6 Indirect holdings of derivatives

Again this is an area where RSEs are dependent upon fund managers providing this information to them. In the past fund managers have been generally reluctant to provide this. There is also an interpretation issue in relation to holdings of unlisted derivatives. Further 'drill down' industry consultation is required on this issue to ensure the requisite level of prescription in what is asked for, in order to obtain consistency in approach by RSEs providing data to APRA. It might be appropriate to consult with ASIC in this regard as well.

Reporting on private equity valuations (Item 6.6.2), investment exposure in certain jurisdictions (Item 6.6.4), and net effective exposure (Item 6.8.4) will be problematic within the timeframes proposed and are ultimately dependent upon some APRA or industry protocols to ensure consistency in data collection. In addition, the superannuation industry itself is quite reliant upon the practices of the Custodian industry in relation to these matters.

## 3.7 Chapter 7 – Investment performance

### 3.7.1 Item 7.4 Product Dashboard

There are some fundamental mismatches between the information APRA intends to collect in relation to the product dashboard and the information required under draft legislation (the proposed s1017BA of the Corporations Act (under Stronger Super Tranche 3). Section 29QC (also in Tranche 3) is not enough of itself to solve the mismatches of information required, but enough to cause confusion, partial or non-compliance with strict liability requirements. Despite the Regulator's intentions, the situation presented is enough to ensure that information that is to be provided in a product dashboard is not provided consistently by all funds, undermining comparability of data and defeating the purpose of having a product dashboard.

We would be comforted if there was a combined statement of intent on the part of both APRA and ASIC to demonstrate how each intends to administer the product dashboard requirements. The current requirements give rise to considerable confusion as to whether ASIC will actually regulate the Corporations Act using statutory interpretation principles or simply defer to APRA data collection requirements, regardless of their inconsistency with the primary legislation.

## 3.7.2 Item 7.4.1 Investment return objective/target

We understand that there is an APRA preference for returns to be calculated net of investment fees and administration fees – this is what is asked for in the APRA reporting standard and in form SRF 537.0. It is not clear that the proposed legislation on the product dashboard asks for a calculation that is relevant to this. If it is not sufficiently equivalent then section 29QC will not apply. We have suggested that this be made clearer in the primary legislation, assuming that APRA wishes to achieve this objective.

Further, APRA's data collection requirements relating to the product dashboard will be asking for information based on AWOTE as the key performance measure for investment objectives which will require a new return objective for all investment options. In contrast, many industry funds use a CPI target (to the extent that it could be considered an industry standard). Does APRA then expect that this will be published in the product dashboard for members instead of their current investment return target? Have either APRA or ASIC anticipated member confusion particularly where members have chosen investment options based upon their investment objective being communicated differently, for example, CPI + 2%?

We have a strong preference for the use of CPI as a performance measure, as it is a measure that is widely used in the community and is understood by our members. AWOTE is a technical term, used mostly by practitioners, and is not broadly understood by members.

With the government pension indexed to the CPI, it would also be consistent to use the same references throughout.

## 3.7.3 Item 7.4.2 Level of Investment risk

The Product Dashboard risk disclosure requirement is for disclosure of the 'level of investment risk' for each investment option. We have submitted that the legislative requirement should relate to 'longer term investment risk' rather than simply investment risk.

Similarly, we suggest that APRA's proposals in this area be revised and subject to further future consultation. Our reasoning is as follows:

- It is extremely misleading to apply a single level of risk to any investment option, because the level of risk that is undertaken by a consumer who invests in that option relates to their a) investment timeframe and b) objectives.
- For example, a 20-year old member's objectives are to accumulate savings in a compulsory superannuation system that will provide them with an adequate income in retirement. Their investment timeframe (including the accumulation and the pension phase) could be 60 years. Therefore the cash option is not necessarily 'very low' risk to them. It is very high risk. If they invest their super savings in the cash option there is a high risk that they will not meet their objectives. The risk of short-term volatility, which is the risk measured by the Standard Risk Measure (SRM), is irrelevant to this member.

- Annual volatility, which is what the SRM measures, is not the only risk and it's much less of a risk for younger members than inflation/adequacy.
- Some industry funds have developed an expanded approach to the SRM which uses a 3-part risk label, to reflect the fact that short-term risks are different to long-term risks. For each of the investment options there is a short-term, a medium-term and a long-term risk label. It is used in conjunction with a display of the potential ranges of returns provided by each of our investment options over different time periods. One of the key things these displays show is that over the long term cash does not grow and for a member invested for a 20-year period the lowest projected outcome from cash is even lower than the lowest projected outcome from the typical balanced option. Volatility washes out of the member's portfolio over time.
- This approach supports the industry's objective of maximising members' long-term investment returns so that they can have adequate incomes in retirement and of changing members' and funds' focus from short-term to long-term investing.
- This approach and thinking is reflected in a wide range of academic and governmental policy research as well as by the OECD, which is currently conducting a Long Term Investing Project. One of the policies it is developing to encourage long-term investing has an imperative of addressing knowledge gaps and behavioural biases in relation to short-term versus long-term investing. See the following excerpt from a report on the project in a recent issue of the OECD Journal:

*Moving from the current mindset to a longer-term investment environment requires a transformational change in investor behaviour, that is, a new "investment culture". Major policy initiatives in a variety of areas are needed. [This includes] addressing knowledge gaps and behavioural biases. Retail investors need support to help them meet their long-term investment goals. Regulators should also become better acquainted with long term risks and new financial instruments. In order to achieve these objectives, governments and other stakeholders should support information collection, public awareness and financial education campaigns that promote long-term investment and risk management.*

*(Della Croce, Stewart and Yermo, Promoting Longer Term Investment by Institutional Investors: Selected Issues and Policies, OECD Journal: Financial Market Trends, Volume 2011 – Issue 1)*

- Unfortunately the SRM acts against this approach: it reinforces short-term thinking through the focus on the risk of volatility in annual returns, which prompts members to focus on short-term investment returns and for long-term members to make inappropriately conservative investment choices. It is further deficient in its procedure for considering volatility over a twenty year period. It only requires trustees to consider it for *one* year and then multiply their figure by 20, instead of undertaking a true consideration of volatility over a twenty year period.

We are supportive of a more considered and appropriate measurement of risk that is actually relevant to a long term investment that is generally preserved and cannot be taken out until a

member either retires or dies and suggest that APRA consider the above measures in their reporting and consequently, for the product dashboard.

### 3.7.4 Item 7.4.4 Statement about the liquidity of members' investments

There is a mismatch between the legislated requirement “a statement about the liquidity of members' investments in the MySuper/Choice product”, and what APRA asks for in their reporting. Given that the proposed legislation asks for a statement, one could argue that a calculation or estimate required by APRA does not apply to product dashboard proposed legislative requirements. We expect however, that this is not the intention of APRA, or of Treasury when providing drafting instructions on this requirement. It is highly arguable as to whether the proposed section 29QC assists the regulatory intent or instead allows trustees to choose not to publish this information in the manner intended by APRA. More clarity and unity of purpose between regulators and Treasury is required in guidance on these issues.

This issue is further complicated by APRA asking for information that not only does not resemble a ‘statement of liquidity’, but instead asks for a *number*, being a subjective forward estimate of information. APRA proposes the following:

*APRA proposes that this estimate be defined as the percentage of assets that can be redeemed in 30 days without changing the value of the assets. This means, therefore, that assets not traded or where trading of an asset would have significant market impact and alter the price of the asset, would not be included as liquid assets. (Discussion Paper p46).*

From a public policy perspective this approach is problematic for the following reasons:

1. It discourages investment in unlisted assets (along with small caps and even, potentially, Australian listed equities for large funds) when these are a significant and important part of the investment universe and highly appropriate for a mandatory long term investment such as superannuation;
2. The only circumstances under which any major fund would need such liquidity, such as a market correction or crash, would affect all market participants, so no fund would be able to liquidate assets without experiencing adverse price effects. For example, a large industry fund has over \$35 billion of assets in a single investment option, for which APRA would expect a market price to be estimated over all the assets of that option if they were to be liquidated in a 30 day period and have a material change in value. In such circumstances where the fund concerned would be required to liquidate over \$35 billion in assets in such a timeframe entire markets would be in significant crises and it is highly questionable whether any ‘estimate’ regarding such a fire sale of assets would be anywhere near accurate, or be useful information for a consumer using the product dashboard.

3. Strict liability applies to trustee directors for information on the product dashboard, so estimates that prove incorrect under extreme circumstances may have direct consequences on trustees.
4. Further, the liquidity requirement does not cover fund demographics and the level of fresh contributions a fund receives compared to the pension payments it makes. This is obviously a key liquidity consideration for superannuation trustees and is relevant to their formulation of their investment strategy. This is a more pertinent liquidity issue which needs to be taken into account in a statement of liquidity and any uniform liquidity measure.

There are also some basic challenges in compliance implementation:

1. The difficulty lies in having a consistent approach to the method of calculation. To determine whether an asset or group of assets can be liquidated within 30 days requires assumptions on volumes that can be traded in the market without having market impact. For listed equities, there are models that can do this (based on a given data set) however we do not believe the same exists for fixed income assets, so it becomes quite a subjective calculation.
2. Given the way the proposed legislation is framed, and APRA's expectation of how it is to be implemented, there is a real question for ASIC as the disclosure regulator to consider what non-compliance with this requirement looks like?

For example, does it mean that APRA (or ASIC) disagrees with the subjective estimated market value of all assets in an investment option that could be sold within a 30 day period? A clearer approach to such compliance implementation issues is requested from both regulators in this regard.

3. There will be no consistency between different RSE's interpretation of what are liquid assets. Where information reported is not going to be consistent or comparable, we suggest that it should not be reported on as it will be of no benefit.

The 14-day updating requirement for the Product Dashboard is too onerous and not achievable by third party service providers to superannuation funds. For example, investment fee arrangements can change significantly in short periods when performance fees are recalibrated and fund managers change.

Suggestions for an alternative liquidity measure:

1. It is possible to consider this issue afresh and to provide disclosure on asset class "buckets", based on more generic criteria about how liquid each bucket is. These estimates will be more stable, higher level, linked to asset allocation data. APRA could specify the buckets. By doing this, APRA could establish a consistent set of principles for how liquidity is measured, rather than leaving it open to the interpretation of each fund. The added benefit is that APRA could

then compare the liquidity profile of funds/MySuper options on a consistent basis. The current proposal would not allow such comparison.

2. The definition of liquidity should include the word 'significantly', i.e.: "the percentage of assets that can be redeemed in 30 days without **significantly** changing the value of the assets".

### 3.7.5 Item 7.4.5 Historical investment fees and net performance

We wish to ensure that historical investment fees and net performance continue to be reported on and are able to be disclosed to members as consumers of long term investment products. If we are unable to show members how a long term investment has performed over the long term, then we have failed to show information that any investor would reasonably require in order to make an informed decision about investing in a particular long term investment product.

It is said that it is difficult to provide this information where fund mergers have occurred. We submit that methodologies are able to be developed to ensure that this information can be reported appropriately, although it does require some work. In any event such methodologies are needed as prospective reporting as fund mergers will ensue, post-MySuper start up on 1 July 2013. Developments of industry wide protocols on such methodologies should ensue in discussions with APRA, and also be used for APRA data collection on historical investment fees and net performance. This will enable controlled and accurate historical performance information to be disclosed to members who rightly expect that such information should be available.

The public policy concern with not allowing members to see fund performance of rebadged default investment options that are becoming MySuper options outweighs the short term reporting imperatives in relation to data collection.

The concern is that there will be no long term comparative performance data for **ten years** whilst APRA collects data on MySuper products prospectively. This is clearly an adverse policy outcome for members, particularly when the superannuation industry, financial advisers and financial literacy experts all advocate making superannuation investment decisions for the long term.

Similarly, this will be a concern to employers who will shortly be required to choose from potentially a large number of MySuper options which will be available under Awards. They would be reasonably aided in this decision by knowing how the investment option to which they will compulsorily contribute monies on behalf of their employees has performed.

We have a **strong** preference that performance history be retained for products that are not 'new' but have been 'rebadged' as MySuper' options. If we are unable to use our history, our members will receive less information than under current arrangements, even though product design is unchanged, which we think is overkill.

## 3.7.6 Item 7.4.6 Look-through of investment fees

We support APRA's approach in seeking to provide transparency in fees related to investments, as well as fees related to investments underlying each investment vehicle used in the investment option. We support fees netted of unit prices being reported the same as direct fees. The challenge again lies with having a deliberate, concerted and consistent approach across the industry to obtaining information from investment managers. Again, a 'best endeavours' approach to this is insufficient. We prefer further 'drill down' consultation on this issue.

Requirements relating to obtaining information from investment managers should generally be subject to audit sign-off with separate reporting resulting on the proportion of investments to for which this information was unable to be achieved. This information should be disclosed to members.

A number of our member funds currently incorporate underlying fees and costs, in response to our interpretation of APRA's guidance on reporting fees. While such an activity may at times be difficult, it has been demonstrated that it is possible. It is the only way that true fees and costs can be measured, as otherwise they can be 'hidden' behind investment vehicle structures. We note that much of the industry is not disclosing along these lines, making fee and cost comparisons between funds virtually worthless.

When it comes to fees, we would like the regulator to ensure that the public is comparing apples with apples. We also note that most members will not be aware of any differences in 'interpretation' or adherence to disclosure requirements when looking at cost comparisons; instead, they will take what is presented at face value. This makes it very important to ensure comparability through the use of clear definitions and guidelines across the industry.

Points we would note are:

- The need for clear definitions and guidelines.

If indirect 'investment costs' are included, there must be clear definitions, principles and guidelines, as well as examples across different asset types and different vehicles provided. In this way, there will be consistency of interpretation across funds, which will mean better comparability.

- How far does a fund drill down to capture underlying costs?

For example, are 'brokerage costs' to be included? Funds will be dependent on investment managers for reporting these fees. This may mean different outcomes across different managers, due to opaqueness of costs, and interpretation issues. Some costs may also not be so clearly defined between 'asset management costs' versus 'internal management' – what is done to ensure consistency of application i.e. investment in a listed stock, we do not account the underlying costs of operating each subsidiary or segment yet for internal management, where is the line drawn?

Other cost considerations:

- What level of administration costs should be included for internal and externally managed investments?
- Treatment of GST rebates?
- Past loss clawback in performance fees?
- Accrued performance fees? (There can be large swings from year to year)
- Apportionment of a bundled fee cap across products
- Are all the due diligence costs of bids for unlisted assets also included?
- Confidentiality
- Divulging data on underlying investments (for example, where investment exposures are greater than 5%) may potentially breach confidentiality agreements currently in place with fund managers.

## 3.8 Chapter 8 – Fees

We are gratified that APRA is using the six new fee categories applicable to MySuper products for the purposes of APRA reporting requirements.

### 3.8.1 Item 8.4 Proposed Reporting Form SRF 538.0 Fees Disclosed – MySuper product

We are concerned that APRA is proposing *not* to require fees to be reported for select choice investment options. Whilst it is true that members within a choice investment option may be charged different fees based on a variety of factors (the examples used by APRA in the Discussion paper on page 50 were “account balance, employer, financial planner”), these factors apply equally to MySuper products which undermines the reasoning by excluding fee reporting on Choice investment options due to these factor:

- Asset based fees are permitted in MySuper as well as Choice options, so the exclusion on reporting on asset based fees on Choice options seems incongruous
- Tailored MySuper options deal with employer differentiation, in addition to employers achieving price differentiation within a single MySuper option pursuant to the MySuper employer administration exemption. Employer differentiation is not the province of Choice options so again the exclusion from fee reporting on this basis is not well founded.
- Further, commissions are banned for all MySuper and superannuation products except for commissions on individual life policies inside superannuation. Financial planners are able to have the account balance of a member reduced with member consent as a result of providing financial product advice to that member, so long as the advice is about superannuation and retirement planning.

There is no real case for fees arising from these activities being reported in relation to MySuper options, but not in relation to Choice investment options that are ‘select Choice investment options.’

We submit that APRA should be able to collect fee data on choice investment options by using data requested under SRF 538.0, as Choice products will be disclosing fees in PDSs as well – the Choice product information will be incorporated by reference into the PDS and legally forms part of the PDS. The requisite updating requirements should apply also where information contained in a PDS has changed.

### **3.8.2 Item 8.5.2 Payer of Fees**

We support data collection in relation to fees paid in an RSE and that not always directly paid by a member. We support separate reporting of fees paid by members, employers, the RSE licensee itself and from reserves, in addition to rebates received from other parties.

Much time in policy formulation and debate is spent on seeking to exempt or reduce disclosure where fees are paid by other parties but it is not entirely clear how often this occurs or the amounts involved. We welcome this proposal as a boost for transparency within the industry.

## **3.9 Chapter 9 – Insurance in superannuation**

In financial reports most funds report on group life insurance proceeds and premiums at a fund level.

Income Protection is paid directly to the member by the insurer, many systems would not be set up to record multiple claim payments and insurers' would store this information, therefore any audit process that occurs would be on the insurers' side. We request that APRA consider that funds be able to leverage their Insurer's audit processes as funds are reporting as an RSE.

### **3.9.1 Item 9.4 Proposed reporting form SRF 250.0 Insurance**

#### **3.9.1.1 Section 1.4 and 3.4**

Clarification required on how the value of temporary disability/income protection is to be quantified i.e. sum of total monthly benefit, sum of annualised benefit, sum of annualised benefit multiplied by maximum claim period.

#### **3.9.1.2 Section 2.5**

Getting the data from the various sources e.g. internal, administrator, multiple insurers will be a challenge in itself, but having to apportion costs across the multiple claim types is unreasonable and/or may impact organisation/claims processing structures.

#### **3.9.1.3 Section 3**

This item will not be easy to report on. Information for denied, disputed and differed claims may be stored within Insurers' systems or within paper files for individual claimants. However claim values are not necessarily calculated and stored. This may impact current processes.

If someone does not meet the upfront requirements to claim is it a requirement to calculate what the benefit value would have been if the claimant had been eligible?

Claims paid, where a claim is paid over multiple reporting periods e.g. IP, how should that be reported?

### **3.9.1.4 Section 3.1**

Life claims, clarification is required on whether the account balance component of a life claim should be reported.

## **3.10 Chapter 10 – Defined Benefit Matters**

AIST will be making a supplementary submission on this chapter in the next week.

## **3.11 Chapter 11 – Services**

This chapter is primarily aimed at fund managers and custodians and we suggest that APRA conduct in depth discussions with these parties to better understand their capabilities to deliver this information and the realistic timeframes that they can do so.

## **3.12 Chapter 12 – Membership Profile**

As an overriding point, one of the stated aims of this process is to improve fund member data, yet we seem to be leaving out a key step to achieve this goal – namely requesting that the ATO supplement the demographic data that the funds supply with the information that they hold. This would ensure that all parties are using the same data set and also facilitate uniting members with their superannuation monies as funds will have better information.

In the interim, we believe that most funds will be able to extract the majority of the data required. However, many of the defined segments are not captured in the same manner in our systems, so manual data analysis may be required in the short term which will add time and risk to the process.

### **3.12.1 Item 12.4 Member account types**

We would urge APRA to work with other regulators, namely the ATO, to provide clear definitions and guidelines to the different membership types (e.g. inactive). Currently, each fund has its own interpretation of some of these types of members and it would be consistent with the intentions of Stronger Super and SuperStream to make sure all funds were classifying their members in the same way.

### **3.12.2 Item 12.4.3 Age, gender and vested benefit segmentation of member accounts**

With regards to section 7 of SRF610, we question the rationale of asking funds to segment age data into bands when APRA (or the ATO) has access to the actual DOB of each member and could cut the data itself. We also request that APRA review the design of this form as in its current guise will eventuate in a table of around 200 line items. A table with an X & Y axis may be easier to create and understand. We are very supportive of the inclusion of “gender not specified” in this section.