



SUBMISSION

MySuper authorisation and Transition to MySuper Standard SPS 410

29 June 2012

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About ASFA

ASFA is a non-profit, politically non-aligned national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

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MySuper Authorisation and Transition to MySuper Standard SPS 410

Executive Summary

ASFA's comments on the MySuper Authorisation and the Transition to MySuper Standard SPS410 are formed by ASFA's Policy Principles, these are:

1. Working to enhance retirement outcomes for all Australians;
2. Superannuation members should be informed and engaged;
3. The Government and industry should work towards and for industry efficiency gains; and
4. Governance and the regulation of super funds should be effective and transparent.

We use the following policy screens to further develop our position, these screens include:

1. Equity across the system;
2. The benefits of implementation outweigh the costs;
3. The system is simplified rather than complicated;
4. Ethical behaviour is addressed;
5. A level playing field is achieved;
6. The outcome is an open, fair, transparent and competitive market; and
7. The best long term interests of the majority of fund members are protected and improved

As a general comment, ASFA recommends that,

- APRA provide guidance to Trustees on its approach if a Trustee is unable to submit a MySuper authorisation by 3 March 2013; and
- APRA review the accrued default amount reporting date of 1 January 2013.

In relation to the MySuper Authorisation, ASFA recommends that,

- APRA review the requirements at Item A11 and A12 for the first round of MySuper applications;
- APRA confirm (through further guidance or an FAQ on its website) that those applicants seeking authorisation on the basis of the material goodwill or the large employer provision (and where a first MySuper application has been authorised) only need to complete Alternate Part B of the Authorisation;
- The requirement to brand a MySuper product to include the term 'MySuper' be removed from Item A7; and
- ASIC release their enhanced MySuper disclosure obligations as soon as possible so that the industry is able to consider, understand and resource any new disclosure obligations relating to MySuper (and the Stronger Super) reforms.

In relation to the Transition to MySuper Standard SPS 410, ASFA recommends that,

- APRA review the dates within Standard to accord with the legislative transition to MySuper requirement of 1 July 2017. ASFA also recommends that APRA provide further guidance to Trustees on how to approach these requirements within the Standard given the discordance between dates; and
- APRA consider changing the Standard compliance date to 1 July 2014 (which is post the 1 January 2014 inter fund consolidation compliance date). This will also allow those funds that are planning to merge to merge, Trustees to apply for and set up their

MySuper product, reporting standards and data collection requirement to be in place as well as the enhanced disclosure obligations to be communicated and finalised.

1. General comments

The Association of Superannuation Funds of Australia (ASFA) would like to provide this submission with respect to the MySuper Authorisation (the Authorisation) and Transition to MySuper Standard SPS410 (the Standard). ASFA appreciates the consultative approach that APRA has taken with regard to discussions concerning the Authorisation and Prudential Standards.

ASFA would like to make a more general comment about the timeframes of the Authorisation process and compliance with the Standard.

We note that the MySuper authorisation process will commence from 1 January 2013, RSE licensees, once authorised, may offer MySuper products from 1 July 2013.

From discussions with APRA and the timetable outlined in page 11 of APRA's Response to Submissions paper released on 27 April 2012, we understand that the final MySuper Authorisation package will be released in September 2012, however, the final Standards will not be released until November 2012.

The package of Prudential Practice Guides (the Guides) relating to the Standards will be released for consultation in December 2012 for three months. APRA are yet to announce a final release date for the Guides however, we presume that they will be finalised before 1 July 2013.

The electronic form for the Authorisation will be available from October 2012 and APRA will accept MySuper authorisations from 1 January 2013.

We note that APRA have 60 days to review the authorisation which in effect requires Trustees to lodge their authorisation by 3 March 2013.

Whilst APRA have indicated that they would like to review draft MySuper authorisations now, it will be difficult for many of our members to finalise their MySuper authorisation by 3 March 2013, update the necessary policies required for the Authorisation and then obtain Board sign off for the updated or new policies as well as arrange the MySuper authorisation

Where a Trustee is unable to meet the 3 March 2013 date and indicates to APRA that they will be applying for a MySuper authorisation, ASFA recommends that APRA provide guidance to the industry as to how APRA will approach authorisations that are lodged post this date.

ASFA also notes that APRA will be releasing a reporting standard will be finalised by June 2013. The reporting requirement in the Discussion Paper however, states that Licensees will be required to report on the number of accounts in the affected RSE, which includes an accrued default amount and the total value of the accrued default amounts, within 25 business days of the end of quarter commencing on 1 January 2013.

Without the final reporting standard being released by 1 January 2013, ASFA questions whether APRA is able to request this information. Licensees will also have difficulty in

providing this information within 25 business days of the quarter commencing on 1 January 2013 without having time to update systems to provide this information.

Whilst the employer start date of 1 October 2013 is not referred to in the Authorisation and the Standard, ASFA would like to take this opportunity to strongly recommend that the 1 October 2013 employer contribution start date be moved to 1 July 2014. This will allow more time for Trustees, employers and the regulators to prepare for MySuper and for APRA to authorise MySuper products.

Recommendations:

- APRA to provide guidance to Trustees on its approach if a Trustee is unable to submit a MySuper authorisation by 3 March 2013; and
- APRA review the accrued default amount reporting date of 1 January 2013.

2. MySuper Authorisation

Whilst our members have indicated a number of technical issues (see Appendix 1) with the Authorisation, ASFA believes the main issues for our Members are as follows:

- MySuper transition requirements within the Authorisation and the interaction with 1 July 2017 legislative requirements;
- The requirement to lodge individual Authorisations for each MySuper product; and
- The requirement to 'brand' the product as a MySuper product.

A brief discussion on each item above follows:

2.1 MySuper transition requirements within the Authorisation (Items A11 and A12);

The transition to MySuper compliance date is 1 July 2017. The MySuper application form requires details (at A11 and A12) about the number of members that have accrued default amounts, the Trustee's strategy on transitioning the accrued default amounts and the product that the Trustee will transfer default and accrued default amounts if the Trustee does not have a MySuper product in place.

Whilst this information is of value to the Trustee and APRA, ASFA submits that for the first round of MySuper applications that Trustee's will not be able to provide this information and that it is more appropriate for APRA to seek this information after MySuper has been in place for at a minimum 12 months.

Recommendation:

APRA review the requirements at Item A11 and A12 for the first round of MySuper applications.

2.2 The requirement to lodge individual Authorisations for each MySuper product (Item A9 to A10.2)

Whilst we note the Alternate Part B section (allowing for different information to be provided where it differs from information provided to APRA with respect to the first MySuper application) within the Authorisation form, many of our Members are concerned that for each variation to a MySuper Product, a Trustee will still have to lodge a separate Authorisation.

We understand the electronic form, when released in October 2012, will have some sections auto completed, where Trustees are applying for multiple MySuper authorisations, however the current format does not appear to allow for multiple applications.

Recommendation:

APRA confirm (through further guidance or an FAQ on its website) that those applicants seeking authorisation on the basis of the material goodwill or the large employer provision (and where a first MySuper application has been authorised) only need to complete Alternate Part B of the Authorisation.

2.3 The requirement to ‘brand’ the MySuper product as a MySuper product (Item A7)

There is a requirement at Item A7 to name the MySuper product. It is essential that ASIC release their enhanced disclosure requirements to the industry so that industry can consider the development of PDS’s and other disclosure requirements such as member statements. The costs to industry of updating disclosure documents to meet these enhanced disclosure requirements could be substantial. For example would it be expected that the MySuper option should be the option that is disclosed in the short form PDS or can it be incorporated by reference!

APRA also expects that the name for each MySuper product, and for any white-labelled variant of a product, would normally include the term ‘MySuper’¹. Whilst, we can understand that a MySuper product may have the name MySuper, ASFA considers that to have a requirement within the application form as overly prescriptive for APRA as a prudential regulator.

It maybe that a Licensee wishes to label their MySuper product differently and make reference to MySuper within the PDS.

We would expect that the issue of labelling the MySuper product would normally be addressed by ASIC.

Recommendations:

- The requirement to brand a MySuper product to include the term ‘MySuper’ be removed from Item A7.
- ASIC release their enhanced MySuper disclosure obligations as soon as possible so that the industry is able to consider, understand and resource any new disclosure obligations relating to MySuper (and the Stronger Super) reforms.

¹ Instruction Guide, Application form – Authority to offer a MySuper product, Item A7, page 11

3. Prudential Standard SPS 410

There are two main issues within the Standard, these are:

- The interaction between legislative timeframes, reporting requirements and timeframe obligations within the Standard; and
- The Significant Event Notice requirement within the Standard discords with current Notice requirements within s1017B of the Corporations Act.

A brief discussion on each issue follows:

3.1 Timeframe obligations within the Standard

ASFA notes that the Standard comes into effect on 1 January 2013 however, APRA's timeline indicates that the final Standards will not be released until December 2012. The Standard indicates that 'all RSE licensees must comply with the Standard in its entirety, unless otherwise expressly indicated.'² However, we do note the 'carve out' around certain requirements in the Standard, provided for in paragraph 4, which can be applied if a fund's MySuper product has the same investment strategy, insurance premiums (that are no higher) and investment fees (that are no higher) than the fund's existing default option.

Whilst there is a requirement in paragraph 7 to prepare, review and give effect to a MySuper transition plan (that must be approved by the Board of the Licensee). The details of the information that must be included in the transition plan are outlined in paragraph 8. There is also a requirement in paragraph 12 to identify one or more suitable MySuper products into which the accrued default amounts of affected members will be moved.

As indicated, the Standard comes into effect on 1 January 2013 however, MySuper products (that are authorised) will only be available from 1 July 2013, it will be difficult (if not impossible) for Trustees to identify a suitable MySuper product to move accrued default amounts into and then in turn comply with the Standard.

Recommendation

ASFA recommends that APRA review the dates within Standard to accord with the legislative transition to MySuper requirement of 1 July 2017. ASFA also recommends that APRA provide further guidance to Trustees on how to approach these requirements within the Standard given the discordance between dates.

3.2 Significant Event Notice requirements within the Standard

It is essential that there is a uniformity of regulatory approach between APRA and ASIC. The obligations within paragraphs 16 and 17 discord with the Significant Event Notice (the Notice) obligations outlined within s1017B of the Corporations Act. That is, the Notice is required 90 days before the transition of a member's account to a MySuper Product

ASIC have indicated that there will be enhanced disclosure requirements that will apply to MySuper and the MySuper transition. ASFA stresses that the enhanced disclosure requirements must be released as soon as possible with guidance as to how the enhanced disclosure requirements interact with paragraphs 16 and 17 of the Standard.

Recommendation

² SPS 410 Transition to MySuper Standard, paragraph 3, page 2

ASFA recommends that APRA consider changing the Standard compliance date to 1 July 2014 (which is post the 1 January 2014 inter fund consolidation compliance date). This will also allow those funds that are planning to merge to merge, Trustees to apply for and set up their MySuper product, reporting standards and data collection requirement to be in place as well as the enhanced disclosure obligations to be communicated and finalised.

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We look forward to discussing the issues outlined within this submission, and subsequent matters in relation to the Authorisation and Prudential Standard, on an ongoing basis as we move through the consultation and implementation period.

If you have any queries or comments regarding the contents of our submission, please contact me on 02 8079 0858 or via email on mstewart@superannuation.asn.au.

Yours sincerely

Margaret Stewart

A handwritten signature in black ink, appearing to read 'M Stewart', with a stylized flourish at the end.

General Manager, Policy and Industry Practice

Appendix 1

MySuper Authorisation – Technical issues

A number of technical issues have been identified by our member in relation to the MySuper Authorisation, these are:

1. Item A10 Only applicable to RSE licensee applying for authorisation under the large employer provision

It seems overly prescriptive to require APRA approval everytime a new employer group is signed to a generic MySuper product that has already been authorised by APRA. We believe that this requirement will cause unnecessary delays, will be a burden on stretched resources and therefore is likely to increase administration costs charged by our members. Whilst, this information would be of interest to APRA we believe that it could be reporting as part of regular reporting requirements.

2. Item B2.1 Requirement: Provide details for certain service providers used in relation to the MySuper product

Item B2.1 states a requirement to provide details for certain service providers used in relation to the MySuper product and that this includes any contract that maybe written, oral or under the governing rules of the entity.

ASFA recommends that this requirement should align with the Outsourcing Prudential Standard SPS 231 which includes materiality obligations at paragraphs 7 to 9 as well as a requirement for all material outsourcing relationships to be in a documented legally binding agreement.