

SUBMISSION

Submission to Treasury —
Enhancing oversight and
governance of managed
investment schemes (and
ASIC’s visibility of
superannuation switching)

27 February 2026

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27 February 2026

Dear Sir/Madam

Enhancing oversight and governance of managed investment schemes and ASIC's visibility of superannuation switching

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to Treasury's consultation paper *Enhancing oversight and governance of managed investment schemes*.

While we welcome consideration of options to uplift oversight and governance of managed investment schemes, our submission is focussed on proposal 6 in the consultation paper – enhancing ASIC's visibility of superannuation switching.

Regarding the use of the term 'superannuation switching' – this term has been adopted recently, in the context of this consultation and broader discussions of reforms to address the issues raised by the collapse of the Shield Master Fund and First Guardian Master Fund. Within the superannuation industry, 'switching' is traditionally used to describe movement between investment options/products *within* a fund. The movement of monies *between* funds is more commonly described as a 'rollover'. Those terms are used interchangeably in this submission.

About ASFA

ASFA has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers. We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians.

ASFA has a keen focus on matters that impact the outcomes achieved by individuals through the superannuation system, their experiences with the system, and issues that impede the industry's operational effectiveness

If you have any queries or comments in relation to our submission, please contact Julia Stannard, Policy Director, on (02) 8079 0819 or by email JStannard@superannuation.asn.au.

Yours sincerely

James Koval
Chief Policy & Advocacy Officer

General comments

ASFA strongly supports efforts to safeguard the retirement savings of Australians from predation by bad actors.

We note the Government has foreshadowed an extensive consultation process as part of its response to the collapse of Shield Master Fund and First Guardian Master Fund. We understand this will include vital measures to minimise consumer harm, including addressing inappropriate lead generation and cold calling. Importantly, the Government intends to consult specifically on options to create a safer framework for superannuation switching. We further understand this might include adding some form of ‘friction’ to the switching process, to ensure consumers do not feel rushed to switch their superannuation without the opportunity to fully consider the implications, including any associated risks. We look forward to contributing to these consultation processes in due course.

Any proposals currently being considered by ASIC to enhance its visibility over superannuation switching behaviour need to be considered as part of this broader suite of reforms. If proceeded with, those reforms – particularly any specific reforms to the switching process – may obviate or reduce the need for the types of obligations outlined in this consultation paper.

In general terms, ASFA would support ASIC having greater visibility of superannuation switching behaviour *provided* that increased information translates directly into enhanced oversight and an increase in regulatory action taken to protect against consumer harm, without imposing a disproportionate burden on those in the industry who are not involved in the misconduct. However, we have some concerns regarding the proposal outlined in the consultation paper, to introduce a new obligation on superannuation funds trustees to report suspicious or anomalous patterns of behaviour in relation to switching, and/or expand periodic data reporting. In particular, we consider:

- the proposed new obligation lacks clarity and appears to over-assume the level of information held by fund trustees that may assist ASIC in this matter
- any proposed expansion in periodic data collection from superannuation funds is focussed on detection of high-risk superannuation switching after the event, rather than prevention of the misconduct leading to that switching activity. The proposal has the potential to add substantially to funds’ compliance burden (and cost), without necessarily supporting the prevention of consumer harm.

Proposed obligation to report suspicious or anomalous patterns of behaviour

The consultation paper proposes the imposition of a new obligation on superannuation trustees to report to ASIC “suspicious or anomalous patterns of behaviour, which the trustee reasonably considers could place their membership at risk of significant detriment”.

We note that this proposal involves the imposition of additional obligations on the trustees of superannuation funds and does nothing to directly target those whose misconduct induces fund members to undertake inappropriate switching activity. ASFA acknowledges that measures to minimise consumer harm, including addressing inappropriate lead generation and cold calling, are to be consulted on separately.

We urge the Government, Treasury, and ASIC to ensure a holistic approach is taken to the current reform process, to avoid a piecemeal approach and ensure that actions taken are targeted most strongly toward mitigating harmful conduct.

It is important that consultation on the full suite of reforms proceeds with urgency and fully considers the roles and responsibilities of all parts of the financial services industry (whether currently licensed or not) in relation to superannuation switching. Superannuation fund trustees take seriously their responsibility to safeguard members' monies, to the extent of their legal and practical ability, but they should not be viewed as the only potential source of data for ASIC's supervisory purposes, nor the only gatekeeper against potential misconduct.

In ASFA's view, additional obligations are unlikely to be effective where fund trustees already meet their prescribed duties, and responsibility would be more appropriately placed on the parties instigating a switch to demonstrate it will achieve improved net retirement outcomes for the member. We consider that regulatory focus should be directed more toward *preventive* controls than *detective* processes.

ASFA would welcome ASIC taking a stronger regulatory approach to prevent (or minimise) consumer harm from inappropriate superannuation switching. However, the proposed requirement for trustees to identify and report suspicious or anomalous patterns of behaviour will, at best, allow for investigation by ASIC after the fact – it will do little to aid prevention of consumer harm. We further note that trustees are subject to a range of existing obligations to detect and manage unusual transactions (including rollovers) and, in practice, fulfill those obligations. Trustees already have in place processes aimed at identifying – where possible – matters such as fraud and financial abuse. ASFA fund members have further confirmed to us that they do, where appropriate, voluntarily raise with ASIC concerns about suspicious switching activity.

A trustee's responsibility when a suspicion arises that a rollover transaction may be high risk is to hold the member's monies securely, apply strong fraud prevention and identity verification controls, and satisfy itself to the best of its abilities that any regulatory pre-conditions have been met. Once those checks have been satisfied, however, it is the trustee's responsibility to act on the member's instructions and to execute the rollover within the legislated timeframes.

Were it to proceed, key aspects of the proposed new obligation would require clarification:

- The consultation paper uses the terms 'suspicious and anomalous patterns of behaviour' and 'problematic super switching behaviour' without a clear articulation of what those concepts might involve.
- It is unclear how a trustee is to assess whether a particular transaction is 'high risk' for a member without an understanding of the member's risk profile and full personal circumstances. Any potential discussion of those matters may raise issues in terms of personal advice, which many fund trustees are not licensed to provide. Respectfully, we submit that in the absence of an adviser-client relationship, it is not the trustee's role to 'second guess' whether the member should undertake a particular transaction.
- It is unclear how trustees are expected to identify and/or assess whether behaviour "could place their membership at risk of significant detriment" and whether this assessment should be made in respect of members individually or collectively.

Without clear articulation of these concepts, their application will be inconsistent, undermining the utility of the information reported to ASIC. Further, the imposition of an open-ended obligation to report behaviour of concern would almost certainly lead to over-reporting, as trustees seek to avoid claims they had failed to meet the reporting threshold. Over-reporting would lead to high volumes of data about switching activity that is unproblematic in the overwhelming majority of cases. This would unnecessarily consume ASIC's resources and deflect its attention from pursuing behaviour that is genuinely problematic.

Further, the proposal that trustees identify ‘suspicious and anomalous patterns of behaviour’, appears to rely at least partially on information that will not, in practice, be held by the trustee:

- There is no requirement for an advised member to have a ‘third party authorisation’ (TPA) in favour of their adviser on file, and many do not. An ASFA member has reported that only around 16 per cent of members rolling out to a platform, and only around 6 per cent of members rolling out to self-managed superannuation funds (SMSFs) have a TPA in place, despite the likelihood that a much higher proportion of members are advised. Without a TPA on file, a trustee will likely have no knowledge of any adviser relationship that may exist for their fund member, therefore this is not a reliable ‘flag’ on which to identify patterns of behaviour, suspicious or otherwise.
- Where a member has initiated a ‘switch’ of funds – that is, a rollover – the transferor (existing) fund will receive identifying information about the destination fund, likely limited to the fund name and its Unique Superannuation Identifier (USI) and/or ABN. It is very unlikely the transferor fund will have any information regarding the particular product or investment option the member’s monies will be allocated to once the rollover is complete. There is no current obligation on the transferor fund to collect this information and no obligation on the member to provide it. As a result, any monitoring and reporting could only be done at the level of the destination fund and would not allow ASIC to drill down and identify patterns in flows to any particular product or option – for example, to a particular managed investment scheme.

For all these reasons, ASFA does not support the imposition of the new reporting obligation as proposed.

In the event that any such positive obligation is to be imposed on trustees to alert ASIC about switching behaviour, we are of the view it must:

- Clearly define:
 - the patterns and/or transactions that trustees are required to report
 - what constitutes ‘suspicious’ or ‘anomalous’ activity – that is, how are trustees to distinguish between ‘safe’ and ‘unsafe’ (or ‘high risk’) switching.
 - what constitutes ‘risk of significant detriment’, and how it is to be assessed
- Clarify whether a suspicion (and a report) is based on an individual transaction, or only where a concerning pattern of behaviour (however that is ultimately defined) is identified across numerous members or transactions, or over a period of time.
- Be designed with a view to automated processing of rollovers at volume, without requiring manual, case-by-case assessments of whether criteria have been met. As an indication of the volumes involved, we note the Gateway Network Governance Body¹ reported 153,010 rollover transactions during the month of January 2026 alone. Examples of rollover processing volumes from ASFA members include an average of 6,000 rollovers processed by one fund per month (full and partial roll-outs plus roll-ins), and around 117,000 rollovers out processed per year for another fund (an average of 9,750 per month).
- Allow an appropriate timeframe for reporting, having regard to the nature and volume of data required.

¹ Source: Gateway Network Governance Body (GNGB) website, viewed on 26 February 2026. GNGB supports compliance by superannuation funds (and employers) with the mandatory SuperStream data standards, including in relation to rollovers.

- Consider whether any planned use of the data by ASIC would require amendments to privacy laws, and ensure clear protocols are implemented to govern its use.

Finally, we note that it would be inappropriate for the obligations on superannuation fund trustees currently, and any potential new obligations in relation to switching, to be viewed as detracting from ASIC's own regulatory responsibilities. Consumer protection requires a strong regulatory stance and it is critical that ASIC devotes sufficient resources to identifying and countering problematic behaviour, including through robust enforcement of the law (whether existing or new) to pursue wrongdoers and protect consumers, and advocates to Government to address any shortfall in its current jurisdiction and powers. Maintaining a primary focus on harm prevention will benefit all stakeholders.

We consider that any new reporting obligation imposed on trustees should be paired with a positive obligation on ASIC to utilise the information provided for investigative and enforcement purposes. There should also be a clear framework for ASIC to regularly report to the financial services industry (including superannuation trustees and financial advisers) about identified areas of concern – that is, the 'alert' process should operate in both directions. These are matters that could potentially be addressed in the Government's Statement of Expectations for ASIC, or at a minimum through clear commentary in the Explanatory Memorandum to any enabling legislation. We note that early visibility of concerns will enable superannuation trustees to implement or increase monitoring – the earlier that ASIC can release to the industry information about a concerning pattern of behaviour or about the behaviour of particular entities/individuals, the sooner fund trustees can take action.

On that point, we have considered whether there would be merit in ASIC leveraging the ATO's Fund Validation Service (for APRA-regulated funds) and SMSF Verification Service, which are used by trustees when processing rollovers, to flag funds that have been deemed to be high-risk, or funds with products/options that have been deemed high-risk. While this could provide an additional control point prior to execution of a rollover, it would involve flagging an entire fund as high risk on the basis it offers a single 'high risk' product or investment option. This could unnecessarily delay rollovers to products or options in that fund that are not high risk. There would also be costs associated with implementing such a change, incurred by a range of parties in the superannuation ecosystem including funds, gateways and the ATO. On balance, we suggest that if ASIC has sufficiently substantiated concerns regarding a particular fund, option or product, targeted action directed specifically toward the relevant trustee or responsible entity, paired with an alert or notification to industry, would be more appropriate.

Proposed expansion of periodic data reporting

The consultation paper seeks feedback on a potential expansion of periodic data reporting by superannuation trustees "to enable better detection of high risk superannuation switching behaviour". This aspect of the proposals constitutes only a single line in the consultation paper and the lack of detail makes it difficult to understand the intent.

ASFA strongly supports the commitment by the Government and regulators to reduce regulatory duplication, and we are keen to ensure the current proposals do not unnecessarily increase the already significant reporting burden faced by superannuation trustees.

It is our view that increased data collection should **only** be imposed if there is confidence it will lead to a demonstrable improvement in oversight and consumer protection without a disproportionate increase to industry's compliance costs and burden. For the reasons outlined below, it is not clear that this cost-benefit test is satisfied in the context of the current proposal.

Prevention Vs detection

As noted earlier in this submission, if the objective is to prevent or minimise consumer harm – which ASFA strongly endorses – the regulatory focus should be directed more toward *preventive* controls than *detective* processes.

Analysis of data reported by funds may support ASIC’s investigation of misconduct after the event, but it will in ASFA’s view do little to prevent that misconduct and the resulting consumer harm.

Existing periodic data reporting

When contemplating any expansion of “periodic data reporting by superannuation trustees”, it is worth first noting the existing data reporting channels that may help to indicate flows of superannuation monies.

The primary obligations for *periodic* reporting by fund trustees are to APRA and the ATO.

Trustees currently report substantial data on a periodic basis to APRA, quarterly and/or annually depending on the subject matter², and this includes aggregate rollover inflows and outflows at the *fund level*. This provides APRA with data about the dollar value of rollovers (in and out) and also the number of accounts closed as a result of a rollout but does not include information at the member-transaction level. It further does not identify destination funds, although it does isolate an aggregate figure for rollovers to SMSFs. The data collected by APRA is directed to prudential and system-level monitoring of liquidity, member behaviour and industry flows. It is not designed to support granular analysis of switching behaviour and, given its nature and the time lags involved, we consider it is not suitable to assist ASIC’s oversight of switching behaviour.

Fund trustees report extensive member-level data to the ATO through the Member Account Attribute Service and Member Account Transaction Service, which are reporting channels mandated by the ATO³. These are transaction based rather than periodic - MAAS reports must be lodged within five business days of a relevant event and MATS reports within 10 business days. The MAAS report, in particular, requires a fund to notify the ATO when an account has been created, or closed, for a member. We acknowledge that this does not provide perfect visibility of all movements – for example, it does not report the destination fund for a rollover (let alone the product or option within that fund), and partial rollovers between existing accounts are not captured. However, with interrogation it would in many cases enable one fund’s report of a member account closure to be matched to another fund’s report of a new account having been opened and could therefore be used to detect the scale of movements to a particular destination fund.

Should it be concluded that ASIC requires additional data – including, for example, identification of the particular product/investment option selected by a fund member – we would make the following comments:

- Any *periodic* reporting involves an inherent time lag, which is likely to impair the utility of even granular information. Analysis of this data will indicate only trends or patterns that have *already* emerged, it will do little to identify emerging trends and support early intervention to prevent consumer harm.
- Rather than introducing a novel reporting channel, any additional reporting should be conducted through an extension of the reporting frameworks already established by the ATO, and the data then shared with ASIC. Given the cost and regulatory burden associated with additional reporting, it is critical that duplication of reporting frameworks is avoided.

² Via reporting standards made under the *Financial Sector (Collection of Data) Act 2001*

³ Pursuant to the *Taxation Administration Act 1953*, Schedule 1, Division 390 and supporting legislative instruments

- Data can only be reported if it is held – that is, if it is collected by funds. To the extent that any additional data reporting requirements require funds to expand their data collection, appropriate lead time will be needed for funds to implement the necessary system enhancements for additional data field capture and reporting as well as updates to member communication materials and forms, processes, staff training etc. We would encourage early engagement with the ATO if there is any consideration of amending its data reporting frameworks.
- Any additional data collection and reporting will likely involve substantial *direct* cost and resource requirements to the superannuation industry to implement the necessary changes. There will also be initial and ongoing *indirect* cost, as the cost of implementation of those data collection changes by the relevant regulator(s), and the costs of analysing that data on an ongoing basis (by the recipient regulator and by ASIC) will be passed back to the industry through increased supervisory levies. Those costs (direct and indirect) will ultimately flow through to superannuation fund members in the form of increased fees or reduced earnings.
- There may be cases where any additional data requirements cannot be completed, because the member is genuinely unable to provide the relevant information or refuses to do so. Given the context involves a switch (rollover) of a member's superannuation, it is important to remember that transferor fund trustees are subject to mandated processing timeframes. It is to be assumed that a member's failure to provide the newly required information would not invalidate an otherwise valid rollover – that would risk unnecessarily delaying rollovers which will, in the vast majority of cases, be unproblematic. Accordingly, it would be important to ensure any additional data reporting fields of this type are non-mandatory, with transferor funds required to provide this information only where it is known.

Use of existing data

As indicated above, there is no existing periodic data reporting that could be expanded to provide ASIC with the types of granular data that are likely to provide true visibility over high risk switching behaviour without imposing substantial cost and additional ongoing regulatory burden on the superannuation industry. That cost and burden are likely, in ASFA's view, to outweigh any supervisory value gained given the time lags inherent in periodic reporting.

In addition to the data already provided to APRA and the ATO, we note that fund trustees have existing obligations to report to ASIC regarding 'reportable situations' (as noted in the consultation paper) and to AUSTRAC in the case of 'suspicious matters'. These reporting obligations are ad hoc – event triggered – rather than periodic, but both could potentially apply in some cases involving high risk superannuation switching.

Prior to considering any uplift of funds' current data reporting obligations, we encourage Treasury and ASIC to consider whether more detailed interrogation the data *already collected* by the ATO, APRA and AUSTRAC, in conjunction with reports made directly to ASIC itself, would strengthen ASIC's visibility over the movement of superannuation monies. If so, ASFA would support any necessary administrative and/or legal arrangements that might be needed to facilitate ASIC's access to data collected by those other regulators.

As noted earlier in our submission, ASFA is also firmly of the view that priority should be given to other reforms more targeted to prevention of misconduct and consumer harm.