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RE: Discussion paper: publication of superannuation statistics and confidentiality of superannuation data

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the request for comments on the November 2013 Discussion Paper *Publication of superannuation statistics and confidentiality of superannuation data*. We note that the purpose of the discussion paper is to seek feedback on the proposed changes to APRA's statistical publications and the classification of data collected under the new reporting arrangements.

About ASFA

ASFA is a non-profit, non-politically aligned national organisation. We are the peak policy and research body for the superannuation sector. Our mandate is to develop and advocate policy in the best long-term interest of fund members. 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.

General comments

We note that the focus of the paper is on the proposed approach to the publication of quarterly superannuation statistics and to the introduction of a new data dissemination tool. We also note the legislated obligation on APRA to publish comprehensive statistics on MySuper products. Further noted is that a separate consultation will be conducted with respect to the publication of annual statistics, data with respect to the implementation of SuperStream, investment exposure concentrations and the Operational Risk Financial Reserve (ORFR). ASFA looks forward to participating in this further consultation.

In previous submissions on the collection of data by APRA, ASFA has raised concerns about both the volume of data being collected and the cost to superannuation funds of implementing arrangements to collect and report it.

We welcome APRA's acknowledgement that it is not appropriate to publish information with respect to commercial arrangements with service providers. We believe that the principle of the confidentiality of commercial arrangements should be applied to all forms, not just the three reporting forms with respect to service providers, and should be extended to include commercially sensitive data, such as the level of financial data for member directed investment options.

Similarly, we welcome APRA's recognition of the privacy regulatory regime and that personal details with respect to an individual should not be disclosed. This principle should extend to include members, employees and directors.

That said it is ASFA's view that, subject to privacy and commerciality considerations, having been collected the data should be used as much as possible. With those caveats, ASFA's preference is that data should be published (determined to be non-confidential) rather than not published (determined not to be non-confidential).

Specific comments

The discussion paper makes a number of statements of intent. Our response to each of these is set out below.

Regrettably, the timing of this consultation, as well as the number of other consultations underway in the superannuation industry, has impeded the ability of our members to provide detailed comments on the discussion paper.

Given the scope and magnitude of this consultation, and instances of industry misunderstanding as to which data fields APRA intends to make non-confidential, and the potential implication of publishing information which should be confidential, we strongly suggest that a second round of consultation is necessary. It is critical that the determinations of confidentiality are appropriate. As there are no regulatory timeframes by which the data must be made available or statistics published, and that statistics are currently being published on an interim basis, it would be appropriate to perform a second round of consultation at a detailed level. ASFA would be happy to participate in any such consultation.

Recommendation

Given the scope and magnitude of this consultation we strongly suggest that a second round of consultation is necessary prior to finalisation.

Statistical publications

ASFA supports the intent to continue publishing industry-level statistical information in PDF format, supported by relevant commentary.

Statistical reports

ASFA notes the intention to publish statistical reports in the new data dissemination tool rather than in Excel. We also note that the new tool will allow APRA to expand the volume of data released in statistical reports.

We take on face value that the change in format for accessing the data will allow users to browse the available data, create their own reports and easily export data to excel and for use in other analytical tools. If the change provides users with the ability to better analyse the available data, then it is to be supported.

Statistical database

ASFA notes the intention to introduce a superannuation statistical database that will allow users to browse the available data, create their own reports and easily export data for use in other analytical tools. If the change provides users with the ability to better analyse the available data, then it is to be supported. However, with the expanded data and the increased ability to analyse it, careful consideration needs to be given as to whether it is appropriate for all of the data provided on the APRA reports to be placed in the database. The question as to what data should be made publicly available (i.e. determined to be non-confidential) will be addressed later in this submission.

ASFA notes that whilst the release of the data will better enable users to compare products and funds, the validity of such comparisons is dependent on reporting entities categorising and reporting data in a consistent and comparable manner.

In the early quarters of reporting under the new arrangements there is the potential for inconsistent interpretation of the reporting requirements across reporting entities. It is also possible that the reporting requirements themselves do not deliver the intended result, or may produce a result that has the potential to be misleading to the reader.

One example of this is contained in *SRF 533.0: Asset Allocation*. The PDS for a product may state that there will be a 20% to 30% allocation to international equities and a 30% to 50% allocation to domestic equities. The trustee may decide to undertake the international equities component of the investment through an unlisted Australian-domiciled international equities trust. Such an investment would be reported at the product level on SRF 533.0 Part 1 (Strategic asset allocation), Part 2 (Directly held and indirectly held investments) and Part 3 (movements in directly held and indirectly held investment) as follows:

Asset Class type: Equities
Asset domicile type: Australia domicile
Asset listing type: Unlisted

A reader seeking to use the data to validate closeness to the PDS asset allocation may, at face value, form the view that the trustee has not invested in accordance with the PDS's stated asset allocation.

Disconnects such as this between the reporting and the real situation will only be discovered over time and they may lead to a need for APRA to refine the reporting requirements.

Recommendation

ASFA recommends that, when publishing data, APRA include appropriate caveats on the use of the data and makes available information about the purpose for which data was collected and the basis on which it was reported.

Determining data to be non-confidential

General comments

The comments below on determining data to be non-confidential reflect the discussion paper and information separately provided to attendees at industry consultation forums conducted by APRA.

As per above, the timing of this consultation has impeded the ability of our members to provide detailed comments on the forms. A number of members have identified that they have technical concerns with specific aspects of some forms but have not had the opportunity to document them.

While the mapping documents produced by APRA and circulated in late December was a welcome and positive step a number of members have indicated that they have found them confusing; that there has been insufficient time to fully analyse them; that they do not appear to cover all the reporting forms and fields and that, as the documents were not published, there will be many industry participants who were not aware of their existence.

Accordingly, as per above, we believe it would be beneficial if, after considering this round of submissions, APRA were to publish for comment a second, comprehensive version of this comprehensive analysis which would form the basis of a second round of consultation.

Specific comments

Members have raised concerns with respect to the confidentiality of some data in the following cases: -

- **defined benefit funds** – as these funds are in run-off and are not comparable, especially not with respect to accumulation funds;
- **employer specific and large employer (tailored) MySuper products** – as there are commercial sensitivities around publishing data with respect to products which are not open to public monies and which potentially could expose the corporate employer to inappropriate scrutiny;
- **small funds** – as this could inadvertently expose member data
- **historical data** – as not comparable to new standards and not investigated;
- **investment holdings data** – where disclosure at holdings level could compromise trading strategies.

Specific forms

SRF 114.0 and SRF 114.1: Operational Risk Financial Requirement

ASFA notes that it is proposed that the data on *SRF 114.0* and *SRF 114.1: Operational Risk Financial Requirement* not be determined to be non-confidential during the three year transitional period.

ASFA further notes that consultation will be undertaken with industry to consider whether, post the transitional period, the data should be determined to be non-confidential and published accordingly.

ASFA supports the decision to not make this data publicly available at this stage and welcomes the decision to consult on any proposals for future publication.

160.0 Defined Benefit Matters

ASFA notes that it is proposed that the data in *SRF 160.0: Defined Benefit Matters* that relates to defined benefit measures (Items 1.1, 1.2 and 1.3) not be determined to be non-confidential.

ASFA supports the decision to not make the quarterly data with respect to defined benefit measures publicly available.

SRF 160.1: Defined Benefit Member Flows

ASFA notes that it is proposed that the data in *SRF 160.1: Defined Benefit Member Flows* that relates to the estimate of vested benefits not be determined to be non-confidential.

ASFA supports the decision to not make the quarterly data with respect to the estimate of vested benefits publicly available.

SRF 250.0: Acquired Insurance

ASFA notes that it is proposed that the data in *SRF 250.0: Acquired Insurance* not be determined to be non-confidential.

ASFA supports the decision to not make the data on acquired insurance publicly available.

SRF 320.0: Statement of Financial Position

ASFA notes that it is proposed that the data in *SRF 320.0: Statement of Financial Position* that relates to the ORFR reserve not be determined to be non-confidential.

ASFA supports the decision, on a permanent basis, to not make the quarterly data with respect to the ORFR publicly available. Read in isolation from the data on the annual form, the data does not provide a complete picture of an RSE licensee's financial resources.

SRF 331.0: Services

ASFA notes that it is proposed that the data on *SRF 331.0: Services* not be determined to be non-confidential.

ASFA supports the decision to not make the data with respect to the supply of services publicly available.

SRF 535.0: Securities Lending

ASFA notes that it is proposed that the data in *SRF 535.0: Securities Lending* not be determined to be non-confidential.

ASFA supports the decision to not make the data with respect to securities lending publicly available.

SRF 802.0: Fund Profile

ASFA notes that it is proposed that, other than data concerning the operational risk reserve, the data in *SRF 802.0: Fund Profile* not be determined to be non-confidential.

Items 3 and 4 on this form collect details of all services undertaken by the RSE licensee with respect to all SAFs and SMADFs within the RSE licensee's business operations. Item 3 collects information on all services where the service is undertaken by the RSE licensee itself and item 4 collects information on all services where the service is provided by an external service provider.

Items 5 and 6 collect information on transactions with associates of the RSE licensee. Item 5 collects income transactions with associates. Item 6 collects expense transactions with associates.

ASFA considers the data in items 3, 4, 5 and 6 to be commercial in confidence to the RSE Licensee and as such supports the decision to not make the data publicly available.

SRF 601.0: Profile and Structure

The Discussion Paper proposes that, for a range of reasons, the data on *SRF 114.0* and *SRF 114.1: Operational Risk Financial Requirement* not be determined to be non-confidential during the three year transitional period. ASFA supports the proposal.

We note however, that *SRF 601: Profile and Structure* also collects information on the RSE Licensee's ORFR. Item 7 on *SRF 601.0* requires information with respect to the investment options in which the RSE licensee's reserves, including the ORFR, are invested and the value of the amounts invested. ASFA is concerned that publishing this data may enable determination of the total value of the ORFR, contrary to the Discussion Paper's proposal that the value of the ORFR should, at this point in time, be deemed not non-confidential.

Recommendation

ASFA recommends that the following data be deemed not non-confidential:
SRF 601.0, Item 7, type of reserve ORFR, data item (3) Value.

Determining this specific item not non-confidential would, while exposing investment of the ORFR in one or more of the RSE Licensee's investment options, prevent the inadvertent exposure of the actual value of the ORFR and changes in that value over time.

SRF 533.0: Investments and Investment Flows

Form 533.0 Investments and Investment Flows collects information on an RSE's strategic asset allocation, directly held and indirectly held investments and movements in directly held and indirectly held investments. The information is reported at the MySuper product, Lifecycle Stage and Select investment option level.

Concern has been expressed that the information provided on the form may be sufficient to enable the determination of the proprietary portfolio construction methodology of the RSE licensee.

A similar concern exists with *Form 530.1 Investments and Investment Flows*. Items 2 to 6 on the form require investments to be reported at the entity level in the following groupings: Directly held by asset class, indirectly held by asset class, movements in directly held investments by asset class and movements in indirectly held investments by asset class.

The primary concern is that these items go into the detail of what could be considered proprietary portfolio construction methods and particularly so where the RSE Licensee has a single product offering.

If that is the case, an argument could be mounted that the information should not be readily available to the public and should be determined not to be non-confidential.

Recommendation

ASFA recommends that APRA consult with appropriate persons in the investment industry to determine whether the information provided on *SRF 533.0 Asset Allocation* and *SRF 530.1 Investments and Investment Flows* is sufficient to enable a suitably competent person to determine an RSE Licensees' proprietary portfolio construction methodology.

Segmentation of superannuation statistics

The discussion paper seeks feedback on four specific questions. Each is separately considered below.

1. Whether segmentation statistics remain relevant and how they are used

In ASFA's view data with respect to segments is still relevant, although the extent to which it will continue to be remains to be seen. Competition between the segments is valid and produces better outcomes for members.

The Discussion Paper notes that users will be able to extract relevant segmentation statistics from the database.

ASFA's main concern is that, in the absence of APRA published statistics, various parties are likely to generate their own segmentation statistics to compare the performance of 'like' entities, and there will be no guarantee of consistency of results. The statistics generated will depend on how the database is interrogated and it is possible that tailored outcomes will be generated through selective interrogation.

Given the inevitability that segmentation statistics will be generated by interested parties, ASFA considers it preferable for them to be generated and published by APRA as a "source of truth".

Recommendation

ASFA recommends that APRA continue to publish segment statistics in its *Quarterly Superannuation Performance* statistics publication and reports.

2. Whether the possible segmentation outlined is relevant and useful

ASFA considers that the segmentation outlined in the discussion paper will not be relevant or particularly useful as the broad classifications of 'non profit' and 'for profit' lack meaning in the context of the RSE Licensee. Instead, they are really only relevant in the context of the fund itself. A fund which is being run for profit may nevertheless have a 'non profit' trustee, as the profit is made by the related party entities that supply the services to the trustee and the fund. A non profit corporate fund may have either a for profit or a non-profit trustee. Accordingly, the distinction should be made at the fund level, not with respect to the RSE licensee.

Recommendation

ASFA considers that instead of the proposed segmentation, segmentation be based on whether the fund itself is 'non profit', 'for profit' or 'public sector'.

Further, with respect to the specific terms 'non profit' and 'for profit', while we are aware that these terms were introduced in the APRA Discussion Paper dated 19 September 2012, this was in the context of a lengthy document (focused on the content and substance of the various forms; commencement of reporting; frequency of reporting and audit) and accompanied by the release of the original batch of 31 draft forms with a multitude of new data items. In light of this Discussion Paper with respect to publication there has been time to focus on the appropriateness and meaningfulness of 'non profit' and 'for profit', especially for consumers.

By way of example, we note that the not-for-profit sector prefers the term 'all profits to members' to clarify that – rather than implication that the fund is not being run for profit – all 'profit' is returned to the members of the fund, not to shareholders or other third parties.

In the context of superannuation, as a collective investment vehicle, the concept of 'profit' is a difficult and elusive one to define. We submit that consideration should be given to renaming 'non profit' and 'for profit' to something which is more appropriate and meaningful to members and which has been consumer tested.

Recommendation

ASFA submits that consideration should be given to renaming 'non profit' and 'for profit' to something which is more appropriate and meaningful to members and which has been consumer tested.

3. *The level of segmentation that may be appropriate, if any, for the different publication formats proposed*

ASFA considers that, for the statistical publications in adobe PDF format, APRA should use the classification of superannuation funds - not RSE licensees - as 'all profit to members', 'for profit' and 'public sector'.

Recommendation

That the segments of 'non profit', 'for profit' and public sector' - with respect to funds not RSE licensees - be used in statistical publications.

ASFA considers that it is appropriate for the current practice of providing segmented statistics in the statistical publications to continue and that the RSE's category classification should be included in the statistical reports and databases so as to aid the extraction of statistics on a consistent basis.

Recommendation

ASFA recommends that APRA continues its current practice of providing segmented statistics in the statistical publications and that the RSE's category classification should be included in the statistical reports and databases so as to aid the extraction of statistics on a consistent basis.

4. *The particular data that may be most appropriate and useful to release by segment for the different formats.*

ASFA considers that the data that is currently being released by segment, and the manner of its release, remains valid and should not be changed. Where consumers of the information seek additional data based on segments, the presence of the segment classification within the database and statistical reports should facilitate the extraction of that data in a consistent manner.

Quarterly MySuper Statistics report

ASFA notes the statutory requirement for APRA to collect and publish data on MySuper products.

ASFA considers it important that information is readily available and accessible to those who have a need to compare MySuper products, be they employers, fund members, investors or financial commentators.

ASFA supports the proposed release of quarterly MySuper data in a *Quarterly MySuper Statistics* report.

ASFA supports the proposal to not release product-level MySuper data in a quarterly PDF statistical publication. The focus should be on the product's longer-term performance, particularly given the general characteristics of those members for which these products have been designed.

For those more interested parties, accessing the detailed, product-level information through the quarterly statistical information should be sufficient.

We note that separate consultations will be conducted on the MySuper product-level statistics to be included in the annual MySuper statistical publication and report.

Quarterly Superannuation Performance Statistics

ASFA supports the proposal to release the product level information only in the statistical report and database.

ASFA supports the APRA view that longer time periods, such as three and five years, should be published in the *Quarterly Superannuation Performance* statistics publication as this would support and encourage analysis of industry performance over longer time periods, reflecting the key characteristic of superannuation – that of being a long term investment.

Other matters

We note that the Discussion Paper does not address management of and access to the database.

ASFA considers there would be merit in requiring users to register in order to access the database and understands that APRA has indicated its willingness to implement such a process. ASFA would endorse a registration process being implemented. Such a process would facilitate the issuing of alerts to users when the database is updated through the release of new statistics or where re-reporting of statistics makes a material change to the database.

A further matter not addressed in the Discussion Paper is the circumstances under which a re-report of data will result in the database being updated. ASFA considers that information about the circumstances in which the database may be updated should be included in an appropriate place on the APRA website.

Recommendation

ASFA recommends that APRA proceeds with implementation of a user registration process and that the APRA website includes information on the circumstances under which the database may be updated following a re-report of data by an RSE Licensee.

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I trust that the information contained in this submission is of value.

If you have any queries or comments regarding the contents of our submission, please contact ASFA's Principal Policy Adviser, Robert Hodge, on (02) 8079 0806 or by email rhodge@superannuation.asn.au.

Yours sincerely



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