KPMG

SUPER INSIGHTS 2022

Key challenges and opportunities

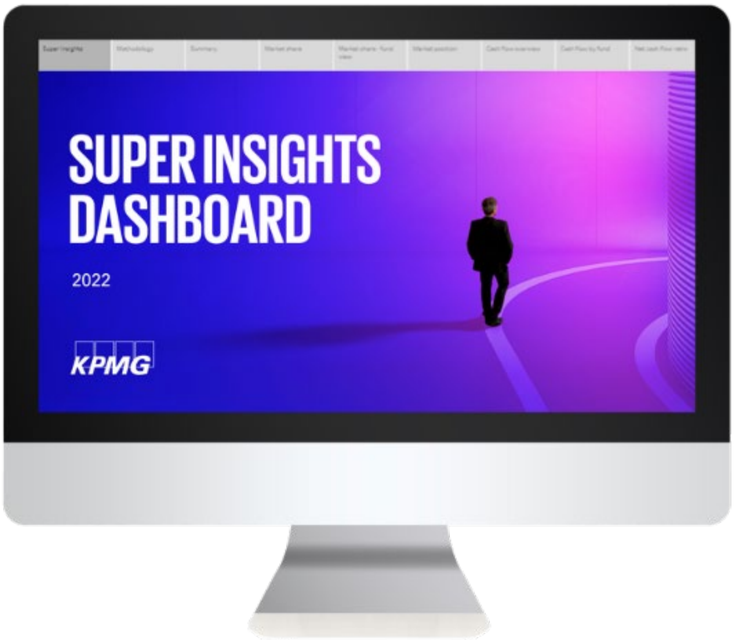
July 2022

KPMG.com/au/SuperInsights2022

Introduction

Following the launch of our Super Insights industry analysis and Dashboard, this report focuses of opportunities and challenges the sector will face, what action you can take and how KPMG can assist you. From our discussions with funds, KPMG believes the following areas will be among the key focal points in 2022.

The Dashboard can be accessed via our website at KPMG.com/au/SuperInsights2022



Key focus points **2022**

Superannuation funds and the risk of ESG

With an already busy agenda navigating significant regulatory reform, changing member preferences and a sector still in transformation, the industry has moved beyond simply viewing ESG as a risk and compliance tool and instead considers it in terms of value creation for all stakeholders. We explore how implementing ESG and sustainable investing is a journey that encompasses considerations for a whole of business strategy, member retention and social licence, amongst other things.

Tax governance and risk management considerations

Tax governance and risk management considerations for superannuation funds continue to evolve and require adaptation. Ranging from the ATO's 'Justified Trust' initiative, governance and controls over third-party tax data, tax matters relating to fund mergers and the retirement income covenant to considering the future of the tax function, we show what superannuation funds need to consider to stay on top of their 'tax game'.

Evolving financial crime and cyber threats

As crime threats have evolved, there is a need to invest in technology, data, team capability and quality assurance to ensure financial crime programs and operations are fit for purpose and operating effectively. In this article we discuss recent developments in mandatory breach, anti-money laundering, fraud, bribery and corruption, whistleblowing and sanctions and show how effective board and senior management oversight are essential to sound and effective financial crime risk management.

Adaptative investment operations

As the superannuation system grows, matures and consolidates, superannuation funds are required to consider the efficiency and effectiveness of their investment operations and governance arrangements to ensure that they are proactive and adaptive in responding to internal and externa market factors. We discuss a range of considerations for superannuation funds to ensure that their investment operations stay abreast of industry changes and can benefit from the continued growth in the superannuation system.

Risk and Regulation: APRA's and ASIC's joint focus

Whilst demonstration of strong governance and transparency remains high on the priority list for both regulators, the focus has shifted from implementing (the recommendations from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry) to 'embedment' and 'uplift'. We discuss APRA's focus on improvements to the implementation of SPS 515 Strategic Planning and Member Outcomes, Members Best Financial Interests (MBFID), product underperformance and the Retirement Income Strategy (RIS). Noting that ASIC sees DDO as the crown in their regulatory toolbox, in this edition, we focus on ASIC's emphasis on Insurance in Super, the Internal Dispute Resolution (IDR) Framework, disclosure and communication as well as the Financial Accountability Regime (FAR) and the New Breach Reporting Laws.

Key focus points **2022**

Privacy risk and emerging technologies

Whilst emerging technologies such as Machine Learning (ML) and Artificial Intelligence (AI) have enabled savvy superannuation funds to better gather and harness their members' preferences, behaviours and insights, it has also increased data privacy risk. We argue that early assessment and mitigation of privacy risk is key and that funds should adopt a Privacy by Design (PbD) approach and conduct Privacy Impact Assessments (PIAs) at the design stage of the technology solution to address key privacy risk consideration.

Fund data and digital capabilities

As the consolidation in the superannuation fund sector continues at pace, many fund executive management teams are asking their technology teams to increase their investment and efforts in digital and data capabilities to make certain the fund is prepared to harness the value and synergies of the merged entity. We show what technology leaders should consider to ensure that their investment in the fund's future data and digital capabilities pay off.

Evolving capital management practices and expectations

The financial stability of superannuation funds is critical to providing strong and stable outcomes for members. To this end, effective capital management is critical to protect members from unexpected, adverse outcomes and to fund significant growth and transformation initiatives. We argue that a holistic and dynamic approach to capital management and reserving that is tailored to the individual risk profile and appetite of a fund (and that abides by a set of key principles) is most effective in identifying the purpose and sources as well as management and deployment of capital and reserve categories required in the superannuation industry.

Four key capabilities of member-centric operating models

Member-centric operating models remain highly relevant and commanding in the face of unceasing regulatory demands, escalating member expectations and pressures to reduce costs and increase platform agility and resilience. In this article, we focus on four key capabilities and show how they contribute to breaking down cross-functional silos and to building journey-based squads that focus their attention on clearly defined member needs and wants, customer pain points and value creation.

Trustee Governance and Accountability: Regulatory Change

Trustees, by their nature, are the sole responsible decision-making entity for superannuation funds and it is evident that trustee directors and senior executives are subject to an ever-increasing degree of responsibility and accountability. In this article, we discuss the recent law reforms impacting the member best financial interests duty (including the reversal of evidentiary onus of proof), indemnities and penalties, the need for trustees to raise capital in their own (corporate) capacity, as well as the Financial Accountability Regime (FAR) bill, and show what trustees need to consider to comply with these reforms.

Member Experience/Member acquisition

How the right collaboration can move Millennials from 'Active rejecters' to 'Engaged members'

The unique combination of the pandemic and super funds racing to acquire new, younger members has allowed a new, power-player to flourish – the Finfluencer. We explore whether the Finfluencer has come of age.

ESG

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Mark Spicer

John Moutsopolous

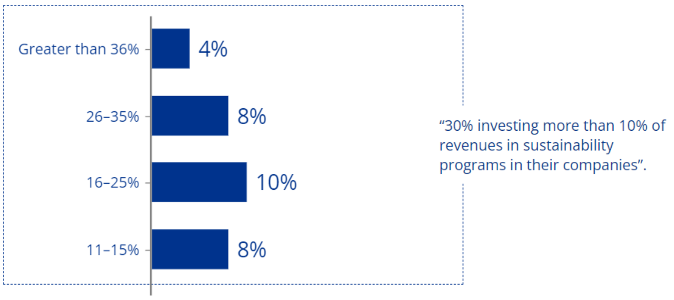
James Spencer

Superannuation funds and the risk of ESG

In the 2021 Super Insights publication we referenced how Climate Change was fast becoming one of the top strategic priorities for super fund trustees, with an increasing pace of change in expectations from regulators, and the community. 12 months later, we've seen not only a crystallisation of Climate Change as a strategic issue but the conversation moving to a broader consideration of Environmental and Social issues as drivers of value and risk.

The momentum behind ESG will continue to grow this year and will continue to have significant strategic and operational implications for all super funds and asset managers. It is our belief that this is not simply a phase in the market but a new economic and operating reality. There is already evidence in the corporate sector of the increasing capital investment into sustainability programs.

Percentage of revenue CEOs look to invest in sustainability programs



Source: KPMG Global CEO Outlook 2021

A fundamental driver of this change is a shift in ESG thinking. The industry is moving from a focus on risk management and compliance to consideration of ESG in terms of value creation for all stakeholders, market positioning, member retention and social licence. This shift is not easy. KPMG is seeing super funds ask deeper questions, requiring holistic and joined up thinking, across varying practice areas, to identify all the Tax.

2022 ESG Landscape and implications for the Superannuation Sector

The global and domestic ESG landscape continues to rapidly change. Notable developments relevant to superannuation trustees include:

APRA – climate risk

APRA finalised the Prudential Practice Guide CPG 229 Climate Change Financial Risks (CPG 229) in November 2021. The key objective of the guidance is to assist superannuation trustees (and other regulated entities) comply with existing obligations under SPS 220 and SPS 510.

Objectives

Understand risks and opportunities that may arise from a changing climate	Ensure investment lending, and underwriting decisions are well-informed	Implement proportionate governance, risk management, scenario analysis and disclosure practices

APRA have also recently issued a voluntary survey to all regulated entities to assess how ready entities are to align with CPG 229.

Superannuation entities should be thinking carefully about all levels of the fund and ensuring governance, risk management, scenario analysis and disclosures are appropriate and effective for the complexity of a multi-asset class superannuation fund.

APRA have not created additional regulatory obligations but instead intend CPG 229 to provide guidance to assist superannuation trustees to adequately manage climate related financial risk within their existing obligations; namely SPS 220 (risk Management) and SPS 510 (Governance).

We are already seeing consideration of climate forming part of APRA triennial review of risk management and investment governance frameworks.

ASIC – investing in ESG

ASIC has recently announced that it is conducting a review to establish whether ESG claims made by super funds and other financial institutions accurately reflect their practices. It is vital that super funds and managers are vigilant in ensuring they follow due process in designing, distributing and disclosing their sustainable investment products. Similar focus is being adopted by regulators in EU and the US.

Global Insights:

COP 26

The focus and conversation of climate change and, as equally important, climate action really ramped up another notch in Q4 of 2021. COP26 convened against the backdrop of multiple events driving greater urgency of climate action, including the role private capital can play in contributing to climate change investment solutions. Globally countries increased their commitments to reduce emissions, including by the Australian Federal government, and COP 26 brought together capital providers to ensure that capital markets play their important role in making meaningful change. This will have an effect domestically, with increasing focus on superfunds on climate as well as shifting the investment risk.

Taskforce for Nature-related Financial Disclosures (TNFD)

The recognition that the global capital markets rely on natural capital such as ecosystems, biodiversity and human communities has been made by the Taskforce on Climate related Financial Disclosures. Following the approach so successfully adopted by (TCFD) the TNFD have released a draft framework that enables the market to understand and incorporate nature related risks and opportunity analysis into financial decision making. We expect to see the adoption of natural capital accounting to have a massive effect on investments in future years.

New International Sustainability related Financial Disclosure Standards

IFRS established a new body (the ISSB) to develop globally consistent sustainability and climate-related financial disclosure standards will increase the ability of investors to assess these attributes for the companies they invest in.

EU Regulation, Product Labelling

Previously released EU Sustainable Finance Action Plan, which includes the Sustainable Finance Disclosure Regulation (SFDR) and EU Taxonomy are keys piece of legislation which Trustees should be aware of as a potential mechanism for benchmarking their global investment managers and investment activities on sustainability alignment; which can ultimately be disclosed to members.

Human rights

Despite increasing societal expectations of institutional investors addressing human rights risks in their portfolios, a recent report released by KPMG and RIAA, Human Rights and Climate Change: a Guide for Institutional Investors, demonstrates the need for investors to take a holistic view of ESG.

Climate change is already causing serious impacts to people in Australia and across the globe, and these will become increasingly severe, but the research reveals that investors' environmental and social risk assessments are often siloed, meaning that climate-related human rights impacts are inadequately addressed.

Climate-related human rights impacts are both physical – caused by climate change itself – and transitional: caused by the shift away from fossil fuels or the pivot to renewable technologies. These impacts, as well as associated global trends in regulation, reporting requirements, litigation and consumer and shareholder pressure, represent significant emerging risk for investors.

However, the transition also represents a significant opportunity. Investors are uniquely placed to effect meaningful change by mitigating and addressing the risks and impacts and by using influence and leverage to pursue sustainable and socially responsible outcomes across the global economy.

Where to from here?

Opportunity realisation

There has been a philosophical shift is how ESG is approached – ESG 2.0 if you like. The shift is very much moving beyond applying ESG as a risk management or compliance tool, to seeking out ESG value creation opportunities. This includes being able to demonstrate to members where an investment on their behalf has made a contribution to key thematic's such as the Sustainable Development Goals (SGDs). This is also reflected in the amount of market growth for responsible investments.

Positive Performance outcomes:

There is currently some conjecture as to the ability by superfunds to meet the YFYS Performance test, whilst also investing sustainably, such as the current outperformance of hydrocarbon assets. The Super Study shows super funds that implement leading practice responsible investment continue to outperform their peers financially (87 basis points over 1 year and 56 over 7 years). The average performance of leading responsible investment super funds' My Super products is better than non-leaders over 3-, 5- and 7-year timeframes.

(Media-Release_Super-Study-2021_2.pdf (responsibleinvestment.org)

My super performance of leaders and non-leaders

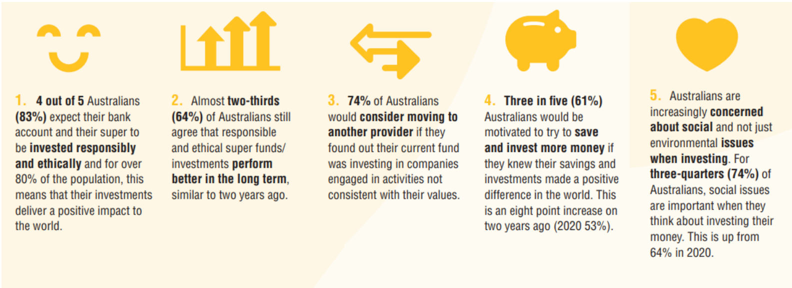
	MySuper net return (average)		
	Past 3-years	Past 5-years	Past 7-years
Leaders	8.44%	9.10%	8.29%
Non-leaders	7.57%	8.36%	7.73%
Difference	**+0.87%**	**+0.74%**	**+0.56%**

Note: MySuper figures are current as of June 2021, based on a balance of $50,000. Data does not include Future Fund which does not have a MySuper product.
Source: ATO MySuper comparison tool, and APRA Annual MySuper statistics June 2020.

Source: responsible investment super study 2021

Alignment with members:

Key findings from a study undertaken by the Responsible Investment Association of Australasia identifies the trend in consumers becoming more serious about aligning their investments with values and morals.

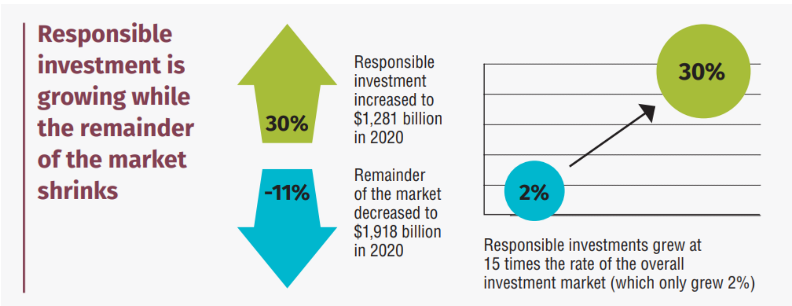


[From-Values-to-Riches-2022_RIAA.pdf (responsibleinvestment.org)]

Transparency is key:

Super funds demonstrating leading practice responsible investment are taking a bigger share of the market and financially outperforming their peers, according to a new study from the Responsible Investment Association Australasia (RIAA).

The market is coalescing around integrating ESG into whole of business strategy, risk management and investment decision making.



Source: RIAA Benchmark report 2021

This is increasingly flowing through to how these more mature funds are communicating with their members, and broader stakeholder groups. We're seeing more prevalence of Integrated Reporting (IR)practices and other ways Super Funds can demonstrate how their whole of business strategy is performing with respect to value creation for their key stakeholders across financial and non-financial metrics, including ESG factors.

Conclusion

To conclude, ESG and sustainability is being driven along by all stakeholders of a super fund. Even for a super fund that wishes to embark on the journey or move further along on its ESG journey, it is not without its difficulty in managing.

There are data limitations for which to make decisions, disclosures and reporting meaningfully to your members and broader stakeholders. There is an already crowded agenda for boards and management to navigate spanning significant regulatory reform, changing members preferences and a sector still in transformation from the Hayne Royal Commission. Notwithstanding that, we see ESG as an opportunity for funds to not only meet their regulatory and compliance obligations but develop and execute a sustainability strategy embedded within their overall business strategy, and perhaps most critically, genuinely connect with their members on their preferences and best financial interests.

Tax governance and risk management considerations

Tax governance & risk management considerations

Damian Ryan

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The Australian Taxation Office (ATO) continues to pursue its 'Justified Trust' initiative through its 'Top 100' taxpayer and 'Top 1000' taxpayer programs which cover large APRA-regulated superannuation funds. This includes the provision of supplementary guidance for tax governance and risk management over third-party tax data and its next phase of reviews of individual funds.

Tax matters relating to mergers remain a significant issue and trustee's responses to the retirement incomes covenant should have regard to how tax impacts retirement incomes.
Funds are also considering the tax function of the future, including consideration of the use of automation, analytic and visualisation tools.

Tax governance and risk management: controls over third-party tax data

To achieve Justified Trust in a taxpayer, the ATO seeks objective evidence that would lead a reasonable person to conclude a particular taxpayer paid the right amount of tax. Recognising the superannuation industry's heavy reliance upon data provided by third-party service providers, following industry consultation, on 31 March 2022 the ATO issued new guidance: "Governance over third party data - Supplementary Guide for superannuation funds, managed funds and life insurance companies on third-party data tax controls". The guide supplements the ATO's existing Tax Risk Management and Governance Review Guide (ATO Guide) and applies to third-party data received from custodians, administrators, unit registries, external tax advisers, actuaries, investment managers and valuers of unlisted assets. The ATO has tied the governance principles in the new third party data guide to the following Board and Managerial Level Controls (BLC/MLC) in the ATO Guide:

- The Board is appropriately informed (BLC3)
- Periodic Controls Testing (BLC4)

- Roles & Responsibilities are clearly understood (MLC1)
- Significant transactions are identified (MLC3)
- Documented Control Frameworks (MLC6).

The ATO expects investment industry entities to use the new guide to design and implement (and ultimately test the operational effectiveness of) third-party data tax controls tailored to their business, with a view to fully implementing these over the next 18 to 24 months.

Funds will need to work closely with their third-party data providers to ensure clear agreement between the parties on responsibility and accountability for design, implementation and testing of tax data controls.

To meet the ATO's expectations, large superannuation funds should consider:

- undertaking an initial gap analysis against the 80 plus better practice examples provided in the ATO's guide
- the Fund's ability to demonstrate that it has taken steps to establish processes to manage and mitigate the risk of inaccuracies in third party data (design effectiveness)
- the Fund's ability to demonstrate that it can provide objective documentary evidence of third-party data tax controls (operational effectiveness) including testing by an independent reviewer.

ATO Justified Trust reviews

Following the ATO's Streamlined Assurance Reviews (SARs) conducted during 2019-2020, the next phase of the ATO's reviews include:

Next Actions Reviews (NARs) – generally in progress	Combined Assurance Reviews (CARs) – expected from July 2022
A next action review is the investigation of an identified compliance income tax risk. These follow-up reviews applied for funds that received overall low assurance ratings and/or 'red flag' ratings on specific issues in their Streamlined Tax Assurance Reports (STAR). Not all funds are subject to NARs and most have already been notified and the reviews are in-progress.	Income Tax, including use of derivatives, participation in share buy-backs, Foreign Income Tax Offset cap calculations and foreign investment structures. GST, including classification of various supplies, recovering of input tax credits, reverse charge provisions and apportionment methods.

Large funds should already be taking action based on the earlier STAR recommendations from the ATO, particularly in respect of matters for which they received a red flag rating or low/ provisional medium assurance rating.

As this may be the first GST review for many, funds should undertake a CAR readiness review and other preparatory activities.

Tax considerations under the Retirement Income Covenant (RIC)

It is important to note that 'Retirement income' for the purpose of the RIC is 'after-tax' income that is received during the period of retirement.

Two tax-related matters which might form part of fund trustee's considerations in respect of the RIC are:

Foreign tax leakage – in relation to foreign jurisdiction taxes that may apply to overseas investments supporting retirement incomes for which a tax credit may not be available in Australia.

Retirement bonuses – in relation to the trustee's policy and mechanism around allocating to retiring members some of the benefit arising from unrealised gains moving from the taxable accumulation phase to the tax exempt retirement phase.

Mergers

Mergers of superannuation funds involve numerous tax considerations, including income tax, foreign tax, state taxes and member tax issues. Specific income tax relief is limited to transfer existing losses and the roll-over of assets from the closing fund to the on-going fund. Stamp duty relief may be available but must be managed closely.

An array of other tax matters remain which can act as potential impediments to mergers and industry consolidation, including limited tax relief for merger expenses to closing funds, Qualified Person status eligibility under franking credits holding (45 day) period rule, amongst others. The Australian Treasury has been undertaking consultation to understand these matters and, working with industry bodies, KPMG has assisted prepare submissions to Treasury.

In the absence of measures to address all tax matters, merging funds need to be alert to them to try to mitigate potential detriments to members.

Merging funds need to consider their engagement strategy with the ATO, including use of the early engagement protocols to obtain private rulings needed to manage the tax risks associated with a merger. The time it may take for the ATO to address issues should not be under-estimated.

Tax Reimagined - Tax function transformation and technology

Integration of disparate finance and investment functions of merged funds is necessary to achieve scale efficiencies and can involve extensive functional and technological transformation programs. Consolidation is also seeing the emergence of growing in-house Tax Functions, which will need to participate in the transformational journeys.

Greater demands from regulators mean that tax compliance will be very different in five years' time. Consequently, many funds are (and if not, should be) considering what their Tax Function, including tax reporting, should look like.

The reimagined Tax Function is likely to involve some investment specifically in technology tools (some potentially bespoke to meet the specific requirements of very large/mega funds) to be able to meet the requirements of the future. But, importantly, where superannuation funds are planning technology-driven transformation programs over their broader finance and investment functions, the funds' in-house Tax Functions should seek to integrate their requirements in the programs. This will assist the funds to reap efficiencies and ensure the management of tax compliance benefits from the funds' technology investments.

Evolving Financial Crime & Cyber Threats


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Evolving financial crime and cyber threats

As a result of persistent financial crime threats and evolving regulation and guidance, there is enhanced requirements for the Board, senior management and compliance to have appropriate oversight and demonstrate their financial crime risk management coverage, adequacy and effectiveness.

Superannuation funds are continually challenged with improving their risks and operations to prevent loss and to meet developing regulatory reforms and expectations. Recently funds have been particularly challenged by the resource reallocation to respond to COVID-19 stimulus distributions and preparing teams to work virtually.

Superannuation accounts are a potential target of complex criminal activity and opportunistic individuals – whether it be the account holder or those known to them. As crime threats have evolved, there is a need to invest in effective technology, data, team capability and quality assurance to ensure financial crime program and operations are fit for purpose and operating effectively. Funds need to be able to evidence the connection between board and senior management's oversight and the effective implementation of financial crime risk management.

Fund's evolving role in the detection and reporting of criminal conduct

AUSTRAC has highlighted the ongoing importance of AML/CTF detection and reporting and in 2016 assessed the financial crime risk of the superannuation sector as Medium. While the range of risks identified persist today, since 2016 we have seen an evolution in the predicate crimes and threats highlighted by AUSTRAC to include broader social and environmental crimes.

By law, funds must consider any applicable guidance material disseminated or published by AUSTRAC that is relevant to the identification, mitigation, and management of ML/TF risk arising from the provision of services. Accordingly, consideration should be given to more recent reports on fraud and misuse of emergency and disaster payments administered through Services Australia, National Disability Insurance Scheme (NDIS) payments and guides relating to wildlife trafficking and the sexual exploitation of children.

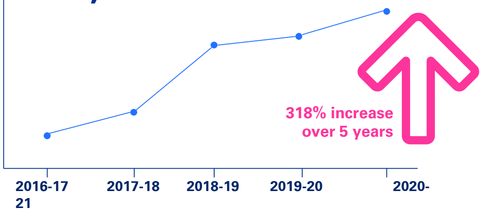
Currently AUSTRAC is refreshing its Superannuation Sector Risk Assessment. The risk assessment will report on threats and vulnerabilities through of industry consultation and Suspicious Matter Reports and should be utilised by funds to support the management of financial crime risks.

Volume of intelligence | **Use of intelligence**

Volume of intelligence

Suspicious Matter Reports

309,772



Use of intelligence

ANALYST WORK BENCH (AWB)

6,355,212 SEARCHES
(13,000 QUERIES PER DAY)

235% increase

4,600+ users
ACROSS 35 AGENCIES

Cyber enabled fraud persists:

Fraud remains a prevailing threat with criminals gaining access to customer information and using it to fraudulently transfer funds out of the superannuation system. Phishing attacks, scams, hacking of computers or direct purchasing information on the dark web are means used to gain access to members' personal identifiable information, account details and proof of identification documents.

The member information is used to fraudulently gain access to member portals, request changes in details and initiate transactions out of funds. To support the making of payments outside RSE's, criminals will concurrently establish or take over bank accounts and SMSF's, and redirect customer contact information.

Funds must ensure their processes and systems regarding information security, customer verification, customer monitoring, transaction monitoring are implemented and assessed as designed and operating correctly to address the threats faced. To address this cyber threat prevention, fraud and anti-money laundering risks and frameworks are increasingly being considered together.

One fraud method used is to request a roll-over of funds to a SMSF controlled by a criminal. Positively, from 1 October 2021 rollovers to and from SMSFs can only be processed using SuperStream. To support the identification of a fraudulent roll-over to a SMSF, the ATO's SMSF verification service now performs a basic verification check before processing the payment and will also send an alert to the fund's existing contact details if a roll-over has been requested. Further, the ATO will raise an alert upon requests for changes to a SMSF's information or if a new self-managed super fund (SMSF) in a person's name. Ultimately the alerts will support the detection of unauthorised activity before any payment is made and should also be assessed to determine if a suspicious matter report should be made to AUSTRAC.

Increased scams, phishing, and cyber attacks

ACCC reported to date losses (year to 31 December 2020):

- **⇧281%** Phishing scams
- **⇧144%** Remote access scams
- **⇧234%** Identity theft

Recent developments in regulation

01 | Mandatory Breach Reporting

- From 1 October 2021, AFS licensees are required to lodge reports of reportable situations to ASIC.
- Reports to be sent to ASIC, 30 days after it is determined reasonable grounds exist, regardless of investigation status.
- ASIC has a statutory duty to publish information about breach reports and could heighten consumer expectations for quick resolutions.
- Companies should review their breach reporting solutions.

02 | Anti-Bribery and Corruption (ABC) Legislation

- Combatting Corporate Crime Bill 2019 update includes a new offence for failure of a body corporate to prevent bribery.
- Government guidelines share six essential elements of bribery prevention;
  - risk assessments,
  - management dedication,
  - due diligence,
  - communication and training,
  - confidential reporting and investigation, and
  - monitoring and review of compliance systems.

03 | ASIC focus on Whistleblower Programs

- Whistleblower Protection Laws came into force June 2019.
- RG270 Whistleblower Policies published by ASIC in November 2019, providing a guide to implement and maintain whistleblower program.
- ASIC recommends firms review RG270 and their whistleblower program to reflect the new regime.
- ASIC stated their intention to conduct future reviews, with potential enforcement action for non-compliance.

04 | Reforms to AML/CTF Act and Rules

- Funds are expected to comply with Anti-Money Laundering and Counter-Terrorism Financing Rules, which came into effect on 16 June 2021.
- Specifically noted to superannuation funds includes:
  - changes to requirements that must be satisfied to rely on customer identification procedures performed by another party,
  - allowing SMR information to be disclosed to external auditors and members of designated business group.

05 | Reforms to Australian Sanctions legislation

- On 8 December 2021, reform of Australia's Autonomous Sanctions Act 2011 came into effect.
- New criteria enables the Minister for Foreign Affairs to designate;
  - target sanction and travels ban persons,
  - entities relating to proliferation of weapons of mass destruction,
  - significant cyber incidents,
  - serious violation or abuses of human rights,
  - serious corruption.

Adaptive investment operations

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Adaptive investment operations

Whilst the expectation may be for every Australian superannuation fund to deliver strong sustainable net investment returns to its members, the achievement of this Member outcome will be a direct reflection of their organisational capability and ability to manage the allocation / balancing of large pools of capital across multiple asset classes; whilst competing for access to key investment opportunities and addressing complex regulatory / social licensing considerations domestically, and internationally.

Persistent sector consolidation, natural system maturity and unabating net system inflows which need to be invested in line with predominantly active strategies, creates a different superannuation landscape that has an:

- Increasing number of funds managing > $75 billion
- (By 2025 we expect there to be 12 Funds with FUM > $75 billion)
- Numerous globally relevant 'mega' funds directly deploying and managing capital globally
(By 2025 we expect there to be 8 funds with FUM > $125 billion)

This growth of superannuation funds will have a significant impact on the retirement income landscape, as total pension payments expected to increase to $100 billion by 2040, compared to $30 billion in FY21. The system is still expected to remain in net inflow, with providers likely to emphasise tailoring retirement income strategies to meet member outcomes. A key focus will be exploring opportunities to optimise investment returns by considering portfolio construction, product capabilities and the tax implications for retirees.

This system growth requires superannuation funds to consider their investment strategies and governance arrangements. It is fair to say there is an operational need for investment governance arrangements to become more efficient, proactive and adaptive to internal and external market factors. The anticipated rate at which net system inflow capital will need to deploy into active / passive investment strategies has not been seen in the Australian system at the levels anticipated over the next 10 years and historic decision-making frameworks will need to evolve at pace.

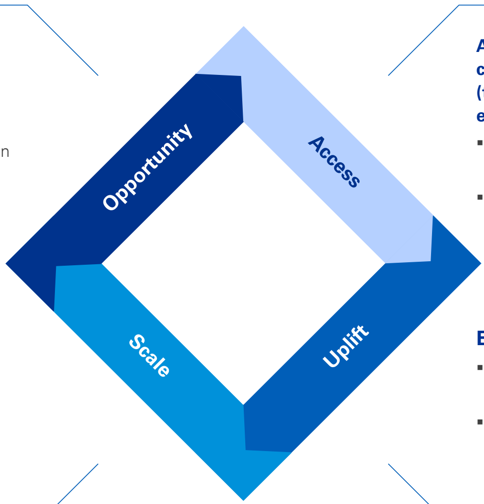
We project the level superannuation FUM growth will require funds to genuinely focus on the following.

Improving access to investment opportunities

- This may include enhancing strategic partnerships with external parties; or
- Building internal capability in Australian and preferred global markets.

Addressing mandate capacity constraints (typically challenging for listed equity mandates)

- Funds may choose to increase allocations to passive strategies;
- Funds may vary investment strategy by considering Total Portfolio / Internal strategies.



Realising economies of scale

- Ensuring scale benefits provide for long expected cost savings
- Ensuring scale provides genuine reduction in management fee
- Ensuring increased direct access to investment options

Enhancing internal capability

- Funds will need to enhance external manager oversight
- Augment current internal management teams / systems

Depending on how superannuation funds manage these decisions the need to review current practices and introduce new systems, resources, ways of working, risk controls and third party / internal capabilities will be necessary.

Taking into the account the potential implications of growth over the next 5 to 10 years – we believe it will be critical superannuation funds to:

Maintain strong / robust investment governance arrangements

To continue to invest in contemporary portfolio management / risk systems

To optimise the custody arrangements of investment data

To consistently look to improve accountability for delegated investment decisions

Some of the key activities to support a strong investment governance framework would include:

The implications of growth on superannuation funds are significant and present what is probably best characterised as multi-year programs of change for many funds. Superannuation fund trustees and the fund's executive management teams will need to lean in transformation change in earnest in the coming years. A key starting point must be for superannuation funds to consider whether their current investment strategy can deal to the issues of today whilst appropriately enabling the change and investment in capability needed to be viable tomorrow.

Risk & Regulation: APRA and ASIC's joint focus


Andrew Maudsley


Ian Tracey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Stuart Watson

Risk and Regulation: APRA & ASIC's Joint Focus

With most of the recommendations from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry now implemented, focus by both APRA and ASIC has turned to embedment and uplift. Demonstration of strong governance and transparency, which drives performance and improved outcomes for members is high on the priority list.

APRA's transformation by action

APRA in their own words is looking for 'transformation by action' across the superannuation sector. Its superannuation policy and supervision priorities for 2022 released in February, introduced two key strategic themes; 'protected today' and 'prepared for tomorrow'. By focusing on making decisions in members' best financial interests today, APRA argues Trustees will deliver sound outcomes for their members in the future.

Strategic planning and connectedness to member outcomes

APRA claims the uplift of sub-standard practices will bring better decision making by Trustees and in turn contribute to better outcomes to members.

Recent thematic reviews conducted by APRA identified shortcomings in the implementation of SPS 515 Strategic Planning and Member Outcomes. APRA identified the need for better linkage between Business Performance Review (BPR) findings and actions being taken to update business plans, improved explanation of how strategic objectives support member outcomes and more robust analysis of drivers of business performance. APRA expects Trustees to explore a broad range of expected outcomes (through stress testing of internal and externally driven factors) to better understand the financial soundness of business plans and implement a clear, well-documented approach for deciding assumptions.

In KPMG's view, the key to success is the development of a strong governance framework across the strategic/business planning process, which enables Trustees to demonstrate how actions from the BPR are driving decisions to measurably improve outcomes to members.

This level of agility in the decision-making process, as well as the more sophisticated approach to stress testing and scenario analysis demanded by APRA, will, require an uplift to processes, tools and resources employed by many Trustees.

Expenditure management and members best financial interests

APRA's also recently examined Trustees' compliance with the newly introduced duty to act in Members Best Financial Interests, with respect to fund expenditure. APRA found that in some instances evidence was not sufficient to demonstrate consideration of the best financial interests of members. APRA encourages Trustees to reflect on whether their existing practices meet the high standards demanded by this new duty. APRA also identified the need for Trustees to make a significant shift from broad reliance on qualitative judgments as a basis for decision making and instead apply robust quantitative led processes pre and post decision making.

The increased expectations around analysis of expenditure, and uplift of the strategic and business planning process are a common theme. These expectations represent a clear call for a more sophisticated quantitative assessment of strategic outcomes and expenditure decisions. For many Trustees this will involve an uplift in financial analysis and reporting. In addition Trustees will need to more effectively demonstrate their expenditure rationale, and review processes for decisions, linking to the BPR, business plan and Member Outcomes. Strong governance will be required to achieve this synchronicity. Again strong governance will be required to achieve this synchronicity.

Unacceptable product performance

In relation to product performance, APRA notes that its increased supervisory intensity on product performance via the administration of the Annual Performance Assessment, 'Heatmap' reporting, and a tougher stance that it has adopted with underperforming funds to lift their performance or pursue a merger or exit from the industry, has resulted in Trustees improving outcomes for members through fee reductions and improved investment performance.

ASIC's supervision priorities

ASIC's priorities are closely aligned to APRA's, as we see both regulators continuing to work closely together, especially around themes of ensuring strong member outcomes.

The 12-month focus includes:

Insurance in Super

ASIC will pursue a continued focus on insurance outcomes for members in their surveillance work over 2022. Members' best interests need to be a key consideration where Trustees are selecting an affordable insurance product designed for their members, while preventing inappropriate erosion of superannuation balances. Ensuring the member claims process is simple, timely and transparent is also another key focus, not only regarding process but also complaint handling.

Internal Dispute Resolution Framework

Following on from changes to the Internal Dispute Resolution (IDR) Framework (RG 271) at the end of 2021, ASIC will be looking to analyse data and review specific cases to assess industry compliance with the new Regulatory Guide. With data reporting requirements having been released at the end of March and commencement of requirements potentially from February 2023, KPMG recommends Trustees turn their attention to process and system modifications to accommodate new reporting requirements as well as looking at IDR trends and insights gained to embed product and procedural enhancements. A strong regulatory focused culture would consider the interplay between IDR, External Dispute Resolution, Member Outcomes and the Design and Distribution Obligations.

Disclosure and communications

ASIC have indicated that they will be reviewing performance disclosures, mandatory underperformance notifications and intend to take regulatory action where appropriate for instances of non-compliance.

In KPMG's view, this highlights the importance of Trustees ensuring their messaging is balanced, accurate, clear, understandable, reliable, verifiable and complies with applicable mandatory disclosure requirement. Trustees should also consider how disclosure is aiding the member to make an informed decision about their products.

Remuneration, DDO and New Breach Reporting Laws

Trustees should be considering the requirements of APRA's CPS 511 Remuneration Prudential Standard (due to be implemented from 1 July 2023 for Significant Financial Institutions and 1 January 2024 for all other Trustees) and how these obligations interlock with the various other regulatory requirements, particularly around the use of variable remuneration practices.

In KPMG's view, ASIC's concentration on member focus is clear through these policy changes, with a focus on consumers receiving the benefits of the new Design and Distribution Obligations. ASIC is pursuing a targeted surveillance approach in this area and has demonstrated a willingness to enforce the obligations where necessary.

Following on from the introduction of the new Breach Reporting regulatory guide, ASIC has identified that it will be looking at non-financial risk that can result in significant harm to consumers and investors with timely and accurate significant breach reporting on its radar.

So where to from here?

Both Regulator's focus on need for continued improvement is clear. Trustees will need to further develop governance structures and product offering with the underlying goal of delivering improved member outcomes. Both Regualtors have shown they will be paying close attention to actions being taken by Trustees and will not hold back in pursuing enforcement where these actions are not appropriately protecting members interest today and into the future.

Privacy risk and emerging technologies

Privacy risk and emerging technologies

Jacinta Munro

Kelly Henney

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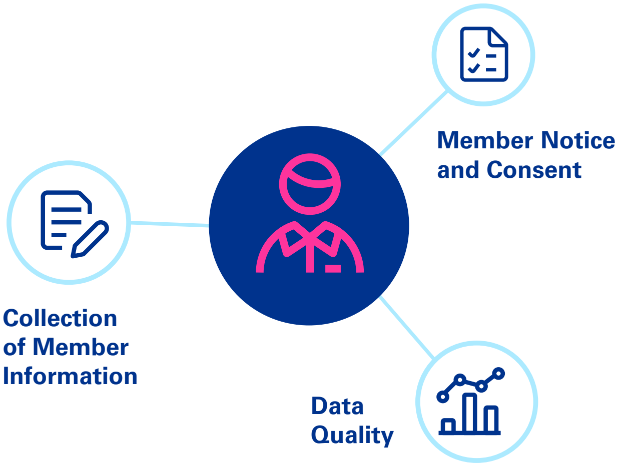
At KPMG we are seeing superannuation funds flock to emerging technology solutions to capitalise on amplified member engagement in the COVID-19 context, as members take advantage of the Australian government's early release super scheme, and otherwise seize the opportunity to monitor or increase their balances.

As members express a preference to engage on digital channels, emerging technologies have enabled savvy funds to produce better efficiencies, enhance member engagement and gain a competitive edge in a low-cost way.

This domestic trend mirrors that occurring overseas. The world's largest retirement fund, Japan's Government Pension Investment Fund (**GPIF**), commissioned a study into Artificial Intelligence (**AI**) in selecting assets and investment managers in response to concerns about investment performances associated with outside investment managers; while funds in the UK have harnessed existing AI virtual assistants, like Amazon Echo's Alexa, to help members track their contributions. Closer to home, Australian members benefit from highly personalised offerings driven by data analytics, interact with virtual chat assistants and can authenticate their identity using their biometric data. This is made possible by leveraging face or voice recognition tools built on AI platforms and driven by machine learning (**ML**). Funds worldwide are also leveraging AI to facilitate the investments made on behalf of members, and to promptly detect and flag abnormal activity that may be a security threat to improve member outcomes. With the global AI asset management market expected to be worth almost $13.5 billion by 2027, funds are increasingly exploring how to harness this solution.

With the exponential uptake of advanced technology solutions, early assessment and mitigation of privacy risk is key. Funds are well advised to take measures to align technology solutions with members' expectations of strong privacy protections in digital services, the enhanced privacy protections in the proposed Privacy Act 1988 (Cth) reforms, as well as to avoid adverse regulatory rulings. Relatedly, in 2021 the Australian Information Commissioner published determinations that found Australian organisations to be in breach of privacy law in the context of facial recognition technology.

To align with regulatory and member expectations, funds should adopt a Privacy by Design **(PbD)** approach and conduct Privacy Impact Assessments **(PIAs)** at the design stages of the technology solutions with consideration to privacy risks associated with:



Member Notice and Consent

Funds should provide adequate notice to and, where relevant, obtain consent from members noting that the use of a technology solution may require disclosure to third parties, and the creation of new information by a technology solution would amount to collection.

Key questions to ask include:

COLLECTION NOTICE

Have members been notified that an advanced technology solution such as face or voice recognition tools built on AI based platforms may be used to collect their information?

USE OR DISCLOSURE

Have members been notified of how the information may be used or disclosed? This is important as complex datasets and algorithms are built into for AI based platforms to formulate a decision based on the personal/sensitive information.

OPT-IN / OPT-OUT

Have members been asked to 'opt-in', or provided the option of 'opting out', to the use of their personal information for AI-powered decision-making? For example, can members choose security questions rather than voice recognition for identity verification?

CONSENT

Where required, is the express consent provided verbally or in writing, or are there grounds to reasonably believe that the member has provided implied consent?

Data quality

Funds should take reasonable steps to ensure that personal information that is collected is accurate, up to date and complete, and additionally, any personal information that is used or disclosed is relevant.

Reasonable steps to address the risks to data quality posed by emerging technology solutions can be demonstrated if the fund has introduced:

- A failover plan to ensure business continuity in instances where results are inaccurate, biased, or comprised of unintended derived personal information where the solution was not operating as desired. Since ML and deep learning technologies rely on quality data to produce quality outcomes, existing sample and representation biases or inaccuracies contained in datasets used for ML can produce unfair or incorrect inferences and decisions. These challenges may affect the explainability of decisions made by AI/ML solutions. This is important because individuals may wish to review or challenge decisions made by the fund in reliance on the technology solution.
- Policies and processes for handling the overcollection of unnecessary, and possibly unsolicited, information as well as the collection of inaccurate and irrelevant information by technology solutions such as a virtual assistant.
- Processes for ensuring that data relied on by any technology solution remains up to date. The faster things move in the industry, the sooner data loses currency.

Collection of member information

Funds should ensure that the personal information collected or created through the use of the technology solution is reasonably necessary, collected through lawful and fair means, and with appropriate notice.

Key strategies to minimise risks associated with the collection of personal/sensitive information by technological solutions include:

- Limiting collection and retention of the member information for the purpose of providing goods and services or as required by law only.
- Introducing policies and processes to handle information created through predictive analytics and algorithms as a collection of personal information where appropriate. For example, the technology solution may create personal information about a member's future investing habits or retention, or a face or voice print.

- Conducting a PIA to confirm that new categories of personal information collected by the technology solution are reasonably necessary to the fund's functions or activities. For instance, funds will have to demonstrate that the collection of sensitive information such as DNA sequencing data to verify member identity is reasonably necessary for its functions and activities, in circumstances where there is a heightened risk of adversity to members if this information be compromised and member identity can be verified through means with a lower privacy impact.
- Implementing technological controls such as de-identification for sensitive information that may be used in or inferred through ML solutions; and access controls, encryption, and audit logs to appropriately safeguard personal/sensitive information.

Fund data and digital technologies


David Cummins


Todd Burton

Fund data and digital technologies

As the consolidation activity in the sector continues at pace, many fund managers are asking their technology teams to increase their investment and efforts in digital and data capabilities to make certain the fund is prepared to harness the value and synergies out of the merger.

The key areas that IT executives should focus on in any merger or consolidation scenario include:

1) Certainty over ongoing and one off costs:
   - i) Assessment of the required IT investments for the merge (i.e. one off costs) or future standalone costs (i.e. merged fund operational expenditure)
   - ii) Identify stranded or sunk costs.
2) Deliverability of the integration plans that minimises business disruption leading up to the merge:
   - iii) Develop clear and achievable integration plans with the right level of transitional support to optimise the core business moving forward.
   - iv) Prioritise transition over transformation in order to maintain business continuity.
   - v) Assess constraints and capability gaps, including the required level of IT change management that may be required.
3) Efficiency of the standalone operating models.
4) Challenge the status quo of the operating models for the businesses & key functions in order to maximise proceeds and optimise core business performance and underlying technology.

As funds chart their consolidation journey, there are two areas that can warrant consideration early in your consolidation and merger planning – Data and Digital.

Data

Data sources often contain specific data that may not be appropriate to transfer between entities, coupled with regulatory and legal requirements. Trade off decisions are often required - what is an optimal solution for one fund, may result in risk for the other.

Business data resides in multiple formats and locations and can include mailboxes and emails, collaboration platforms such as SharePoint, servers, and shared drives. In complex, legacy environments it can often be difficult to assess all data elements individually, and strong data governance in any separation / integration is seen as critical, with many funds taking a risk based approach.

As part of this risk based approach, data that is relevant to a fund merger can be divided into three categories:

Commercially sensitive information such as:

- Cost / price information such as suppliers' pricing, plans and budgets
- Operational performance data
- Plans, strategies and other specific data
- Governance reports on subjects such as risk, audit and fraud
- External data such as non-syndicated research

Commercially sensitive information may be removed as part of the merged fund:

- Best practices, ways of working and know-how
- Efficiency improvement projects or other capital projects to improve performance
- Innovation projects not yet implemented
- Long-term strategies not related to the divested business covering subjects such as procurement, supply chain, commercial categories

Exceptions that may be retained by both parties:

- Information older than the agreed data retention and archiving policies
- Plans and budgets for the period
- Data required for financial, audit and tax purposes
- External data – syndicated research
- Information needed for the continued operation of the divested business including technical/packaging and engineering standards, marketing and finance methods
- Projects that have been communicated and are part of the divested business's development plans

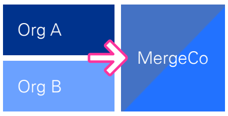
Clear communication and planning is needed to identify and manage the data, privacy change management risks. The effort to clearly identify, scope and map potential data sources can be substantial and requires combination of different techniques such as technology-led discovery tools, interviews and online questionnaires to identify and define commercially sensitive information across each business area. These data sources can be mapped to understand the movement and flow of data within each business area and present a full audit trail of the data sources and associated business decisions.

Once these instances of sensitive data have been identified, specialist solutions can be deployed to identify further instances of these data sources and map where this information may be disseminated throughout the fund without impacting BAU operations.

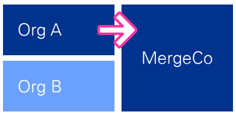
Digital

As part of the integration planning, careful focus will be paid to further technology investments across the fund. Priority will be on those projects that will deliver on the integration plans and create efficiencies for the merged fund operating model. Projects that do not deliver on these ambitions need to be shelved and resources diverted.

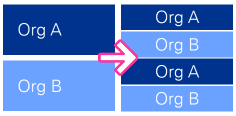
As part of the integration planning, the technology team will need to undertake a review of merged fund's technology environment (including applications, infrastructure, data, integrations etc). Part of this review will also ascertain the integration options. These options are:



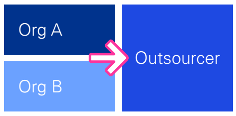
Replace all – Phase out "legacy" system and setups. This approach works best when point-specific solutions are poor in both companies and new software is easily integrated.



Select One – Generally the fastest method for reducing cost but the merged fund will need to decide on which one is the most aligned with the combined business strategy.



Best of Breed - Choose the best available set ups with an eye on architectural direction. This is the best approach for large scale "merger of equals" or with entities with different business models across the combined fund.



Outsource - Spin out systems issues to third-party that is aligned with architectural direction. This approach is advantageous in mergers where there are large size discrepancies, repeated acquisitions, and poor internal IT capabilities and/or capacity.

All of these options require careful consideration around the size, scale and maturity of the merging funds and what the future business strategy of the combined entity looks like. Using the consolidation process to critically look at the technology requirements using an objective lens will help the merged entity maximise the value out of this process.

Call to action

Separation planning is a complex and time consuming process, even before Day 1. Practical steps to help you manage your data and digital environment ahead of any planned separation activity.

- Get on top of your data landscape - identify and map commercially sensitive information, put in place data management practices to manage this leading up to and during the separation.
- Conduct a critical review of your technology landscape to identify business critical systems that need to have integration plans in place.
- Start planning for what the combined technology operating model will look like to support the merged fund.

Evolving Capital Management Practices and expectations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Evolving Capital Management Practices and expectations

Introduction

As the landscape of superannuation continues to shift with a continued stream of mergers, unprecedented levels of remediation, enforcement and class action litigation, continued regulatory reform and cyber risk rating as one of the strongest risks to business, it is not surprising that there is a renewed focus on the financial stability of superannuation trustees. It is uncontentious that the financial stability of superannuation funds is critical to providing strong and stable outcomes for members, as well as being critical from a macroeconomic perspective given the scale of collective assets under management in the industry.

This is also an APRA area of focus, given its related discussion papers on 'Strengthening Financial Resilience in Superannuation' and 'Strengthening Crisis Preparedness'.

Approach

KPMG supports an approach of superannuation trustees going beyond the Operational Risk Financial Requirement (ORFR) (SPS 114) to embracing a holistic and dynamic capital management framework approach that is founded on an understanding of the purpose of capital management, strong capital management principles, and is tailored to the risk profile and risk appetite of the relevant superannuation fund. The framework should anticipate the investment of the capital held having regard to the need and timing of access and associated levels of liquidity. The framework should also be subject to regular review having regard to the risks the trustee is facing, the funding of initiatives and the potential for material unexpected events.

Purpose of Capital Management

Good capital management begins with a sound understanding of the different purposes for which capital is required. For a superannuation fund this includes:

Purpose 1: Stability and withstanding adverse events/outcomes

- For a fiduciary, such as a superannuation trustee, considerations include having sufficient capital to meet member expectations of a very low risk of the fund (and therefore prospective and vested member benefits) being impacted by risks of instability and adverse advents (other than risks they expect to be exposed to such as investment risk resulting from market performance).
- Besides large unanticipated loss events, funding short term operational shortfalls (due to performance over a short period where expenses are anticipated to exceed revenue) may also be included within this category.
- This broad category also includes potential penalty liability of a trustee entity, or other liability, that cannot be indemnified by the superannuation fund.

Purpose 2: Funding initiatives

- This is capital to fund initiatives that provide benefits to members which exceed the cost of providing the benefit (and for which no better or more cost-effective alternative approach to achieving those benefits exists). These initiatives should also be linked to the fund's strategy and business plan.
- At a more detailed level 'initiative funding' can be divided into sub-categories. For example:
  - Initiatives to invest in technology to improve efficiency or reduce cost, improve investment performance, improve member services, introduce a valuable product offering, or to increase growth to reduce unit costs.
  - Transformative initiatives such as restructures, mergers or successor fund transfers. These can be assertive or can be defensive.
  - For example if a fund is unsuccessful with its plans to grow and be successful, we refer to the capital needed to enable exit (e.g. to merge, transfer or wind-up without undue impact to members, such as a reduction to

benefits) as 'strategic defensive'[1] Some funds may also consider the funding of expenditure to meet new regulatory / compliance requirements within this category.

This purposive approach to identifying capital needs is broadly consistent with the capital management philosophy of other large and sophisticated organisations in fiduciary type industries or products, such as organisations that manage funds and make commitments to pay benefits to customers (for example, banks, insurers, responsible entities of managed funds).

Principles

We define strong holistic management of capital for superannuation as having regard to anticipated future needs while applying the following principles:

- Funds should hold sufficient capital to meet member expectations of a very low risk of the fund (and therefore prospective and vested member benefits) being impacted by risks (other than risks they expect to be exposed to (such as investment risk relating to market performance)). This fundamentally requires an understanding of the risk profile of the fund.
- It is reasonable for entities to maintain reserves to fund potential initiatives where the benefits to the membership overall are greater than the cost.
- In deploying and in raising capital funds should:
  - consider intergenerational fairness and fairness/outcomes between cohorts within a generation; and
  - clearly understand the demarcation between fund purposes and corporate purposes and capital held in those different capacities.
- Generally, reserves that are clearly surplus to fund the potential anticipated spending needs (based on the principles above) should be returned to members.
- Capital management should be dynamic, subject to regular review and alive to triggers for material change.

At a more detailed level, these principles should be taken into account when developing capital management frameworks, policies, processes and procedures.

Determining capital based on the above purposes and principles is complex and involves judgement (including in relation to the likelihood of future events which are, by nature, uncertain). This means that there is no single 'right' number for the value of capital held.

[1] 'Assertive' and 'defensive' strategic capital are terms we have taken from Peter Carroll 2011 *When too much capital is not enough: capital in a mutual health fund.*

Importantly, the capital management approach and targets are not static and, based on the above, should be expected to vary based on changes in the fund's internal and external environment.

Importance of risk profile and appetite

Where capital is held for the purpose of 'stability and withstanding adverse events/outcomes', it is critical to understand the risk profile of the fund. This can equally be the case whether the capital is held within the fund or outside of the fund (in the corporate account of the trustee). In either case, the activities of the fund and the fund's risk profile are critical. While quantitative modelling and inputs can help determine capital requirements to support this purpose, other qualitative factors are also important to understand the risk profile for a particular fund. Many funds have invested significantly in first line processes, controls and risk management, as well as in second line review and the risk management framework overall. Where a fund already has existing high quality risk assessments and analysis, this is a useful input for understanding the risk profile.

In turn, risk appetite and risk profile inform the level of capital required. Further consideration should then be given to how that amount of capital is managed, and what triggers and levers are available where an event requiring capital occurs (or is at risk of occurring), or where the circumstances of the trustee or the fund change.

The intended purpose of capital determines the different categories that trustees should be maintaining. The quantum to be held (based on a detailed risk assessment) and the funding mechanisms can be determined differently across these categories. The purpose of a holistic framework is to have a complete view across an entity, and to consider not only the different categories of capital but also the interrelationship between those categories at a holistic level having regard to the overarching purpose of maintaining financial stability.

Industry insights – developing focus on capital

A holistic framework based on the purposes and principles set out above provides a sound basis for trustee decisions in relation to the holding, management, deployment and raising of additional capital.

In the past 12 - 18 months we have seen more of a focus by different segments of the industry on the type and source of capital held, and a broader contemporary approach to capital management.

Historically retail funds have been able to rely on capital support from parent entities (as well as retained earnings from fees charged), whereas industry funds have typically relied on trustee reserves (that are sourced from trustee fees, historically charged on a cost recovery basis).

Recently we have seen retail funds consider developing more contemporary capital management practices (to fund operating expenses, deliver their business plans and fund contingency expenses) in a way that does not presume a heavy reliance on capital support from a parent entity, and with a greater focus on the need for reserves (usually held in a corporate capacity). This is largely due to two factors:

1) an understanding that capital needs (including for remediation, the payment of penalties, the payment of damages or settlement costs) cannot generally be absolutely guaranteed by a parent (unless there is appetite for a formal deed of indemnity or guarantee), but will need to be considered by the parent at the relevant time, and the appropriate accounting for any provisions is at the trustee entity level; and

2) the divestment (or intended divestment) of retail funds by the banks, where funds now need to operate on a more standalone basis. Such superannuation funds may have been relatively immaterial within the context of the capital requirements of the bank (such that having a detailed understanding of the short and long-term funding needs was not as critical). Also, new shareholders may not have the traditional mechanisms and established investment cycles and processes for the fund to request additional capital (as the previous bank owners did). The new owners may also not have the same appetite to invest.

We do note that where a sale or divestment has occurred, there is likely access to an indemnity deed from the divesting parent in favour of the new parent (or the trustee itself) for the purpose of funding remediation or pre-sale conduct issues that result in liabilities post sale. Although these are generally time bound and do not address funding of new initiatives.

We have seen not-for-profit (NFP) funds adopt an array of reserving strategies. They are also developing contemporary capital management practices that consider their unique operating models and arrangements. Some NFP funds have been more highly capitalised by way of reserves (beyond ORFR requirements) when compared to retail counterparts. Although, as noted above, retail counterparts may have had access to capital from within the overall group.

As the industry continues to evolve at pace with both mergers and successor fund transfers of superannuation funds, we expect that funding, reserving and support practices will change across all fund types in the near term. Alignment may occur between the sectors in relation to how capital is raised and managed, with retail funds potentially adopting more formal reserving strategies with reduced access to shareholder capital and NFP funds beginning to charge trustee fees which include a risk component and/or component for funding strategic initiatives beyond the historical cost recovery model.

Industry insights – Use of ORFR

Based on our experience, most funds have had events that met the criteria to call on the ORFR reserves. Most events are small and/or ultimately funded by third parties (for example, the fund having some responsibility when a member breached contribution limits by a small amount). We think it is important to keep in mind that the distribution of operational risk events (in most industries, not just superannuation) is that there are a large number of small events that have little impact and a relatively very small number of events with large impacts. The important feature of the ORFR, as we understand it, is primarily to reduce the impact on members when there is a large event (only a large event can get close to the APRA guided minimum of 0.25 percent of fund assets).

Consistent with the principles set out above, the important assessment criterion is the member expectations of a regulated financial and fiduciary organisation that the fund would only be impacted by risks to which they do not expect to be exposed in very rare circumstances and to a low extent. (Examples might include: operational losses such as financial losses to a fund from fraud, unit pricing, insurance administration errors, or having to compensate for poor advice.)

Obviously funds may and should think about different purposes of capital when managing capital and determining adequate amounts. Nonetheless, the overall total amount of capital held is relevant and when a small event occurs it is not significantly material (from a member protection perspective as described above) where it is funded from.

As noted above, the ORFR is important when a large event causing substantial financial damage occurs noting that such events should be very rare. By way of comparison, we note that for banking and insurance, the regulatory prudential minimum capital targets a 1 in 200year frequency. We are aware that some of the discussion of the ORFR and its purpose does not seem to acknowledge this.

Nonetheless, our overall observation is that we would caution suggesting that the ORFR can be reduced or not held without considering how member expectations will be supported (meaning that there is a very low risk of impact to the fund).

Holistic and convergent approach to capital management

As we have outlined, our view is that it is beneficial for trustees to adopt a holistic and dynamic capital management approach and framework that has regard to their unique operating model, risk appetite and risk profile. This holistic framework considers all capital and reserve arrangements across the various capacities and purposes. This includes ORFR, net tangible assets (AFSL requirement for responsible entities (if relevant)), penalty and other liability provisions. Other considerations include capital buffers (for example, internal capital buffers considering liquidity risk / cash administration buffer such as the short-term shortfalls in operating performance), and potential known and unknown future initiatives that require capital funding and where the benefits to members exceed the cost.

Capital needs also include ensuring adequate funds for strategic 'defensive' initiatives or 'contingency' plans. For example, if a fund is unsuccessful with its plans to grow and be successful, its ability to exit without undue impact to members.

We appreciate that assessment of a trustee and fund's capital needs requires informed judgement and there is unlikely a single 'right' number that a trustee should be targeting across any particular category of capital. While the type of holistic and dynamic framework that we have discussed is not yet adopted widely across the industry, we have seen examples of superannuation fund trustees adopting a greater focus on capital management principles (going beyond the ORFR requirements). Appreciating that each fund is unique, and that a tailored approach is most beneficial, we do anticipate that the approach to capital management across the industry, and sectors, will become more consistent and aligned. Purpose, sources, management and deployment of capital that have historically been observed and successful in other sectors or segment may be adopted and leveraged to strengthen holistic approaches and ultimately benefit superannuation members.

Four key capabilities of Member-Centric operating models

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Four key capabilities of Member-Centric operating models

Funds continue to face pressure to reduce costs and meet unceasing regulatory demands, whilst at the same time having members with escalating expectations for financial outcomes and customer experience. Considering these pressures, the vision KPMG created in 2021 for a Member Centric Operating Model remains commanding and highly relevant.

Enabling funds to intentionally design the experience needed to both attract and retain members will be critical for long term viability and for some funds, their survival. This need is heightened with current merger activity.

Bringing a deliberate, fund-wide approach to creating value across all divisions is paramount. This approach (agnostic to whether services are outsourced, or provided in house) should consider how people, process and technology can better converge to meet increasing expectations of members, whilst supporting operational flexibility, scalability, and growth.

Having identified 23 critical capability areas for the operationalisation of a Member Centric Operating Model, in the 2022 Super Insights Report we are paying particular attention to 4 key capabilities that we feel have heightened importance in the current environment:

1) Importance of member journeys in driving improvements in member experience and outcomes.
2) Connecting the front, middle and back office – the role of business architecture.
3) Data and automation.
4) IT Implications.

Adopting a member centric operating model for funds represents a large opportunity…

- Member Journeys and the moments of truth
- Connecting the front, middle and back office
- Leveraging Data and Automation
- Recognising Critical Success Factors
- Understanding Technology Implications

A member centric operating model can transform into 'Super Funds of the Future'…

- Member-centric, secure & responsive operating models
- Technology enabling growth & ongoing change
- Simple, seamlessly connected people, process and technologies
- Data-driven insight improving complex decision making

This is how adopting a member centric operating model can help your organisation transform…

Strong Member Based View (Cultural change, wants, needs and ambition)	**Cross-functional Alignment** (Alignment and collaboration, to avoid duplication of work)	**Clearer Accountability** (Knowing who is responsible for delivering what)	**Focusing Investment** (Members' Interests / Avoiding over Investment)
Delivering Member Centric Capabilities (Journey Focus, Structural change)	**Automate to improve speed and reduce errors** (Improved member experience, eliminate user error)	**System Simplification & Integration** (Seamless, scalable technology solutions)	**Use Data Insights to improve decision making** (Member Data, Experience Data)

…into a 'Super Fund of the Future'.

- Agile & Scalable
- Member-obsessed
- Partnership-oriented
- Platform-based
- Trusted
- Connected
- Powered
- Low Cost

Importance of member journeys in driving improvements in member experience and outcomes

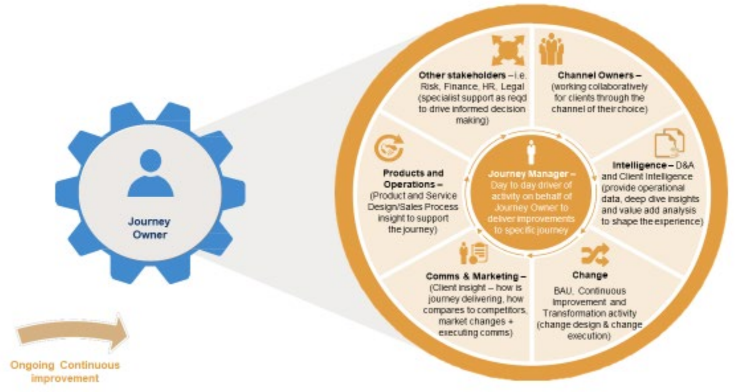
Last year we spoke about the importance of member journey design. Member journeys should drive informed decision making and be the foundation for driving business improvement. The importance of journeys is well understood but how to use them is less so. Too often these design artefacts are filed away and forgotten. So, let's re-cap on why do journey mapping:

- Journey mapping provides a clear, end-to-end visual representation of the needs and touchpoints of your members, clients and internal clients, showing how services are provided.
- To document in a way that has a common vision and understanding across the business, highlighting 'moments of truth' for members.
- To take a member centric approach to identify pain/gain points, as well as any inefficiencies and synergies.
- To have a standardised channel approach and change agenda, holistic to all client journey families.

There is a trend towards better cross silo collaboration on journeys. A typical first step is often to create cross silo communities of interest for key journeys. This typically involves appointing Journey Owners and Journey Managers who establish a cross-silo team and foster collaboration on journey improvement.

Cross-Functional Collaboration

The journey Owner enabled and drives cross functional collaboration across functional teams to facilitate journey management



Client Journey Management Playbook

Some organisations are taking this concept further, moving from communities of interest to formalising journey-based structures over the traditional functional silos. In such a model, cross functional journey-based squads are formed by formally realigning people from across the organisation to journey based squads. Critical to success of such models is ensuring that squads are appropriately funded and empowered to drive change.

The challenges of moving to such a model may appear significant. But so are the benefits:

Benefits for Members	Benefits for Funds
• Ensures a strong member-based view, supporting ongoing culture change and ambition • Member needs and wants are formalised at the centre of the change agenda • Processes are improved end-to-end, and pain-points are removed as priority • Improved service channel choice available for clients, with human interaction remaining core to the relationship	• Employee pain points addressed (re-focus on value and less time spent on manual processes) • Alignment, collaboration, and communication between teams, leading to a reduction in the duplication of work • Clearer accountability on who is responsible for delivering what • Clearer journey ownership makes prioritisation and improvements easier

Funds can learn from peer organisations who are approaching this in different ways depending on their appetite for change and hunger for benefits. A phased implementation often starts with just one or two journeys to test and learn before moving to broader implementation. Others have adopted a 'big bang' approach, choosing to re-align people and funding structures in a matter of months.

We believe that in the future, superior performance will result from breaking down functional silos and better aligning funds on the change agenda. Journey management plays a critical role in this transformation.

Connecting the front, middle, back offices, and the role of business architecture

Business architecture plays a key role in the design and adoption of a strategically aligned member centric operating model across the front, middle and back offices. By creating an integrated view of member journeys, value streams and business capabilities, business architecture provides a common language that helps to bridge the gap between business and IT. It does this by developing a maturity assessment of core business capabilities broken down into people, process, technology and data - then superimposing member journeys and value streams over the top. Business and IT use this information to confirm where capability maturity is lowest, and member pain-points and potential value creation are highest. This enables prioritisation of operating model investment across the front, middle, and back offices.

By developing a common language, as well as the platform for prioritising member centric operating model development, business architecture also plays an essential role in uplifting cross-functional collaboration. The use of business capability maturity models ensures that organisational silos are relegated to the sideline, and journey-based squads can focus their attention on customer pain-points and value creation.

Data and Automation

In an environment of increased scrutiny from regulatory bodies and customers seeking to build back trust in Australian financial institutions, data and automation continues to be an opportunity.

Since the banking royal commission, funds have found it challenging to meet new and complex reporting obligations. As funds digest new regulations and evaluate their readiness to satisfy them, opportunities to automate business processes should be sought-out.

Manual processes performed by administrative staff take longer to execute, carry an increased the risk of errors and are less flexible to future changes. Automated business processes can be triggered programmatically, executed consistently with a lower risk of errors and can be adjusted to future change. Automation has the power to delight customers with proactive service offerings, reduce the cost of staff performing repetitive tasks and support growth as administrative processes increase. Automation in funds relies on business leaders that are prepared to invest in technologies that support automation, giving their teams the space to innovate and recognising the important role data will play.

To increase automation funds must understand how data is collected from customers and internal business functions to enable mapping and identifying areas of opportunity. Member and employer data allows organisations to understand the market, expand its offerings and find new lines of revenue. Internal business functions can leverage data insights to monitor fund performance (both fiscal and member) and proactively detect issues. Most importantly, data can assist funds to reduce and manage compliance risks.

Sophisticated funds that have a comprehensive understanding of their data landscape and associated data strategy will go beyond the automated generation of legal documents and disclosures and implement innovation technologies and solutions that allow the purposeful use of data for insight. We are seeing funds beginning to invest in technologies such as call analytics to isolate high-risk key phrases, automated marketing content screening for potential non-compliance and comprehensive learning platforms for ongoing training and upskilling of staff to enhance performance.

IT implications

A key tenant of the member centric operating model is the ability for IT teams to orchestrate IT services to connect the front, middle and back-office to deliver key member journeys and moments of truth.

In a super fund world where services are multi-sourced and often highly integrated, the resulting solutions become complex. IT's responsibility changes to the end-to-end management and performance of service delivery. In this role, IT orchestrates delivery of services and makes certain performance, cost, and quality are meeting or exceeding expectations and the fund, its employers and members are getting maximum value.

The goal is to make this complexity invisible to the business. As an orchestrator, IT performs the following:

- Manages solution delivery for performance, cost, and quality (technology providers deliver to commitments, schedules and agreed-upon service levels.
- Monitors and manages service performance, cost, quality, and value delivered (monitor service levels, costs, benefit, experience).
- Coordinates service providers, manages escalation process, and resolves issues (correcting issues and coordinating response and escalation process.

- Confirms enterprise IT obligations are met and assets are protected (audits services, security and data protection requirements).

IT can play the role of orchestrator across super funds and use the intimate knowledge of seeing enterprise-wide people, process and technology to deliver improved experiences and technology service delivery across the front, middle and back office, while being a valuable advisor and business partner to help drive continuous improvement.

Conclusion

All superannuation funds, regardless of the size of their assets under management or number of members are looking to deliver enhanced benefits for their members. The challenges of scale, maintaining performance and keeping abreast of regulatory change are not dissipating. Creating a deliberate, fund-wide approach using a member centric operating model will enable super funds to be more agile and ready to meet the challenges of tomorrow.

Trustee Governance and Accountability: Regulatory Change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Trustee Governance and Accountability: Regulatory Change

Trustees, by their nature, are the sole responsible decision-making entity for superannuation funds. They undertake to act for members and are responsible for administering and investing the fund assets for ultimate purpose of providing for retirement. It is an onerous role and one which understandably comes with intense accountability.

Since the Royal Commission, there has been there has been an increasing focus on trustee governance and accountability within the superannuation industry, which is reflected in the tone, purpose and onerous requirements imposed, or to be imposed, through recent and proposed legislative reforms.

The most relevant reforms include:

Best financial interests and evidentiary onus of proof	Re-framing one of the central trustee and director covenants from the best interests duty to the best 'financial' interests duty, as well as the reversal of the evidentiary onus of proof in civil penalty proceedings under the Superannuation Industry (Supervision) Act 1993 (Cth) (SIS Act)
Indemnities and penalties	Changes to the trustee and director indemnity provisions under sections 56 and 57 of the SIS Act
Financial Accountability Regime (FAR)	Proposed introduction of the FAR regime (under the Financial Accountability Regime Bill 2021 (FAR Bill)), which is intended to replace and extend the existing Banking Executive Accountability Regime (BEAR), with a specific extension to insurance and superannuation

Best financial interests and the evidentiary onus of proof

Best financial interests' covenant

A central tenet of the ‘Your Future Your Super’ (YFYS) reforms was to replace the best interests covenant with the best ‘financial’ interests covenant under the SIS Act (from 1 July 2021) for both trustees and directors.

Prior to 1 July 2021, the best interest duty was very much viewed as a decision-making duty that focused on the ‘inputs’ into the trustee's decision, and the decision-making process. The time for testing a trustee's decision was the time the decision was made, having regard to what the trustee knew at the that time, and not with the benefit of hindsight. The duty was also bound by the terms of the trust deed, and the law (including the purpose of the trust and the concomitant sole purpose test). Interestingly, in interpreting the meaning of the best interests duty, the courts had adopted of stance of stating that the best interests of the beneficiaries was determined by the purpose of the trust. In turn, where the purpose of trust was to provide financial benefits for the beneficiaries, then the best interests of the beneficiaries is in turn usually, their best ‘financial’ interests.

The re-framing of the covenant as the best financial interests covenant does not, in our view, change these general principles. The focus remains on the trustee's decision-making process and the inputs to the decision of the trustee and its directors. However, the addition of the word ‘financial’ in the expression of the duty does clearly sharpen the focus on financial inputs. The upshot is that financial interests are the determinative factor. The question then arises - "can non-financial interests ever be considered?". In our view the answer is that non-financial interests can be considered, but they cannot prioritised over the beneficiaries financial interests, nor compromise those interests. Trustees should clearly focus on the data and metrics used as the core inputs into their decisions.

Evidentiary onus of proof

In addition to the re-framing of the best financial interests covenant, the YFYS reforms also reversed the evidential burden of proof in civil penalty proceedings against trustees in respect of alleged breaches of the best financial interest covenant.

This means that as from 1 July 2021 where civil penalty proceedings are instituted against a trustee by a Regulator (apart from some exceptions) the following evidentiary steps are followed.

The starting point is that it is **presumed** that the trustee **did not** perform the trustee's duties or exercise the trustee's powers in the best financial interests of beneficiaries **unless** the trustee adduces evidence to the contrary.

Attention then turns to the trustee to adduce or point to evidence that there reasonable possibility that it complied with its best financial interests duty.

If the trustee can adduce this evidence, the attention turns to the Regulator to prove on the balance of probabilities, that the trustee did not perform its duties, or exercise its powers, in the best financial interests of the beneficiares.

Trustee considerations?

A critical issue for trustees and directors is to ensure that they have a strong decision-making process. This starts with ensuring the right scope of a question to be asked or proposal to be considered. There is then a need to ensure that the right people in management are involved in the process of the proposal, and that the right evidence and data is collected and considered. This includes any potential external evidence such as benchmarking or external review. The evidence and data collected needs focus on the financial impacts, both positive and negative, to members.

It is also important to remember that a well-run fund, consistent with the obligation of trustees and directors to exercise care, skill and diligence of a prudent superannuation trustee, is fundamentally in the best financial interests of members. In considering a proposal, trustees should also consider whether all appropriate alternative options have been considered and compared. This is a particularly apt consideration where payments are made to third parties, where there is a potential or perceived conflict of interest, or at a higher level where a trustee is considering the strategic direction of a fund.

Finally, and critically, it is imperative that trustees clearly document their decisions, ensuring that the core reasons for the decision and the steps that a trustee has gone through in making that decision are recorded (including the identification of any conflicts of interests, and how those conflicts have been avoided or managed).

In light of the sharpened focus on financial interests, paired with the reversal of the evidential onus of proof, we recommend that trustees consider:

- Governance review of the decision-making process, both at the trustee board level and management level (for decisions under delegation)
- Further develop the **data points and metrics** to assist in decision-making (having regard to the link to the business plan and member outcomes assessment)
- Development of best interests **guidelines** to on how to practically apply the best financial interests obligation to different scenarios
- Development and implementation of a **trustee decision-making framework**
- Review of **board paper templates** and approach to **minutes**
- Board and management **training** on best financial interests obligations and conflicts
- Review of the **expenditure framework and financial delegations** framework
- Development or review of **management decision-making** templates and records of decisions
- Reviews of processes and controls

Review of relevant accountabilities and associated KPIs

Indemnities and Penalties

A contentious issue among many super fund trustees, that has been the subject of public attention, are the changes to indemnity sections of the SIS Act (sections 56 and 57)[2].

Before the changes came into effect, a trustee or director could not use trust assets to meet liabilities arising from a breach of trust in certain circumstances or certain penalties imposed under the SIS Act. This has now been extended) to prevent trustees and directors from using fund assets to pay any criminal, civil or administrative penalty (from 1 January 2022) incurred in relation to a contravention of any Commonwealth law.

In practical terms, the changes mean that trustees and directors will have to use their own financial resources (rather than fund assets) to pay statutory penalties imposed for breaches not only of the SIS Act, but of any Commonwealth law.

EXAMPLE

if a trustee was found liable for not reporting a breach in time under Chapter 7 of the Corporations Act, it cannot have recourse to fund assets to pay any resultant penalty (as it may have had under the former section 56)

Raising capital and the recent court cases

These changes have required trustees to review the financial resources available to them in both their trustee and corporate capacities.

In particular, trustees of not-for-profit funds have explored ways to raise capital, to be held in their corporate capacity, for the purpose of meeting those liabilities. In many cases, the trustees have settled on charging a fee to members for their professional services in order to build up a capital reserve that will then be used to meet those liabilities. If this power was not already available, the trustee has had to amend the fund trust deed to introduce a trustee remuneration clause.

In recent months, we have seen trustees apply to the courts for judicial advice or approval to amend their trust deeds in order to ensure that the amendment to introduce the remuneration clause complies with their statutory and general law duties.

So far, eleven trustees of not-for-profit funds have had their applications heard and decided by courts in various jurisdictions. While the trustees took different approaches in the setting of the

[2] Introduced by the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020.*

fees and the drafting of the remuneration clauses, the reasons for the courts allowing the trustees to introduce the remuneration clauses have included:

Best interests
It would not be in the members' best interests for a trustee to be exposed to the risk of insolvency by reason of their inability to meet any liabilities that could not be paid out of the assets of the fund.

Insolvency risk
it would not be in the members' best interests for a trustee to be exposed to the risk of insolvency by reason of their inability to meet any liabilities that could not be paid out of the assets of the fund.

Complexity
there is a high degree of responsibility and complexity in running a fund and trustees should be reasonably protected from any associated risks.

Quality of directors
the risk of a trustee's inability to pay a penalty may mean that the trustee may not be able to attract suitably qualified and experienced directors.

Trustee considerations?

If a penalty is levied against a trustee, the trustee will need to ensure that it is able to draw from available sources of funding to pay any such penalty or infringement notice. As a starting point, trustees should explore whether there are alternative sources of funding available to them, including trustee liability insurance or an injection of shareholder capital.

If a trustee decides to build up its financial resources in its corporate capacity by charging a fee for its services to members, it will need to ensure that any reserve built up for this purpose is clearly identified and managed as being held by the trustee in its own corporate capacity. When doing so, the trustee should develop policies and processes to manage the capital reserve.

Financial Accountability Regime (FAR)

The FAR Bill was introduced to implement a recommendation by the Hayne Royal Commission. The FAR proposes to extend the BEAR (which only applies to banks) to all APRA-regulated entities, including superannuation trustees that are registrable superannuation entity licensees.

The purpose of the FAR is to provide a strengthened accountability framework for APRA-regulated entities called accountable entities (AEs) and accountable persons (APs), through four sets of core obligations.

Accountability (AEs & APs)

- to take reasonable steps to conduct their business with honesty and integrity, and with due skill, care and diligence
- to take reasonable steps to deal with the Regulator in an open, constructive and cooperative way
- to take reasonable steps in conducting responsibilities to prevent matters arising that affect the AE's prudential standing.
- for APs to take reasonable steps to prevent material contravention of a prescribed list of laws
- for AEs to take reasonable steps to ensure that its significant related entities (SREs) comply with the accountability obligations

Key Personal

- require entities to APs to be collectively responsible for all areas of their business operations
- to ensure that no AP of the AE or SRE is prohibited from being an AP
- to comply with a direction of the Regulator
- for AEs to take reasonable steps to ensure that it’s SREs comply with the direction of a Regulator and does not have prohibited APs

Deferred Remuneration

An AE must control payment of an AP’s variable remuneration such as bonuses and incentive payments in various ways as follows:

- requiring AEs to defer at least 40 per cent of the variable remuneration of an AP for a minimum of four years
- have a remuneration policy that requires the variable remuneration of an AP to be reduced for non-compliance with their accountability obligations
- not pay the portion of variable remuneration that has been reduced
- take reasonable steps to ensure that their SREs comply with the above requirements

Notification

Core Notifications:

Notify the Regulator if:

- a person ceases to be an AP
- AP has been dismissed or suspended because of failure to comply with person’s accountability obligations
- AP’s variable remuneration is reduced because of failure to comply with accountability obligations
- AE has reasonable ground to believe that:

- the AE has failed to comply with an accountability obligation or a key personnel obligation
- the AP has failed to comply with the person's accountability obligations

The FAR will be administered and enforced by APRA and ASIC. However, ASIC will only exercise its regulatory and enforcement powers in relation to an accountable entity that has an AFS licence as well as significant related entities and accountable persons of those entities.

If FAR is enacted as proposed, it will apply to superannuation trustees from the later of 1 July 2023 or 18 months after the FAR Bill receives Royal Assent.

Trustee Considerations?

With the FAR expected to commence in the next year, trustees should undertake a review of their governance structures to determine what changes will need to be made to ensure that they will be ready to comply with the FAR.

A central tenet of the FAR is placing obligations on AEs. While trustees are named as AEs there will be some corporate groups where a subsidiary or related party is also an AE.

Trustees will also need to determine who is an AP. This includes, but is not limited to, directors, CEOs and certain key executives.

A significant issue for trustees will also be to consider what other entities are caught by the broad definition of a 'significant related entity' (**SRE**) of an accountable entity. SREs include 'connected entities' and an entity where its business or activities have (or are likely to have) a material and substantial effect on the accountable entity or the business or activities of the accountable entity. This is broader than subsidiaries and may even extend to asset structures used by trustees to manage the risk of investment assets. While SREs are not directly regulated, Accountable Entities must take reasonable steps to ensure SREs act in accordance with certain FAR obligations.

How to identify APs (having regard to delegation frameworks, roles and responsibilities and decision-making authorities), including aligned with RPs under the superannuation prudential standards

Dealing with trustee governance roles, such as the Office of the Trustee

Adequate training on compliance with FAR and demonstrating the taking of reasonable steps, and for APs mapping the obligations that they must proactively monitor

Dealing with cross-functional roles and ensuring accountability is not inadvertently reduced for line 1 roles

Ensuring that there are suitably qualified directors and senior executives with expertise that covers all aspects of the business.

Determining what other entities are caught by the net of the significant related entity (SRE) definition

Review of relevant policies and frameworks for consistency with FAR, including remuneration

(and where AEs and SREs do not have variable remuneration policies, to consider how best to manage consequences for APs who fail to meet their obligations)

Where required, accountability statements and accountability maps

Review of relevant accountabilities and associated KPIs

Other overarching issues for trustees to consider are:

- how the obligations under the FAR align or overlap with the significant obligations in the SIS Act, particularly the trustee and director covenants
- what new frameworks will be required to assist the trustee and its APs.

Next steps

With the recent and proposed law reforms outlined above, it is clear, now more than ever, that trustees and their directors and senior executives are subject to a higher degree of responsibility and accountability. With some law reforms already in effect, and others expected in the coming year, trustees should have already undertaken a review of their current risk management practices, along with their governance structures, to ensure that they comply (and will comply) with the reforms.

Member experience/member acquisition

Carmen Bekker

Bart Hodgen

Peter Yeung

Member experience/ member acquisition

Has the Finfluencer finally come of age?

How the right collaboration can move Millennials from 'Active rejecters' to 'Engaged members'

"I am in two minds, I adore financial literacy and education, but… there are so many giving advice who are unqualified to do so. A lot of people are making money off peoples' naivety."

Victoria Devine, She's on the money
Followers: 149k: Instagram, 28.2k: tiktok.

The unique combination of the pandemic and super funds racing to acquire new, younger members has allowed a new, power-player flourish – the Finfluencer.

The early success of Finfluencers was driven by younger investors, eager to explore game-changing options – like crypto currency and NFTs.

What fuelled the emergence of Finfluencers?

Key mega-trends have given Finfluencers traction.

- Falling trust in the establishment: Only 57 percent of millennials and 49 percent of Gen Z place trust in the big 4 banks[3]
- The rise of peer-to-peer advice: 68 percent of people trust those in their community. Only 48 percent trust CEOs and 52 percent trust Government[4]
- Growing consumption of digital media: Global lockdowns have increased people's usage of social media, digital entertainment and remote learning[5]
- Democratisation of information: Social media users will reach 3.29B in 2022 – 42 percent of the world population.[6]

[3] KPMG Qualitative and Quantitative Research
[4] KPMG Qualitative and Quantitative Research
[5] KPMG Qualitative and Quantitative Research
[6] KPMG Qualitative and Quantitative Research

"We can reach audiences they [banks] can't."

Molly Benjamin, Ladies Finance Club
Followers: 2.5k Instagram.

Why do young investors connect with Finfluencers?

Finfluencers communication is vastly different from traditional financial services:

- They tell stories: Their communications are always grounded in their own personal successes and experiences[7]
- They're accessible and relatable: They're communicating in mediums where their audience go to play and, therefore are perceived as 'just like me'
- They're independent and trustworthy: This perception is being eroded as more Finfluencers are accepting brand deals.[8]

"My content resonates with people as I'm talking to them like a normal person, not like a business… I try to keep the tone engaging and fun and not too boring or corporatey."

Queenie Tan, Invest with Queenie,
Followers 58.8k: Instagram, 156.7k: tiktok

Why did ASIC step in and what happens now?

Many Finfluencers have little or no financial qualifications. So, the risk of misinformation and lawsuits was, and remains, very real. ASIC has now clarified limits on any want-to-be Australian Finfluencer including:

Strictly limiting the provision of financial advice to those holding an Australian Financial Services Licence

Including overseas-based Finfluencers in the definition of 'doing business in Australia'

Enforcing the protection of Australian investors against misleading and deceptive conduct.

[7] KPMG Qualitative and Quantitative Research
[8] KPMG Qualitative and Quantitative Research

"I'm really excited to see ASIC engage proactively… It would be great to know exactly where they are drawing the line. It would be a really sad outcome if [the warning] scared off content creators who are just trying to share what they have learned about spreading the message that investing is not just for old white men."

Aleksandra Nikolic, Broke Girl Wealth
Followers: 18.1k: Instagram, 52.8k: tiktok.

"For some listed companies, Finfluencer collaborations may seem like a fast, effective way to promote issued securities to the next generation of young retail investors."

Cathie Armour, ASIC Commissioner

How do you collaborate with Finfluencers while minimising risk?

If you're looking to acquire younger members, Finfluencers can still play a pivotal role. KPMG can help you find appropriate Finfluencers, manage the perception they're no longer independent plus chart a course to deliver acquisition in accordance with the guardrails.

Remember, even if your Finfluencer is a licensed financial adviser, they still need ensure the information they share is general advice with the appropriate warnings.

KPMG can ensure your fund engages your audience while mitigating the risks.

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