March 2021

Treasury Laws Amendment (Your Future, Your Super) Bill 2021

ABOUT US

Super Consumers Australia (Super Consumers), formerly known as the Superannuation Consumers' Centre, is an independent, not-for-profit consumer organisation formed in 2013. Super Consumers was first funded in 2018. We work to advance and protect the interests of low and middle income people in the Australian superannuation system.

During its start up phase Super Consumers has partnered with CHOICE to deliver support services. Set up by consumers for consumers, CHOICE is the leading consumer advocate that provides Australians with information and advice, free from commercial bias.

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Table of Contents

Introduction

For too long super trustees have been left alone in the dark with our money. Australia's superannuation system must move to a model which does the best possible to ensure all consumers **have a single high performing superannuation fund.**

As the independent advocate for superannuation consumers, Super Consumers Australia strongly supports the intent of the Your Future, Your Super reforms and calls on the Committee to ensure that these measures are not delayed or weakened. The legislation could be improved in order to better deliver on its intent.

Failure to pass this Bill will lead to significant consumer harm. There are 850,000 unintended multiple accounts created per financial year and holding multiple accounts can reduce a typical worker's balance by $51,000. Underperforming MySuper products can reduce a typical member's balance by $502,000 by the time they retire.

Holistically, this package will benefit superannuation consumers and it is important its measures are considered as a whole and not in isolation. A number of industry submissions have embarked on self-preservation, hiding behind the veil of alleged widespread 'consumer harm'. Much of this analysis fails to recognise the intersecting impact of each of the measures and the failures of the current superannuation system.

Summary of Recommendations

Recommendation 1: Stapling should commence on 1 July 2021.

Recommendation 2: Consider a strengthening of the notice requirements in s60E when a fund is underperforming, particularly to employees.

Recommendation 3:
a) Ensuring APRA provides guidance on how superannuation funds are to move away from industry specific insurance, which includes the immediate banning of the use of occupational exclusions in default insurance
b) A comprehensive review of insurance in superannuation by an independent public body to consider whether insurance in superannuation is the most equitable and efficient way to meet the insurance needs of most Australians.
c) Consider enhanced notification for individuals in the 'dangerous occupation exemption' industry.

Recommendation 4: The performance benchmarking test should be expanded to include administration fees in s60D.

Recommendation 5: The performance test methodology should not be fundamentally altered and be applied to all accumulation products and decummulation products by 1 July 2022.

Recommendation 6: Ensure APRA has the appropriate resolution powers to actively manage members out of an underperforming fund, this may be through a merger power.

Recommendation 7: The Ministerial power in Schedule 3 and supporting regulations should be amended to only give APRA and ASIC discretionary power to prohibit certain expenses in line with ASIC's product intervention powers.

Single default account

Account stapling will end the inefficiency and retirement income erosion created by millions of unintended multiple accounts. It will also make super much easier for people to manage.

We do not support the stapling model proposed by some within the superannuation industry, which would see people defaulted into new super funds when they change jobs. This process would only serve the interests of incumbents, weaken competition and drive consumer disengagement with superannuation.

Some within the superannuation industry believe consumer harm will occur if individuals are stapled into an 'underperforming fund'. We agree people should be defaulted into quality funds, but this is a flaw of the default system, not stapling. The substandard default allocation system currently doesn't do enough to ensure people are defaulted into a quality fund.

We have long called for improvements to the default system, such as the introduction of the 'best in show' model proposed by the Productivity Commission. The current legislative package will in effect be a real world, albeit voluntary, test for 'best in show'. For the first time people will be given comparable information on funds and directed to select a fund when they enter the workforce. We see this as an important stepping stone to a better default allocation system and ultimately a better solution to the problem some in the industry have identified.

Multiple accounts

Industry arguments to delay stapling will mean duplicate accounts continue. The cost of delay may be as high as $292 million a year.[1]

The Productivity Commission undertook detailed analysis on this issue. It found:

> "*Structural flaws have led to the absurdity of unintended multiple accounts in a system anchored to the job or the employer, not the member. These unintended multiple accounts (one in three of all accounts) are directly costing members nearly $1.9 billion a year in excess insurance premiums and $690 million in excess administration fees. For an individual member holding just one unintended multiple account throughout their working life, the projected reduction in their balance at retirement is 6 per cent (or $51 000).*[2]

Without fixing this issue the system would create an additional 850,000 unintended multiple accounts each year.[3] Any argument for a delay in stapling must account for the costs consumers will bear through ongoing duplicate accounts.

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[1] SCA analysis using Treasury estimate of 850,000 new multiples per year, Productivity Commission insurance premium of $340 p.a. with 78% maintaining their insurance and median dollar admin fee of $78 p.a. derived from APRA Quarterly MySuper statistics December 2020.

[2] Finding 6.2 of Productivity Commission Inquiry Report: Superannuation: Assessing efficiency and competitiveness

[3] Treasury estimates, Your Future, Your Super Budget Papers

Inappropriate framing

Some critics of the legislation have tried to advocate for a delay in stapling, on a false assumption that underperforming superannuation funds will continue to underperform for an extended period of time.

However, under the Your Future, Your Super package underperforming funds will be cut off from new member flows and be required to notify existing members they are underperforming and will be under general direction from APRA to either 'shape up or ship out.' So long as the test is applied to all superannuation products the threat of being labelled an underperformer and associated repercussions will inevitably lift performance across the board.

Arguments to delay stapling are built on the premise of protecting the limited number of people who change jobs, do not exercise choice, and are defaulted into a second fund that happens to provide better retirement outcomes than their original fund. Only a fraction of the population fit into this demographic and it ignores the fact that these people will be protected, because the existing stock of underperformers will need to lift performance if they want to continue to accept members and avoid losing existing members.

The Your Future, Your Super package will be weakened if it is not legislated to apply to all products by 1 July 2022. Currently it will only apply to MySuper and other 'Trustee Directed Products' (TDP) by this date. Such an important provision should be enshrined in legislation and it should be extended to pick up all superannuation investment options. Failure to do this will see people subject to investment options that face no scrutiny, leaving trustees with no incentive to lift performance.

Recommendation: Stapling should commence on 1 July 2021.

Enhanced member notifications

The requirement for funds to notify consumers of their underperformance is a key component of the Your Future, Your Super Bill. It is important that this notice should be clear, easily understood and assist people to act on the information it contains.

Its overall purpose is to provide an opportunity for an individual to review their superannuation arrangements, the YourSuper tool and the possibility of transferring to a better fund.

These measures could be further strengthened to mitigate the concerns that some consumers may be ‘stapled’ to an underperforming fund. This could be via one or a combination of the following options:

1. Employers should be required to notify their employee that they are in an underperforming fund at the time of new employment. (Noting industry’s concern is only valid when an individual changes jobs)
    a. As of 1 July 2022, the ATO will enable digital software providers to give employers the option to automate the communications between the employer’s payroll system and the ATO system. Once this new service is adopted, it will remove the need for the employer to manually enter into the payroll system their employees’ superannuation fund details, reducing business administration costs. This provides a perfect platform for this notification to be provided to the employee to assist with comprehension of the impact of being invested in an underperformer.
2. MyGov and the YourSuper Portal should provide notification to a consumer that they are in an underperforming fund when using ATO services.

These measures are appropriately adapted to ensure greater engagement with information about the performance of a superannuation fund.

Recommendation: Consider a strengthening of the notice requirements in s60E when a fund is underperforming, particularly to employees.

Issues with insurance shouldn’t stifle good superannuation policy

All funds have a fundamental duty to act in the best interests of members when designing and negotiating their insurance offering. They are also directly accountable for the outcomes their members receive. Some industry participants have claimed that stapling will cause consumers to be placed in inappropriate insurance if they are stapled to a fund from an industry in which they no longer work. If superannuation funds want to avoid being in breach of their duties, they need to ensure their policies remain relevant to the needs of their membership. Funds which treat their members as though they all work in the same industry are acting inappropriately and have been doing so since choice of fund was granted in 2005[4].

There are clear obligations on funds to design their insurance policies properly, including the duty to:

[4] Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2004

- act fairly when dealing with classes of beneficiaries, and with beneficiaries within a class (see s52(2)(e)–(f) of the SIS Act)
- formulate, review regularly and give effect to an insurance strategy that relates to the kind and level of insurance and has regard to the demographic composition of beneficiaries (see s52(7)(a) of the SIS Act)
- only offer insurance if the cost does not inappropriately erode the retirement income of beneficiaries (see s52(7)(c) of the SIS Act)
- annually assess whether the insurance strategy for each MySuper and choice superannuation product is appropriate for the beneficiaries and whether any insurance fees charged inappropriately erode the retirement income of beneficiaries (see s52(11) of the SIS Act)

Superannuation funds will now also be required to further scrutinise the appropriateness of their insurance via Business Performance Reviews (BPRs) on an annual basis. APRA will require funds to demonstrate a comprehensive understanding of their membership in designing the default products, including default levels of cover, and consequential insurance premiums. For example, where a fund defaults MySuper members into income protection insurance, in addition to life and TPD insurance, the fund should be able to demonstrate the appropriateness of this strategy for those members.

Superannuation funds already have the obligation to design appropriate insurance policies. This obligation will continue with or without stapling.

Trustees play an important role in shaping members' outcomes from default insurance. ASIC estimates that 86% of superannuation members with insurance are on the default settings.[5] The issues highlighted by industry are within their power to control. In the context of account stapling, funds will necessarily need to take a less industry specific approach to insurance design, or face regulatory action.

Stapling aside, we are not convinced the insurance in super market is performing fairly or efficiently for all consumers. The wide variation in the terms and conditions of policies, and the low level of consumer engagement with insurance in super has led to people paying for default insurance that they have little hope of successfully claiming upon. A recent review by ASIC highlighted claims denial rates of 60% on average for people applying under an 'Activities of Daily Living' test for total and permanent disability insurance.[6] This compares to just a 12% claims denial rate for those assessed under the standard test. Super Consumers research found these policies were typically applied to people who are working part time, casual, are

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[5] ASIC Report 675: Default insurance in superannuation: Member value for money
[6] Rep 663: Holes in the safety net: A review of TPD insurance claims

older or unemployed, despite the fact these groups pay full price for this cover.[7] This creates a deep unfairness and sees those with the same risk, but lower capacity to pay cross-subsidising others.

To address broader issues within the insurance in superannuation sector, we strongly endorse the Productivity Commission's recommendation for a review of insurance in super.

Specific occupation exclusions

A small number of funds have occupational exclusions which would render **their default insurance extremely difficult to claim on** for consumers in a 'hazardous' industry. Funds we are aware of that have 'hazardous' occupation terms include:

- Aon Master Trust
- Asgaard
- IOOF

We have been calling on super funds to remove these types of restrictive terms. We do not see them as aligned with existing obligations on trustees to design appropriate insurance for their members.[8] For the sake of clarity, parliament could consider explicitly banning these types of exclusions. These issues within insurance existed long before stapling. They relate purely to the poor policy design around the bundling of insurance and superannuation and require a comprehensive review.

However, these issues aren't transformed by the proposed legislation.There is already an obligation on superannuation funds to ensure their members have appropriate insurance and this legislation only reiterates the importance of funds following the law.

Recommendation: The Government should take this opportunity to ensure this obligation is being met and will continue to be met as the Your Future, Your Super reforms are implemented through:

1. Ensuring APRA provides guidance on how superannuation funds are to move away from industry specific insurance, which includes the immediate banning of the use of occupational exclusions in default insurance.

2. A comprehensive review of insurance in superannuation by an independent public body

[7] Super Consumers Australia, 2020, 'Restrictive definitions in default TPD insurance policies'
[8] Super Consumers Australia, 2020, 'Restrictive definitions in default TPD insurance policies'

a. There should be an independent review of insurance in super, as recommended by the Productivity Commission, to consider a comprehensive range of issues. A review should include consideration of whether insurance in superannuation is the most equitable and efficient way to meet the insurance needs of most Australians.[9]
b. This should consider the removal of discriminatory terms in TPD and consider fair universal terms

3. Consider enhanced notification for individuals in the ‘dangerous occupation exemption’ industry
    a. As of 1 July 2022, the ATO will enable digital software providers to give employers the option to automate the communications between the employer’s payroll system and the ATO system. This system should be built to utilise ATO and superannuation data most effectively. We recommend that data pertaining to high-risk employee occupation should be used in an enhanced notification framework. For example, when an individual joins a ‘dangerous occupation exemption’ industry we recommend either the ATO or employee must flag to an individual that their insurance may not be adequate because of their occupation.

Underperformance

Super Consumers Australia strongly supports an objective, annual performance test for all APRA regulated super funds, consistent with Recommendation 4 of the Productivity Commission’s inquiry into superannuation.

An objective test is necessary to protect Australians from the poor fund performance that has thrived due to lack of transparency. To be effective the test needs to reflect the experience of consumers and the impact on their retirement balances.

Ensuring the test reflects consumer outcomes: Including administration fees

At present, the test focuses on investment performance and does not take into account administration fees. This approach will turn up the heat on underperforming fund managers, but does little to target inefficiently administered funds.

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[9] Most recently, APRA wrote to RSE licensees with concerns about the sustainability of insurance in superannuation

The test should be expanded to include administration fees. Administration fees can have a significant impact on the retirement balances of Australians. Super Consumers modelling found that an increase of just 0.5% a year in fees would reduce the retirement balance of a typical worker (starting work today) by a projected 10% or $55,000.[10]

In recommending an elevated outcomes test, the Productivity Commission indicated that all fees should be included in the assessment of a product's investment performance, given that "the most relevant outcome for members is the returns they receive after taxes and fees."[11] We endorse this approach.

The Productivity Commission found that while some funds may demonstrate exceptional investment returns, the evidence indicates that those which charge higher fees tend to deliver lower returns, once both investment and administration fees have been netted off. Examining returns net of both investment and administration fees "gives the clearest picture of the net benefits members receive in relation to the fees charged'.

Undertaking analysis on recent MySuper December 2020 heatmaps, we have determined that an additional five superannuation products may have failed an underperformance test if administration fees were included. This is because of their relatively high administration fees compared to the median.[12] As it stands these products would likely pass the test despite offering demonstrably poor retirement outcomes to their members.

Two products with lower than median administration fees would no longer fail the test if these fees were considered. These products still fall within five basis points of the cut-off so their trustees would have a significant incentive to lower fees across the board to avoid the cut-off in future years.

One product that passes the test has administration fees at least triple the member weighted average of 0.26% (0.78%).[13] Across a lifetime of savings this would cause significant damage to a person's retirement balance.

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[10] SCA cameo model: for individual with median employee earnings throughout 37 year working life who earns the MySuper member weighted median return (6.6% p.a.).

[11] Productivity Commission Inquiry Report: Superannuation: Assessing efficiency and competitiveness, p109

[12] To establish which MySuper products fail the test with administration fees included, we derived the benchmark portfolio return from the APRA heatmap and subtracted the member weighted median administration fee (0.26%) from it. We compared the adjusted benchmark return with the product net returns using the same 0.5% threshold.

[13] Compared to the member weighted average administration fee for MySuper products.

Shining a light on investment performance and investment fees takes the spotlight away from the very real impact of administration fees.

A comprehensive performance test is also beneficial to increase the understanding and use of comparison tools for consumers. As it stands, products that are flagged as having failed the test may be presented as having higher overall net investment returns than products that have passed the test. This may create an expectation from the consumer that the fund which has passed the test will deliver them better retirement outcomes, which may not be the case. The intent of the tool will not be met if consumers receive mixed messages about what makes a product an underperformer.

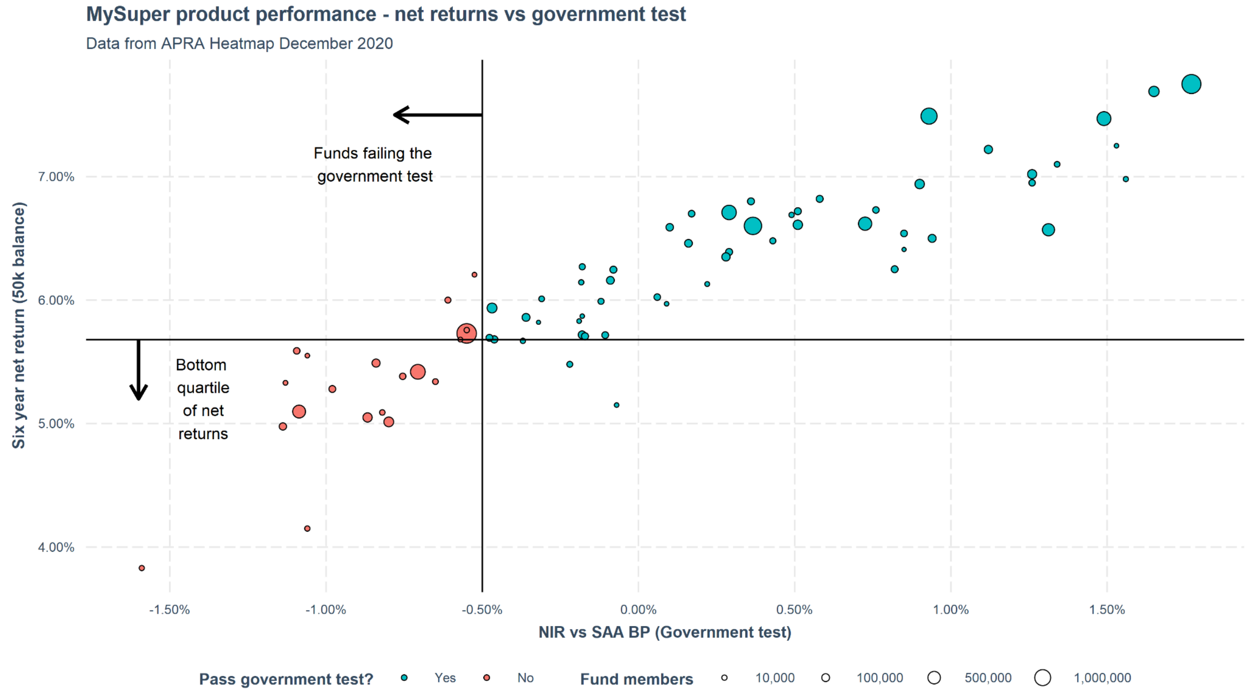
Recommendation: The performance benchmarking test should be expanded to include administration fees in s60D.

The test identifies funds with low returns and should be comprehensively applied no later than 1 July 2022

Super Consumers Australia's recent analysis of the MySuper December 2020 heatmaps determined there were 73 MySuper products with six year return information available. Of these 73 products, 20 are likely to fail the proposed underperformance test.

Of these 20 products, 16 are in the bottom quartile of net returns overall. This shows the test is likely to pick up a large portion of products that also have low returns. Some may argue the lower returns are aligned with the risk reward trade off a fund has made to meet its members needs. However, these are MySuper products and are therefore designed to be suitable for a broad cross section of the public. At a high level the overlap between the test and the bottom quartile of funds by performance gives confidence that the test is identifying funds that are delivering materially worse outcomes for people, which is the exact intent of the Your Future, Your Super package.

These underperforming funds are plotted below:



The underperformance test's ability to correctly identify funds that are doing a poor job implementing their investment strategy is key to the measure. Some products despite having similar asset size, membership and investment strategy deliver materially different outcomes. For example, one of the biggest potential underperformers has very similar key characteristics and an exact strategic asset allocation to one of the good performers. Despite this fact there is a 0.88% differential in performance between the two products. This means an individual who is defaulted into the higher performer over their working life will be $93,000 better off by the time they retire.[14] This is exactly the type of performance differences the test is designed to draw out.

Ensuring all consumers can identify high quality superannuation products

The test will initially apply to some 14 million accounts in MySuper products. We appreciate that there is an intention to specify in the regulations, over time, other products to which the test will apply, beginning with trustee-directed products (TDPs) on 1 July 2022. There is a significant

[14] SCA cameo model: for individual with median employee earnings throughout 37 year working life. Comparison of retirement balance when earning 6 year net return (as of 30 June 2020) of REST MySuper (5.73%) vs Aware Super Growth MySuper (6.61%). Both products have the same strategic growth asset allocation on the December 2020 APRA heatmap.

portion of the market that won't meet this definition and will therefore escape scrutiny. This will lead to poor outcomes for consumers who will not be equipped with information to compare these products. To avoid this we recommend that all accumulation products be included by 1 July 2022.

We also recommend expanding the test to decummulation (retirement income) products by 1 July 2022. The Retirement Income Review highlighted that these types of products will play an increasingly important role in ensuring that people have adequate income in retirement. As this market emerges it will be critical that these products are of a high quality and deliver the intended benefits. Comparison of these products will also drive greater awareness of their existence, which will be important for takeup rates as this market develops.

Australians will trust and gain more confidence in engaging with the superannuation system if the test is applied equally across all superannuation products. This will allow people to shop with confidence in the superannuation market, in the knowledge that underperformance where it exists will be highlighted.

Ensuring all products are tested is also key to an effective stapling framework. If members are unaware that their fund is untested, they may falsely believe that their fund is performing well when they change employers.

Recommendation: The performance test methodology should not be fundamentally altered and be applied to all accumulation products and decummulation products by 1 July 2022.

Benchmarking investment performance

Under the performance test, funds will be assessed solely against a passive reference benchmark portfolio that reflects their individual product-level asset allocation for their investments. This approach is a well-recognised form of transparent performance metric for the assessment of managed funds around the globe.

This is because measurement against a custom passive reference benchmark creates a clear line in the sand to determine the effectiveness of investment decisions made by superannuation funds and their 'active' performance.

The SPIVA Australia Scorecard reports on the performance of Australian active funds against their respective benchmarks indices over different time periods. The overwhelming majority of actively managed funds (81.7%) across various equity fund categories, Australian Equity

General, Australian Equity Mid- and Small-Cap, and Australian Equity-REIT, were outperformed by their passive benchmarks over five years.[15] Given those types of results it is clear greater scrutiny needs to be applied to the active management sector to ensure people are not being charged high fees for no value. This is exactly what a benchmark test is designed to achieve.

The Productivity Commission noted that with more granular asset allocation data, more specific indexes would be able to be used in benchmarks. This would reduce the risk of tracking abnormalities to arise and should be considered by industry. For example, the Commission used unlisted asset class benchmarks in their main benchmark portfolio (BP2).[16]

The ability to rectify performance

The superannuation system has been established to benefit members, not to protect underperforming funds. The benchmark test is appropriately tailored to give funds ample opportunity to improve outcomes for members before funds face repercussions.

Super Consumers Australia has conducted analysis on the 20 underperforming MySuper products to determine their ability to immediately rectify their poor performance via investment fee reductions.[17] We found that three additional products would pass the test if they dropped their investment fees to at least equal the median investment fee charged in the market.

A further two products would pass the test if they dropped investment fees in line with products with the lowest quartile of fees in the market.

Without considering a change to investment strategy, a general reduction in investment fees can have a significant impact on a fund passing the performance test. This is the intention of the legislation and provides an appropriate recourse for funds looking to do better by their members.

Some chronically underperforming funds may not be able to turn around their performance within 12 months. It is important to consider how much this chronic underperformance costs members over the long term, and the ample opportunity these funds have had to act in members' best interests prior to the test being enacted. It is appropriate for these funds to either

[15] SPIVA® Australia Scorecard

[16] Productivity Commission Inquiry Report: Superannuation: Assessing efficiency and competitiveness, p11

[17] SCA analysis of APRA MySuper data

voluntarily seek to transfer members to a better performing option, or enter into a merger arrangement with another fund. We discuss the consumer benefits of recent mergers in more detail below.

Encouraging pro-consumer mergers

These reforms will drive trustees to take appropriate action to protect the long-term financial interests of their members. This will likely include finding efficiencies through mergers or improved practices which lead to lower costs.

Research by Super Consumers Australia showed the impact of mergers on consumer outcomes between January 2019 and December 2020. We found that MySuper fees charged to consumers decreased by an average of 13.4% among merged funds, compared to just a 2.76% decrease across funds that didn't merge. This fee reduction alone would leave a person an estimated $15,000 better off in retirement.[18] Given the increased pressure to find efficiencies, we expect to see more merger activity, which will benefit consumers. .

We expect funds will increase their effort to act in members' best interests if the legislation is enacted. Over time a very rare circumstance may develop where a fund is sub scale, has chronically underperformed in the long term and has no ability to find efficiencies or a suitable merger partner. If this unlikely scenario were to eventuate parliament should be willing to consider whether the regulators have the appropriate toolkit to prevent harm to members of such a fund.

APRA must have the capability to actively manage underperforming funds and direct their members into performing funds, so as to prevent people from languishing in underperforming options.

One policy worthy of consideration is APRA's powers to enforce mergers. It is a power the regulator has in the banking[19] and insurance sector, but lacks in superannuation.

Recommendation: Ensure APRA has the appropriate resolution powers to actively manage members out of an underperforming fund, this may be through a merger power.

[18] SCA cameo model: for an individual with median earnings throughout a 37 year working life.
[19] Financial Sector (Transfer and Restructure) Act 1999

Best financial interests duty

Evidence from the Banking Royal Commission and Productivity Commission highlighted the egregious failure of some funds to act in their members' best interests. This legislation attempts to further clarify that the duty on trustees is in relation to the 'financial' interests of members. Current high levels of spending on extraneous activities like multiple well-funded industry lobby groups, lavish conferences, entertainment and hospitality packages are signs that greater clarity may be required for this industry.

It should be noted that the case law interpretation of the best interests duty in the SIS Act has always been interpreted to mean financial interests (often expressed as economic wellbeing and personal welfare) and therefore is unlikely to make much practical difference to the interpretation of the law.[20]

The express power to prohibit expenses should be analogous to ASIC's product intervention power

The express power to prohibit certain types of expenditure or investment where they may otherwise be in members' best interests needs to be properly qualified to ensure it does not stray from its intended purpose.The intention of the provision is to provide a mechanism for prohibiting certain payments and investments "where they are considered to be unsuitable expenditure by trustees in any circumstance". The explanatory memorandum also states that the power is appropriate to ensure there is sufficient flexibility for the Government to respond quickly to evolving industry practice as needed.

In the interests of transparency and probity, we recommend that APRA and ASIC jointly exercise this discretionary power. This power could be exercised under a similar regime to ASIC's product intervention powers.

Under the product intervention powers ASIC is able to ban financial and credit products when there is a risk of significant consumer detriment. This is undertaken by the due process below:

1. *Considering whether a financial product (investments) has resulted in, or will or is likely to result in, significant detriment to retail clients for the purposes of this Part, the following must be taken into account:*

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[20] Justice Moshinsky, 2018, 'The Continuing Evolution of the 'Best Interests' Duty for Superannuation Trustees from Cowan V Scargill to the Current Regulatory Framework'

(a) the nature and extent of the detriment;
(b) without limiting paragraph (a), the actual or potential financial loss to retail clients resulting from the product;
(c) the impact that the detriment has had, or will or is likely to have, on retail clients;
(d) any other matter prescribed by regulations made for the purposes of this paragraph.

2. *ASIC must not make a product intervention order unless ASIC has:*
   (a) consulted persons who are reasonably likely to be affected by the proposed order; and
   (b) if the proposed order will apply to a body that is regulated by APRA—consulted APRA; and
   (c) complied with any other requirements as to consultation prescribed by regulations made for the purposes of this paragraph.

An intervention order made by ASIC may continue for up to 18 months (the prescribed period) unless the period is extended by ASIC with the approval of the Minister, following a report to the Minister from ASIC on whether the extension should be made.

This will allow a flexible, targeted and timely response, but allow for parliamentary oversight as appropriate. At the end of the intervention order, parliament will have the opportunity to extend the prohibition through a legislative process.

Recommendation: The Ministerial power in Schedule 3 and supporting regulations should be amended to give APRA and ASIC discretionary power to prohibit certain expenses in line with ASIC's product intervention powers in s1023D of the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Act 2019.