

HWLE SUPER WRAP-UP | 28 MARCH 2022

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WHAT'S NEW?

Key developments since 1 January 2022.

No.	What	Who	Need to Know	Important Dates	Links
1.	Quality of Advice Review - Terms of Reference released	AFS licensees	<p>On 11 March 2022, the Government released the Terms of Reference for its Quality of Advice Review.</p> <p>The review will consider how the regulatory framework can better facilitate the provision of high quality, accessible and affordable financial advice for retail clients. Amongst other things, it will investigate:</p> <ul style="list-style-type: none"> • whether there are opportunities to streamline regulatory compliance obligations to reduce cost and remove duplication; • whether principles-based regulation could replace rules-based regulation, to better address harms and reduce the cost of compliance; • how to simplify documentation and disclosure requirements, to improve the clarity of information given to consumers; and • whether parts of the regulatory framework have undesirable unintended consequences. <p>This will give effect to the Government's response to recommendations 2.3, 2.5 and 2.6 of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.</p>	A report will be provided to the Government by 12 December 2022.	<p>Read the Minister for Superannuation, Financial Services and the Digital Economy's press release, here.</p> <p>Access the Terms of Reference here.</p>
2.	Retirement Income Covenant - APRA, ASIC joint letter	RSE licensees	<p>APRA and ASIC issued a joint letter to RSE licensees on 7 March 2022, outlining their expectations for the implementation of the new retirement income covenant.</p> <p>The letter provides RSE licensees with an indicative implementation pathway to consider when embedding the covenant into their business operations.</p> <p>APRA and ASIC do not intend to release detailed regulatory guidance on how to implement the covenant. Instead, they expect</p>	RSE licensees must formulate a retirement income strategy, and publish a summary by 1 July 2022.	<p>Access APRA's media release here.</p> <p>Read the joint letter here.</p>

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			RSE licensees to continually assess, develop and improve their retirement income strategies.		
3.	Finalising the closure of the Superannuation Complaints Tribunal	Super funds	The closure of the Superannuation Complaints Tribunal has been formalised by the repeal of the <i>Superannuation (Resolution of Complaints) Act 1993 (Cth)</i> (Complaints Act) by the operation of Schedule 3 to the <i>Treasury Laws Amendment (Putting Consumers First - Establishment of the Australian Financial Complaints Authority) Act 2018 (Cth)</i> (Putting Consumers First Act) which automatically repealed the Complaints Act on 5 March 2022.	The Complaints Act was repealed on 5 March 2022, formally closing the SCT.	Access the Putting Consumers First Act, and explanatory memorandum, here . Access the Regulations here .
4.	Divestment of Russian Holdings	Super funds	On 3 March 2022, the Government confirmed its strong expectation that Australian superannuation funds will review their investment portfolios and take steps to divest any holdings in Russian assets. On the same day, APRA announced that it will not be taking any action against trustees who seek to divest Russian assets where trustees have considered such divestments in accordance with their duties.	N/A	Access the Treasurer's and Minister of Superannuation, Financial Services and the Digital Economy's joint media release here . Access APRA's media release here .
5.	Guidance for social media influencers and AFS licensees - ASIC information sheet	AFS licensees	On 21 March 2022, ASIC issued Information Sheet 269 to provide guidance for social media influencers who discuss financial products and services online, and AFS licensees who use influencers. Influencers who carry on a financial services business must have an AFS license unless they are an authorised representative or an exemption applies. AFS licensees who use influencers may be liable for misconduct by the influencer.	N/A	Access the ASIC Information Sheet 269 here .
6.	Climate Risk Self-assessment - APRA letter	APRA regulated entities	APRA wrote to APRA-regulated entities on 2 March 2022, regarding its upcoming voluntary climate risk self-assessment survey. Medium-to-large APRA regulated entities will be invited to complete an online questionnaire, assessing how their current practices align with APRA's guidance on managing the financial risks of climate change.	After receiving the questionnaire, entities will have 6 weeks to respond.	Read APRA's statement here . Read APRA's letter here .
7.	Financial Services and Credit Panel (FSCP) - ASIC	Financial advisers	ASIC released Consultation Paper 359 <i>Update to RG 263 Financial Services and Credit Panel (CP 359)</i> on 28 February 2022 for industry feedback.	Submissions are due on 28 March 2022.	Read ASIC's statement and access CPG 359 here .

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	consults on regulatory guidance		ASIC is seeking feedback on its approach to: <ul style="list-style-type: none"> determining when to convene a sitting panel of the FSCP; hold hearings of sitting panels using technology; and publicising decisions of sitting panels. 	The final, updated version of RG 263 is slated to be released in May 2022.	
8.	Retirement Income Covenant - Legislation receives assent	Superannuation trustees	The <i>Corporate Collective Investment Vehicle Framework and Other Measures Bill 2022</i> (Cth) received assent on 23 February 2022. Schedule 9 of the resulting act amends the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth) (SIS Act) to insert a new covenant requiring trustees of RSEs to develop a retirement income strategy for beneficiaries who are retired or are approaching retirement.	Trustees must formulate a written retirement income strategy and make a summary publically available, by 1 July 2022.	Access the legislation and explanatory memorandum here .
9.	Permanent relief for virtual AGMs and the electronic signing and sending of company documents	Companies and Registered Schemes	The <i>Corporations Amendment (Meetings and Documents) Bill 2021</i> (Cth) received Royal Assent on 22 February 2022. The resulting act amends the Corporations Act to establish a permanent mechanism to allow companies and registered schemes to: <ul style="list-style-type: none"> hold hybrid (in person and remote) meetings; and use technology to execute, sign, and share company and meeting related documents. 	The changes apply to documents executed on or after 23 February 2022.	You can access the Bill and explanatory memorandum here .
10.	Enhancing Superannuation Outcomes Package - Legislation passed and supporting regulations registered	Super funds Employers	The <i>Treasury Laws Amendment (Enhancing Superannuation Outcomes for Australians and Helping Australian Businesses Invest) Bill 2021</i> (Cth) received Royal Assent on 22 February 2022. The resulting act: <ul style="list-style-type: none"> removes the \$450-a-month threshold before an employee's salary or wages count towards the superannuation guarantee; increases the limit on the maximum amount of voluntary contributions made over multiple financial years that are eligible to be released under the First Home Super Saver Scheme from \$30,000 to \$50,000; reduces the eligibility age for individuals to make downsizer contributions from 65 to 60 years of age; applies the work test to individuals aged between 67 to 75 years who claim a deduction for personal superannuation contributions, and allow such individuals to make or receive non-concessional superannuation contributions under the bring forward rule; 	All amendments to the Act take effect from 1 July 2022, except for the extension of the temporary full expensing regime which takes effect from 1 April 2022.	Access the Bill and explanatory memorandum here . Access the regulations and explanatory statement here .

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			<ul style="list-style-type: none"> allows trustees to choose to treat all of a fund's assets as not being segregated current pension assets in certain circumstances; and extends the temporary full expensing regime to 30 June 2023. <p>The Government registered the <i>Treasury Laws Amendment (Enhancing Superannuation Outcomes) Regulations 2022</i> (Cth) on 3 March 2022.</p> <p>The Regulations support the amendments in Schedules 3 and 4 of the act by amending the contribution acceptance rules to simplify them and:</p> <ul style="list-style-type: none"> allow downsizer contributions from individuals who are 60 and above; and non-concessional and salary sacrificed contributions for individuals aged between 67 and 74 years without reference to a work test. <p>This implements the 'Flexible Super' package announced in the 2021-22 Budget.</p>		
11.	Government Co-Contribution - Regulations re-made	Super funds	<p>The Government registered the <i>Superannuation (Government Co-contribution for Low Income Earners) Regulations 2022</i> (Cth) on 18 February 2022. The Regulations remake the <i>Superannuation (Government Co-contribution for Low Income Earners) Regulations 2004</i> (Cth), which are due to sunset on 1 April 2021. Substantive changes made by the Regulations include:</p> <ul style="list-style-type: none"> amendments to the definition of an 'eligible account' so that it excludes those accounts which only provide terminal medical condition benefits in addition to the existing exclusion on accounts which provide only death or incapacity benefits; and clarification of the operation of section 7 relating to where a Government co-contribution is to be directed in specific circumstances, so that only one item will apply in the event of multiple circumstances being applicable. 	The regulations commence on 1 April 2022.	Access the regulations here , and explanatory statement here .
12.	Remaking ASIC relief on PDS, superannuation	AFS licensees RSE trustees	ASIC has released Consultation paper 358 <i>Remaking ASIC relief on PDSs, superannuation dashboards and FSGs (CP 358)</i> for industry feedback.	Submissions in response to CP 358	Read ASIC's media release here .

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	dashboards and FSGs - Consultation Paper 358 released	Platform operators	<p>CP 358 outlines ASIC's proposal to:</p> <ul style="list-style-type: none"> • remake, in a single new instrument, relief in instruments that relate to PDS in-use notices for employer-sponsored superannuation and product dashboard disclosure - [CO 12/415], [CO 13/1534] and [CO 14/443]; • remake, in a single new instrument, relief in instruments that relate to shorter PDSs and PDS obligations for superannuation trustees, IDPS operators and responsible entities of IDPS-like schemes – [CO 12/749], [CO 13/797] and <i>ASIC Corporations (Superannuation: Investment Strategies) Instrument 2016/65</i>; and • remake, as a new instrument, an instrument that relates to Financial Services Guides in time critical situations – [CO 12/417]; and • give effect to the new instruments for a period until 1 October 2027. 	are due by 12 April 2022.	Access CP 358 here .
13.	Financial reporting and auditing requirements for RSEs - Legislation introduced	RSEs	<p>The Government introduced the <i>Treasury Laws Amendment (Streamlining and Improving Economic Outcomes for Australians) Bill 2022</i> (Cth) to the House of Representatives on 17 February 2022.</p> <p>Schedule 2 to the Bill amends the Corporations Act, the <i>Australian Securities and Investments Commission Act 2001</i> (Cth) (ASIC Act) and the SIS Act to extend and adapt the financial reporting and auditing requirements in Chapter 2M of the Corporations Act to apply to RSEs.</p>	The changes to the SIS Act take effect from 1 July 2024.	Access the bill and explanatory memorandum here .
14.	Your Future, Your Super - Public sector superannuation legislation introduced	Super funds	<p>The Government introduced the <i>Public Sector Superannuation Legislation Amendment Bill 2022</i> (Cth) into the House of Representatives on 17 February 2022.</p> <p>The Bill implements certain 'Your Future, Your Super' reforms to</p> <ul style="list-style-type: none"> • enable the Commonwealth to make employer superannuation contributions for new parliamentarians to a chosen, stapled or default fund and provide for the determination of a default fund for parliamentarians if an existing default fund is unable to accept new members due to failing the annual performance test for MySuper products for two consecutive years; 	The amendments take effect the day after the Bill receives Royal Assent.	Access the Bill, and explanatory memorandum here .

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			<ul style="list-style-type: none"> provide for the determination of an alternative default fund for Australian Public Service employees if the Public Sector Superannuation Accumulation Plan is unable to accept new members due to failing the annual performance test for MySuper products for two consecutive years; and <i>Federal Circuit and Family Court of Australia Act 2021 (Cth)</i> to enable the Commonwealth to make employer superannuation contributions for judges of the Federal Circuit and Family Court of Australia to a chosen, stapled or default fund in various circumstances. 		
15.	Modernising Business Communications - Legislation introduced	RSE Licensees Beneficiaries	<p>The Government introduced the <i>Treasury Laws Amendment (Modernising Business Communications) Bill 2022 (Cth)</i> to the House of Representatives on 17 February 2022. The Bill builds on recent reforms in the <i>Corporations (Meetings and Documents) Act 2020 (Cth)</i>, to introduce a 'global communications regime' for documents sent under the Corporations Act.</p> <p>The Bill replaces provisions in the SIS Act that require or permit APRA notices regarding RSE licence applications and APRA notice to beneficiaries of the winding up of superannuation entities to be published in newspapers with technology neutral rules.</p>	The date APRA no longer has to advertise notices in newspapers will be proclaimed, or if not proclaimed, will be 6 months from the date of assent.	Access the Bill; and explanatory memorandum here .
16.	Financial Accountability Regime - Senate Committee Report released	APRA-regulated entities	<p>The Senate Economics Legislation Committee has recommended that the <i>Financial Accountability Regime Bill 2021 (Cth) (FAR Bill)</i> and <i>Financial Sector Reform (Hayne Royal Commission Response No. 3 Bill) 2021 (Cth) (Response Bill)</i> be passed.</p> <p>The FAR Bill will establish the new financial accountability regime (FAR) for the banking, insurance and superannuation industries, imposing accountability, key personnel, deferred remuneration and notification obligations on APRA-regulated entities and their directors and senior executives, and will be jointly administered by ASIC and APRA.</p> <p>Schedules 1 and 2 to the Response Bill make minor and consequential amendments to various Commonwealth laws to support the new FAR, and provide transitional arrangements relating to the repeal of the existing Banking Executive Accountability Regime under the <i>Banking Act 1959 (Cth)</i>.</p>	The regime is slated to apply to the insurance and superannuation industries on the later of 1 July 2023, or 18 months after Royal Assent.	<p>View the Committee's Report here.</p> <p>Access the FAR Bill and explanatory memorandum here.</p> <p>Access the Response Bill and explanatory memorandum here.</p>

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			<p>The Bills were introduced into the House of Representatives on 28 October 2021 and referred to the Senate Economics Legislation Committee on 25 November 2021. The committee handed down its report on 15 February 2022.</p>		
17.	Compensation Scheme of Last Resort (CLSR) - Senate Committee Report released	AFCA members	<p>The Senate Economics Legislation Committee has also recommended that the <i>Financial Services Compensation Scheme of Last Resort Levy Bill 2021 (Cth) (Levy Bill)</i> and <i>Financial Services Compensation Scheme of Last Resort Levy (Collection) Bill 2021 (Cth) (Collection Bill)</i> be passed.</p> <p>The Levy Bill and the Collection Bill form the levy framework for the Financial Services Compensation Scheme of Last Resort established in Schedule 3 of the Response Bill.</p> <p>The CSLR will compensate consumers where the AFCA has made a determination in their favour that remains unpaid.</p> <p>The Bills were introduced into the House of Representatives on 28 October and referred to the Senate Economics Legislation Committee on 25 November 2021. The committee handed down its report on 15 February 2022.</p>	<p>The CSLR and the supporting levy framework will commence the day after Royal Assent.</p> <p>The operator of the scheme can begin to make compensation payments under the scheme from 1 July 2022.</p>	<p>View the Committee's Report here.</p> <p>Access the Levy Bill and explanatory memorandum here.</p> <p>Access the Collection Bill and explanatory memorandum here.</p>
18.	Proxy Advice Regulations disallowed	Institutional shareholders, such as super funds, that engage proxy advisers	<p>The Senate passed a resolution on 10 February 2022 disallowing the <i>Treasury Laws Amendment (Greater Transparency of Proxy Advice) Regulations 2021 (Cth) (Proxy Advice Regulations)</i>. The regulations were registered on 17 December 2021.</p> <p>The disallowed regulations sought to amend the <i>Corporations Regulations 2001 (Cth)</i> to:</p> <ul style="list-style-type: none"> extend the AFS licensing regime to cover a range of proxy adviser activities; require proxy advisers to be independent of their institutional clients; and require proxy advisers to provide any proxy advice to the entity that is the subject of the proxy advice on the same day it is provided to the client. 	<p>N/A</p> <p>(Had the Regulations not been disallowed, the AFSL requirement would have commenced from 7 February 2022, and the independence requirement would have applied from 1 July 2022.)</p>	<p>Access the Notification of Disallowance here.</p> <p>Access the disallowed Regulations and their explanatory statement here.</p>

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			The disallowed regulations also sought to amend reg 2.38 of the <i>Superannuation Industry (Supervision) Regulations 1994 (Cth)</i> (SIS Regs), to require RSEs to make certain information on their share voting and use of proxy advice publicly available on their website.		
19.	ASIC quarterly update	ASIC regulated entities	ASIC released its quarterly update for 1 October to 31 December 2021 (REP 717) on 3 February 2022. The report highlights ASIC's enforcement activity against individual and corporate misconduct, and flags ASIC's guidance to industry on recent law reforms, such as the <i>Financial Sector Reform (Hayne Royal Commission Response - Better Advice) Act 2021 (Cth)</i> (Better Advice Act).	N/A	Access REP 717 here .
20.	APRA policy and supervision priorities for 2022	APRA regulated entities	On 1 February 2022, APRA released its policy and supervision priorities for the next year. They include: <ul style="list-style-type: none"> strengthening core requirements for strategic planning and member outcomes in superannuation, to align with and reinforce the Government's Your Future, Your Super reforms; and completing comprehensive reforms to the insurance capital standards, primarily to ensure they align with the new accounting standard AASB17. 	N/A	Access APRA's media release, and the information papers, here .
21.	APRA 2021 Year in Review	APRA regulated entities	APRA released its '2021 Year in Review' report on 28 January 2022. The report provides information on how APRA has delivered on its objectives in 2021, and outlines key initiatives and activities.	N/A	Read the report here .

COMING UP...

Reforms and other measures which are about to commence.

No.	What	Who	Need to know	Important dates	Links
1.	Superannuation information sharing in family law proceedings	Super funds	<p>Schedule 5 to the <i>Treasury Laws Amendment (2021 Measures No. 6) Bill 2021</i> (Cth) amends the <i>Tax Administration Act 1953</i> (Cth) and the <i>Family Law Act 1975</i> (Cth) to create a mechanism for sharing superannuation information for family law proceedings.</p> <p>The changes apply for all couples except de facto couples in Western Australia. Part 2 to Schedule 5 makes amendments to allow information sharing for de facto couples in Western Australia once the legislation allowing super splitting for these couples comes into effect.</p>	Commences on 1 April 2022 (except in relation to de facto couples in Western Australia).	Access the Act and explanatory memorandum here .
2.	Strengthening crisis preparedness - APRA consultation	APRA regulated entities	<p>On 2 December 2021, APRA released a discussion paper and two draft prudential standards aimed at strengthening crisis preparedness, for consultation.</p> <p><i>Draft Prudential Standard CPS 190 Financial Contingency Planning</i> introduces requirements for all APRA regulated entities to develop contingency plans for managing financial stress, including plans for rebuilding financial resilience or effecting an orderly exit.</p> <p><i>Draft Prudential Standard CPS 900 Resolution Planning</i> requires large or complex entities, or those that provide critical functions to the economy, to be prepared for resolution so that, in the event of their failure, risks to beneficiaries and to financial system stability would be minimised.</p>	Submissions are due by 29 April 2022.	Access the discussion paper and draft prudential standards here .
3.	Non arm's length expenditure for super funds -	Super funds	The ATO has amended <i>Practical Compliance Guideline PCG 2020/5</i> to extend the compliance approach to the 2021-22 financial year.	The transitional compliance approach only applies to general expenditure	Read the updated practical compliance guide on the ATO's website here .

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	Extension of transitional compliance approach		The ATO will not allocate compliance resources to determine whether the income of a complying super fund is non-arm's length income where the fund incurred non-arm's length expenditure of a general nature that has a sufficient nexus to all ordinary and or statutory income derived by the fund for the 2018–19 to 2021–22 income years (for example, non-arm's length expenditure on accounting services).	incurred on or before 30 June 2022.	
4.	Insurance in Superannuation - SPS 250 and SPG 250 finalised	Superannuation trustees	<p>The final revisions to <i>Prudential Standard SPS 250 Insurance in Superannuation (SPS 250)</i> and the accompanying <i>Prudential Practice Guide SPG 250 Insurance in Superannuation (SPG 250)</i> are aimed at ensuring better member outcomes through updated requirements for trustees to select, manage and monitor members' insurance arrangements.</p> <p>The revised SPS 250 will require trustees to:</p> <ul style="list-style-type: none"> strengthen arrangements to protect members from potential adverse outcomes caused by conflicted life insurance arrangements; obtain an independent certification of related party insurance arrangements before entering into, or materially altering, an insurance arrangement, and on a triennial basis; and strengthen data management to improve analysis of member outcomes across different groups of superannuation fund members. <p>The revised SPG 250 will facilitate easy opt-out of insurance for members, and ensure premiums do not unduly erode members' retirement incomes.</p>	The revised SPS 250 will take effect on 1 July 2022.	<p>Read the APRA media release here.</p> <p>Access SPS 250 here.</p> <p>Access SPG 250 here.</p>
5.	ASIC Regulatory Guide 97 <i>Disclosing fees and costs in PDSs and periodic statements</i>	<p>Super funds</p> <p>Responsible entities and notified foreign passport funds</p> <p>Platform operators</p>	<p>Periodic statements for reporting periods commencing on or after 1 July 2021 must comply with the 'new' RG 97.</p> <p>Issuers may elect to comply with the PDS requirements now, and must comply with the requirements for PDSs given on or after 30 September 2022.</p>	The 'new' requirements apply to periodic statements for reporting periods commencing on or after 1 July 2021, and any PDS given	Access RG 97 here .

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		Insurers		on or after 30 September 2022.	
6.	Exempt current pension income calculations	Super funds	<p>Schedule 3 to the <i>Treasury Laws Amendment (2021 Measures No. 6) Act 2021</i> (Cth) amended the <i>Income Tax Assessment Act 1997</i> (Cth) to remove the requirement for superannuation trustees to obtain an actuarial certificate when calculating exempt current pension income, where all members of the fund are fully in retirement phase for all of the income year.</p> <p>This is achieved by permitting such funds to use the segregated method to calculate exempt current pension income.</p>	The amendments will apply to assessments from the 2021-22 income year onwards.	Access the Act and Explanatory Memorandum here .
7.	Removal of occupational exclusions in default life insurance - FSC Standard No. 27	<p>FSC superannuation trustees</p> <p>FSC life insurance companies</p>	<p>The Financial Services Council has released enforceable <i>Standard No. 27: Removal of Occupational Exclusions and Occupation Based Restrictive Disability definitions in Default Cover</i>, which removed occupational exclusions and occupation based restrictive disability definitions in default life insurance cover in superannuation amongst FSC members.</p> <p>The Standard was developed in response to the stapling provisions in the Government's Your Future, Your Super reforms, which may prevent some consumers from claiming on their life insurance cover.</p>	The standard applied from 10 December 2021, subject to a 12 month transition period.	Access the standard here .
8.	Prudential Standard CPS 511 Remuneration and Prudential Practice Guide CPG 511 Remuneration	APRA-regulated entities	<p>APRA released the final version of <i>Prudential Standard CPS 511 Remuneration (CPS 511)</i> on 27 August 2021, and the finalised <i>Prudential Practice Guide CPG 511 Remuneration (CPG 511)</i> on 18 October 2021.</p> <p>CPS 511 introduces heightened requirements for remuneration and accountability, aimed at creating more balanced incentive structures, promoting financial resilience and supporting better outcomes for customers. Among other things, the standard requires:</p> <ul style="list-style-type: none"> entities to apply material weight to non-financial metrics (eg customer complaints, breaches and regulatory and audit findings) when determining variable remuneration for employees; 	CPS 511 will apply to RSE licensees that are significant financial institutions (SFIs) from 1 July 2023, and non-SFI RSE Licensees from 1 January 2024.	<p>Read APRA's 27.8.21 media release on CPS 511 here.</p> <p>Access CPS 511 here.</p> <p>Read APRA's 18.10.21 media release on CPG 511 here.</p> <p>Access CPG 511 here.</p>

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			<ul style="list-style-type: none"> • entities to reduce variable remuneration, potentially to zero, when warranted by poor risk conduct; • new minimum deferral requirements for variable remuneration, coupled with clawback provisions; and • increased board oversight, transparency and accountability on remuneration outcomes. <p>CPS 511 fulfils 3 of the key recommendations (recommendations 5.1, 5.2 and 5.3) of the key recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry directed towards APRA.</p> <p>CPG 511 sets out guidance on remuneration practices, in support of CPS 511.</p>		

WATCH AND WAIT

The section sets out items where we're waiting for further action to be announced or taken.

No.	What	Who	Need to know	Important dates	Links
1.	Anti-hawking - charges laid against National Advice Solutions	Super funds Financial advisers	On 21 March 2022, National Advice Solutions Pty Ltd was charged with 11 offences of offering to issue or sell a financial product via unsolicited phone calls.	The matter has been listed for mention hearing on 16 May 2022.	Read ASIC's media release here .
2.	ASIC action - misleading or deceptive conduct - REST	Super funds	ASIC commenced proceedings in the Federal Court on 2 March 2021 against Retail Employees Superannuation Pty Ltd, for false or misleading representations made about the ability of its members to transfer their superannuation out of the Retail Employees Superannuation Trust.	The next case management hearing is listed on 3 June 2022.	View the originating process here . Read ASIC's media release here .
3.	Updates to relief for superannuation calculators and retirement estimates - Consultation Paper 351	Superannuation trustees Consumer groups	<p>On 18 November 2021, ASIC released Consultation Paper 351 <i>Superannuation forecasts: Update to relief and guidance</i> (CP 351) seeking stakeholder feedback on proposed updates to relief and guidance for superannuation forecasting tools (such as superannuation calculators and retirement estimates, which assist members in reviewing their financial situation and seeking further information or financial advice).</p> <p>Under CP 351, ASIC proposes to:</p> <ul style="list-style-type: none"> • continue providing relief from the licensing, conduct and disclosure obligations relating to personal advice for providers of superannuation forecasts; • combine relief for superannuation calculators and retirement estimates into a single legislative instrument and adopt a single framework for setting economic and financial assumptions; • prescribe standard default assumptions for retirement ages and inflation rates for forecasting tools; and • give greater flexibility to trustees to tailor forecasts based on their members' investment strategies. 	<p>The consultation closed on 28 January 2022.</p> <p>ASIC intends to publish the updated instruments and guidance before the existing relief in ASIC Class Order [CO 11/1227] sunsets on 1 April 2022.</p>	<p>Read ASIC's media release about CP 351 here.</p> <p>Access the consultation paper here.</p>

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4.	Revisions to Prudential Standard SPS 530 Investment Governance in Superannuation	RSE Licensees	<p>On 29 September 2021, APRA released its proposed revisions to <i>Prudential Standard SPS 530 Investment Governance (SPS 530)</i> for consultation.</p> <p>The revised SPS 530 makes a number of enhancements to valuation practices, stress testing and liquidity management practices. This responds to findings from APRA's unlisted asset valuation thematic review and APRA's 2018-2019 post-implementation review of the superannuation prudential framework.</p> <p>APRA also announced that it will consult on the accompanying guidance (<i>Prudential Practice Guide SPG 530 Investment Governance</i>, and <i>Prudential Practice Guide SPG 531 Valuation</i>) later in 2022.</p>	<p>The consultation closed on 16 February 2022.</p> <p>APRA will consult on the accompanying guidance later in 2022.</p> <p>APRA intends for the updated SPS 530 to commence on 1 January 2023.</p>	Learn more here .
5.	Review of Occupational Exclusions in default insurance offered through MySuper Products-Treasury Consultation	Super funds	<p>The Government released a consultation paper on 2 September 2021 seeking industry feedback on the appropriateness of occupational exclusions in default insurance in MySuper products.</p> <p>The review aimed to canvass views on the extent of the problem arising from occupational exclusions for new members and for members changing jobs, and what changes may be required to the current regulatory framework.</p> <p>Note: The FSC has introduced an enforceable standard (see item 7 in the Coming Up section) which broadly aligns with Option 4 of the Treasury Consultation - but extends the prohibition to all default group life insurance in MySuper and Choice Products, and default IP Cover. In its submission to the Treasury Consultation, the FSC suggested that the standard will negate the need for a legislative instrument removing issues caused by 'stapling'.</p>	The consultation closed on 14 October 2021.	<p>Learn more about the Consultation here.</p> <p>Access the FSC enforceable standard here.</p>
6.	Updated guidance on PMIF elections and successor	Super Funds	The Government has indicated to APRA that it will amend the application and transitional provisions of the <i>Treasury Laws Amendment (Putting Members' Interests First) Act 2019 (Cth)</i> , so that members who were not required to make an election	N/A	You can access the revised guidance here .

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	fund transfers (SFTs)		<p>under that Act, can have their insurance continued in a successor fund without need to elect for insurance.</p> <p>On 21 October 2021, APRA has revised its frequently asked questions on the <i>Putting Members' Interests First</i> laws and <i>Protecting Your Super</i> package, to reflect the Government's intended amendments.</p>		
7.	Changes to commutation rules for excess transfer balance cap amounts	Super funds	<p>On 2 December 2021, the Government released an exposure draft of the <i>Treasury Laws Amendment (Measures for Consultation) Regulations 2021</i> for consultation.</p> <p>The draft regulations propose to amend the SIS Regs, the <i>Retirement Savings Accounts Regulations 1997</i> (Cth) and the <i>Income Tax Assessment (1997 Act) Regulations 2021</i> (Cth) to enable recipients of certain affected products (namely, life expectancy pensions, life expectancy annuities, market-linked pensions and market-linked annuities) commenced on or after 1 July 2017 to undertake commutations to resolve excess transfer balance amounts.</p>	The consultation closed on 15 December 2022.	Access the exposure draft regulations, and explanatory statement, here .
8.	Strengthening financial resilience in superannuation - APRA discussion paper	Super funds	<p>APRA released a discussion paper on 19 November 2021 seeking feedback from superannuation trustees and other industry stakeholders on approaches for RSE licensees to maintain the financial resilience needed to operate effectively and protect members' best financial interests.</p> <p>APRA hopes to gain insights into:</p> <ul style="list-style-type: none"> • the adequacy, purpose and management of financial resources; • the role and use of the operational risk financial requirement; • reserving practices; • protections afforded to RSE licensees via insurance; • RSE licensee's provisioning for contingencies; and • how these practices might need to adapt over time. 	Submissions closed on 11 March 2022.	Find out more here .
9.	Amendments to Prudential Standard SPS	RSE licensees and RSE auditors	<p>On 10 December 2021, APRA released its proposed amendments to <i>Prudential Standard SPS 310 Audit and Related Matters (SPS 310)</i> for consultation. The updates aim at aligning</p>	Submissions closed on 11 March 2022.	Access APRA's media release here .

No.	What	Who	Need to know	Important dates	Links
	310 Audit and Related Matters - APRA consultation		SPS 310 with recent changes to APRA's reporting standards for superannuation.		Access APRA's letter to RSE licensees and RSE auditors here .
10.	Review of AFCA	AFCA members	<p>The Government released the final report on the review of the AFCA, as well as its response to the review, on 25 November 2021.</p> <p>The Review was conducted between February and August 2021, in response to a statutory requirement. The overall finding was that AFCA is performing well in a difficult operating environment and changing regulatory landscape. The Review made 14 recommendations in total mostly recommendations directed towards AFCA (focusing on enhancements to AFCA's transparency towards parties to a complaint, and improvements to the decision making process).</p>	N/A	<p>Access the final report here.</p> <p>Access the Government's response here.</p> <p>Read AFCA's response here.</p>
11.	WA de facto superannuation splitting	Super funds	<p>Legislation that will align the rights and obligations of de facto couples in Western Australia to all other couples in Australia requires a proclamation from the Western Australian government that the <i>Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Act 2020</i> (Cth) will begin.</p> <ul style="list-style-type: none"> Part 2 of Schedule 5 to the <i>Treasury Laws Amendment (2021 Measures No. 6) Act 2021</i> (Cth) amends the <i>Tax Administration Act 1953</i> (Cth) and the <i>Family Law Act 1975</i> (Cth) to allow information sharing in family law proceedings for de facto couples in Western Australia; and the <i>Superannuation Legislation Amendment (Western Australia De Facto Superannuation Splitting) Regulations 2021</i> (Cth), (which were registered on 23 December 2021). 	<p>N/A.</p> <p>The WA government has not yet proclaimed the date for these changes to take effect.</p>	<p>Access the <i>Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Act 2020</i> (Cth) here.</p> <p>Access the <i>Treasury Laws Amendment (2021 Measures No. 6) Act</i> (Cth) here.</p> <p>Access the regulations and explanatory statement here.</p>
12.	2021-22 Federal Budget announcement - Industry working	Life insurers	The Government announced in the 2021-22 Budget that \$2.5 million will be provided over 2 years to fund an industry working group to develop a mechanism to facilitate the movement of	N/A	Access the 2021-22 Budget Paper No. 2 here .

No.	What	Who	Need to know	Important dates	Links
	group to consult on legacy life insurance and managed investment product rationalisation	Responsible entities and trustees of MIS	policyholders and members from closed life insurance products and managed investment products to new products.		

COMMENCED

This section summarises the key announcements and reforms which have commenced between our last issue in August 2021 and 1 January 2022.

No.	What	Who	Need to know	Important dates	Links
1.	Reuniting More Superannuation package	Super funds Eligible rollover funds (ERFs)	<p>The <i>Treasury Laws Amendment (Reuniting More Superannuation) Act 2021</i> (Cth) required ERFs to close by 30 June 2021 (for accounts that had a balance of less than \$6,000 on 1 June 2021) and by 31 January 2022 (for all other accounts). It also enabled the Tax Commissioner to reunite amounts received from ERFs with a member's active account.</p> <p>The <i>Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021</i> support these changes by:</p> <ul style="list-style-type: none"> no longer requiring or permitting superannuation providers to transfer certain amounts to ERFs; and enabling the Commissioner to pay interest on amounts the ATO receives from ERFs or other voluntary payments received from superannuation providers. 	<p>All ERF accounts were required to close by 31 January 2022.</p> <p>(Low balance ERF accounts were required to close by 30 June 2021.)</p>	<p>Access the legislation here.</p> <p>Access the regulations here.</p>
2.	Claims handling as a financial service	Insurers	<p>The <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> (Cth) amended the Corporations Act to make claims handling a financial service requiring an AFS licence authorisation.</p>	<p>The 12 month transition period ended on 31 December 2021.</p> <p>Since 1 January 2022, you must hold an AFS licence with a claims handling authorisation to continue to provide these services (unless an exception applies).</p>	<p>Read ASIC's media release on claims handling AFS licence applications here.</p> <p>Access ASIC's information sheet 253 here.</p> <p>Access the legislation here.</p>
3.	Financial Services and Credit Panel -	Financial advisers	<p>The <i>Financial Sector Reform (Hayne Royal Commission Response - Better Advice) Bill 2021</i> (Cth) was granted assent on 28 October 2021. The Bill establishes the Financial Services and</p>	The new disciplinary and registration	Access the Act and its explanatory memorandum here .

No.	What	Who	Need to know	Important dates	Links
	Establishing Legislation		Credit Panel within ASIC as the single disciplinary body for financial advisers, requires the registration of all financial advisers who provide personal financial advice to retail clients, and establishes a new model for regulating tax (financial) advisers.	systems apply from 1 January 2022.	
4.	Financial Services and Credit Panel - Supporting Regulations	Financial Advisers	<p>The Government has made two sets of regulations and a legislative instrument to implement key elements supporting the operation of the Better Advice Act:</p> <ul style="list-style-type: none"> • <i>Corporations (Fees) Amendment (Relevant Providers) Regulations 2021</i> (Cth); • <i>Financial Sector Reform Amendment (Hayne Royal Commission Response - Better Advice) Regulations 2021</i> (Cth); and • <i>Corporations (Relevant Providers - Education and Training Standards) Determination 2021</i> (Cth). <p>Among other things, the supporting regulations and legislative instrument:</p> <ul style="list-style-type: none"> • set the criteria for when ASIC must refer matters to the FSCP; • specify the administrative sanctions made against a financial adviser that must be included on the Financial Advisers Register; • extend the deadline to complete the financial adviser exam to 30 September 2022 for financial advisers who have attempted the exam twice before 31 December 2021; • set new fees for the financial adviser exam and registration of financial advisers from 1 January 2022; and • outline the registration, education and training requirements for financial advisers providing tax (financial) advice services. 	The supporting regulations and legislative instrument applied from 1 January 2022.	Access the supporting regulations and legislative instrument: here , here and here .
5.	APRA publishes annual MySuper Heatmap and its first Choice Heatmap	Super funds	<p>APRA published its annual MySuper Heatmap, and its first Choice Heatmap, on 16 December 2021.</p> <p>The MySuper Heatmap has been expanded to include each product's assessment result received under the Your Future, Your Super performance test.</p>	N/A	<p>Read APRA's media release here.</p> <p>Access the Heatmaps, and APRA's Insights</p>

No.	What	Who	Need to know	Important dates	Links
			The inaugural Choice Heatmap focused on multi-sector investment options in open, accumulation products (excluding platform products). This represents 40% of total member benefits in the APRA-regulated choice sector. APRA intends to expand the Choice Heatmap in future years to cover more of the sector, drawing from its Superannuation Data Transformation.		Paper and technical papers here .
6.	APRA publishes annual fund-level superannuation statistics	Super funds	APRA published its annual fund-level superannuation statistics on 15 December 2021. The statistics contain information on fund profile and structure, financial performance and position, conditions of release, fees and membership.	N/A	Access the statistics here .
7.	Unclaimed Money and Lost Members - KiwiSaver scheme payments	Super Funds	The Government registered the <i>Treasury Laws Amendment (KiwiSaver Scheme) Regulations 2021</i> (Cth) on 26 November 2021. The regulations support amendments made by Schedule 2 to the <i>Treasury Laws Amendment (2020 Measures No. 5) Act 2020</i> (Cth) to allow the Commissioner of Taxation to pay amounts held under the <i>Superannuation (Unclaimed Money and Lost Members Act 1999)</i> (Cth) to New Zealand KiwiSaver scheme providers.	Payment of unclaimed superannuation held by the Commissioner of Taxation directly to New Zealand KiwiSaver schemes commenced on 11 December 2021.	Access the regulations, and the explanatory statement, here . Access the Act, and the explanatory memorandum, here .
8.	Prudential Practice Guide CPG 229 Climate Change Financial Risks	All APRA regulated entities	On 26 November 2021, APRA released its finalised Prudential Practice Guide CPG 229 <i>Climate Change Financial Risks (CPG 229)</i> . CPG 229 is designed to assist APRA regulated entities in managing the financial risks of climate change. It provides examples of better practice to assist entities in managing climate-related risks and opportunities as part of their existing risk management and governance frameworks.	CPG 229 was released on 26 November 2021. APRA-regulated entities are encouraged to begin using the finalised guidance immediately.	Read APRA's media release here . Access CPG 229, and APRA's CPG 229 Response paper, here .
9.	Disclosure of Portfolio Holdings by Superannuation Funds - Regulations commenced	Superannuation trustees	The <i>Corporations Amendment (Portfolio Holdings Disclosure) Regulations 2021</i> (Cth) amend the <i>Corporations Regulations 2001</i> (Cth) to clarify the kinds of investment items for which aggregated reporting is permissible, and how information on investment options needs to be organised.	Super funds were required to first report their holdings by 31 December 2021, with portfolio holdings disclosure required on every	Access the regulations here . View the submissions to the Consultation here .

No.	What	Who	Need to know	Important dates	Links
				subsequent 30 June and 31 December	
10.	Super fund stapling for employees	Super Funds	Since 1 November 2021 employers of new employees who have not chosen a super fund must contact the ATO to request the employee's 'stapled fund details' and make any contributions for that employee to that fund.	Single default accounts for new employees apply to employees who start employment on or after 1 November 2021.	Access the amending legislation and explanatory material here . Access the amending regulations here , here and here .
11.	APRA 2020-21 Annual Report	APRA-regulated entities	APRA has released its Annual Report for the 2020-21 financial year.	The Annual Report was published on 21 October 2021.	Access the 2021-21 Annual Report here .
12.	Updated guidance on communicating with employees about superannuation fund choices - ASIC Information Sheet 89	Super funds Employers	ASIC Information Sheet 89 has been updated to reflect changes from the 'Your Future, Your Super' reforms, and expand focus beyond employers inappropriately providing financial advice. The changes addressed in the updated guidance include: <ul style="list-style-type: none"> the revised hawking prohibition; the design and distribution obligations; and the 'stapling' of existing superannuation accounts linked to employees from 1 November 2021. 	The revised ASIC Information Sheet 89 was released on 15 October 2021.	Read ASIC's media release here . Access ASIC Information Sheet 89 here .
13.	Internal Dispute Resolution - Regulatory Guide	AFS licensees RSE trustees	ASIC published an updated version of <i>Regulatory Guide RG 271 Internal Dispute Resolution</i> on 2 September 2021.	RG 271 came into effect on 5 October 2021.	Access the amending instrument and

No.	What	Who	Need to know	Important dates	Links
	271, ASIC Instrument 2021/753 and ASIC Instrument 2020/98	RSA providers	<p>RG 271 establishes new standards and requirements for how all financial firms will need to deal with consumer complaints.</p> <p>ASIC also registered the <i>ASIC Corporations, Superannuation and Credit (Amendment) Instrument 2021/753 (Amending Instrument)</i> on 29 September 2021. The Amending Instrument amends <i>ASIC Corporations, Credit and Superannuation (Internal Dispute Resolution) Instrument 2020/98 (IDR Instrument)</i>, to ensure that the IDR Instrument (and the paragraphs of RG 271 it incorporates by reference) reflects the latest changes to RG 271.</p>	The Amending Instrument commenced on 30 September 2021 (the day after it was registered).	<p>explanatory statement here.</p> <p>Access RG 271 here.</p>
14.	Design and Distribution Obligations	Financial product issuers and distributors	<p>The Design and Distributions Obligations (DDO) regime commenced on 5 October 2021, including the target market determination requirements and reporting obligations.</p> <p>On 1 October 2021, ASIC made interim measures to:</p> <ul style="list-style-type: none"> remove the requirement for all distributors to report to issuers <i>whether</i> they have received a complaint, including where they have received nil complaints (although they are still required to report the number of complaints they receive, to the extent they receive any during the reporting period); and to clarify that employees of licensees are not inadvertently regulated persons for the purposes of the DDO regime (even though they do not rely on the relief in that instrument); and to amend ASIC Class Order [CO 14/1262] so that the application of the DDO extends to 31-day notice term deposits. 	The DDO regime commenced on 5 October 2021.	<p>Find out more about the DDO regime on the ASIC Website here.</p> <p>Access ASIC's interim measures instrument here and amendment instrument here.</p>
15.	Anti-hawking	Distributors of financial products	<p>The revised anti-hawking provisions of s 992A and s 992AA of the Corporations Act operate from 5 October 2021.</p> <p>The <i>Financial Sector Reform (Hayne Royal Commission Response) (Hawking of Financial Products) Regulations 2021 (Cth)</i>, which prescribe exceptions to the hawking prohibition, also took effect on 5 October 2021.</p>	The revised anti-hawking rules and regulations take effect from 5 October 2021.	<p>Access the amending legislation here.</p> <p>Access the regulations here.</p> <p>Access RG 38 here.</p>

No.	What	Who	Need to know	Important dates	Links
			ASIC published its finalised Regulatory Guide 38 (RG 38) on the hawking prohibition on 23 September 2021.		
16.	Deferred Sales model for add-on insurance	Insurers	<p>The deferred sales model for add-on insurance (contained in the new sub-division DA of Division 2 of Part 2 of the ASIC Act) commenced on 5 October 2021. The model introduces a four-day pause between the sale of a principal product or service and the sale of an add-on insurance product.</p> <p>The <i>Australian Securities and Investments Commission Amendment (Deferred Sales Model Exemptions) Regulations 2021</i> (Cth), which exempt certain classes of add-on insurance products from the deferred sales model for a period of 5 years, also commenced on 5 October 2021.</p> <p>ASIC published its finalised Regulatory Guide 275 (RG 275) on the deferred sales model for add-on insurance on 28 July 2021.</p>	The deferred sales model commenced on 5 October 2021.	<p>Access the amending legislation here.</p> <p>Access the regulations here.</p> <p>Access RG 275 here.</p>
17.	Change to Insured's Duty of Disclosure	Insurers	The <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> (Cth) amended the <i>Insurance Contracts 1984</i> (Cth) to replace the insured's duty of disclosure with a duty to take reasonable care not to make a misleading representation, in consumer insurance contracts.	The amendments apply to all consumer insurance contracts (for both general and life insurance) entered into or varied on or after 5 October 2021.	Access the legislation here .
18.	Breach Reporting reforms	AFS licensees Advisers	<p>The <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> (Cth) amended the Corporations Act and <i>National Consumer Credit Protection Act 2009</i> (Cth) to strengthen the existing breach reporting regime for AFS licensees, and introduce a comparable breach reporting regime for credit licensees.</p> <p>The new regime commenced on 1 October 2021, and applies to reportable situations arising on or after that date.</p> <p>The <i>Financial Sector Reform (Hayne Royal Commission Response - Breach Reporting and Remediation) Regulations</i></p>	The new breach reporting regime commenced on 1 October 2021, and applies to reportable situations arising on or after 1 October 2021.	<p>Access the amending legislation here.</p> <p>Access the amending regulations here.</p> <p>Access the new RG 78 here.</p>

No.	What	Who	Need to know	Important dates	Links
			<p>2021 (Cth), which support amendments made by the Act, also commenced on 1 October 2021.</p> <p>ASIC published a new <i>Regulatory Guide 78: Breach reporting by AFS licensees and credit licensees</i> on 7 September 2021, to provide guidance on the new breach reporting framework.</p>		
19.	Reference checking and information sharing protocol	AFS licensees	The <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> (Cth) imposed new obligations on AFS licensees regarding reference checks and information sharing.	The new obligations commenced on 1 October 2021.	Access the legislation here .
20.	Superannuation trustees' response to COVID-19 - APRA FAQs	Super funds	<p>APRA has published a list of FAQs providing guidance on superannuation trustees' response to COVID-19.</p> <p>Most recently, APRA clarified on 1 September 2021 that RSE licensees should not assume members in receipt of the Pandemic Leave Disaster Payment or COVID-19 Disaster Payment are automatically 'gainfully employed' for the purpose of the 'work test' and the acceptance of voluntary superannuation contributions (in contrast to the treatment of the former Jobkeeper payment).</p>	The FAQs were updated on 1 September 2021.	Access the FAQs here .
21.	APRA Corporate Plan 2021-2025	APRA-regulated entities	APRA released an updated Corporate Plan for 2021 - 2025 on 26 August 2021. The Corporate Plan outlines APRA's strategic priorities for ensuring the ongoing strength and resilience of the Australian financial system over the next four years, and is based on the strategic theme of "protected today, prepared for tomorrow".	The Corporate Plan was released on 26 August 2021.	<p>Read APRA's media release here.</p> <p>Access the Corporate Plan here.</p>
22.	Updated guidance on influencing employers' superannuation fund choice: s 68A of the SIS Act - ASIC Information Sheet 241	Super funds Employers	ASIC Information Sheet 241 has been updated to reflect the removal of an exemption to s 68A of the SIS Act, by the <i>Superannuation Industry (Supervision) Amendment (Your Future, Your Super—Improving Accountability and Member Outcomes) Regulations 2021</i> (Cth). The exemption had allowed trustees to supply or offer goods or services to an employer on the basis that the supply or offer was available to all the employer's employees.	Reissued on 25 August 2021.	<p>Read ASIC's media release here.</p> <p>Access ASIC Information Sheet 241 here.</p>

No.	What	Who	Need to know	Important dates	Links
23.	APRA Information Paper: Combining MySuper product performance histories - APRA's approach	RSE licensees	APRA released an information paper on 16 August 2021 outlining its methodology for combining investment performance in the annual performance test for superannuation products.	The information paper was released on 16 August 2021.	Read APRA's media release here . Access the information paper here .

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