

HWLE SUPER WRAP-UP | 20 June 2022

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WHAT'S NEW?

Key developments since 22 April 2022.

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1.	Avanteos Investments convicted for defective disclosure statements	Superannuation trustees	<p>On 15 June 2022, Avanteos Investments Limited (AIL) (a former subsidiary of Commonwealth Bank) was convicted and penalised \$1,710,000 by the County Court of Victoria, for failing to update defective disclosure statements.</p> <p>AIL did not disclose that it would continue to deduct Adviser Service Fees after a member's death, or the circumstances in which it would make those deductions. The charges related to approximately \$700,000 in fees from accounts of 499 deceased superannuation members, whose death was notified to AIL. AIL has since remediated all affected customers' estates.</p> <p>This is the first criminal prosecution under s 1012J(1) of the Corporations Act for failing to update defective disclosure statements.</p> <p>AIL's conduct was the subject of evidence given at the Financial Services Royal Commission. AIL pleaded guilty to the 18 criminal charges in December 2021. His Honour noted that he would have handed down a penalty of \$2.7 million, if not for AIL's guilty plea.</p>	N/A	<p>Read ASIC's media release here.</p> <p>Access the judgement here.</p>
2.	APRA publishes new FAQs on Your Future, Your Super reforms	RSE licensees	<p>On 15 June 2022, APRA published new FAQs on the Your Future, Your Super performance test. The FAQs outline:</p> <ul style="list-style-type: none"> • APRA's 15 August deadline (each year) for the submission of data used in the performance test; • APRA's expectations of RSE licensees who may fail the test for a second consecutive year; and • APRA's approach to combining performance history for MySuper products that have been authorised under a material goodwill authorisation. 	Performance test data must be submitted to APRA by 15 August each year. APRA will only include updated data received after 15 August in exceptional circumstances.	Access the FAQs here .

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3.	ASIC remakes relief on PDSs, superannuation dashboards and FSGs	AFS licensees Superannuation trustees Platform operators	<p>ASIC has repealed seven instruments on financial services disclosure requirements which were due to cease in the next 2 years if not remade, and has replaced them with 3 new legislative instruments.</p> <p>The three new legislative instruments are:</p> <ul style="list-style-type: none"> • <i>ASIC Corporations (In-use Notices for Employer-sponsored Superannuation and Superannuation Dashboards) Instrument 2022/496</i>, which provides relief in relation to Product Disclosure Statement (PDS) in-use notices for employer-sponsored superannuation and choice product dashboard disclosure; • <i>ASIC Corporations (Shorter PDS and Delivery of Accessible Financial Products Disclosure by Platform Operators and Superannuation Trustees) Instrument 2022/497</i>, which provides relief in relation to shorter PDSs and PDS obligations for superannuation trustees, IDPS operators and responsible entities of IDPS-like schemes; and • <i>ASIC Corporations (Financial Services Guide Given in a Time Critical Situation) Instrument 2022/498</i>, which provides relief in relation to the giving of Financial Services Guides in time critical situations. <p>This follows ASIC's public consultation on remaking the relief instruments, <i>Consultation Paper 358 Remaking ASIC Relief on PDSs, superannuation dashboards and FSGs (CP 358)</i>, which was released in February 2022.</p>	The instruments take effect on 15 June 2022.	Read ASIC's media release, and access the new legislative instruments, here .
4.	ASIC publishes information sheet on avoiding 'greenwashing' when offering sustainability-related products	Superannuation trustees Responsible entities Corporate directors of CCIVs	<p>On 14 June 2022, ASIC published Information Sheet 271: <i>How to avoid greenwashing when offering or promoting sustainability-related products (INFO 271)</i>.</p> <p>ASIC considers 'greenwashing' as the 'practice of misrepresenting the extent to which a financial product or investment strategy is environmentally friendly, sustainable or ethical'. INFO 271 outlines:</p> <ul style="list-style-type: none"> • why greenwashing is a concern; 	N/A	<p>Read ASIC's media release here.</p> <p>Read INFO 271 here.</p>

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			<ul style="list-style-type: none"> the current regulatory setting for communications about sustainability-related products; and 9 questions to consider when preparing communications and disclosures about sustainability-related products. <p>ASIC states that communications and disclosures about sustainability-related products should use clear labels, define the sustainability terminology used, and clearly explain how sustainability considerations are factored into investment strategies.</p>		
5.	Amendments to Prudential Standard SPS 310 Audit and Related Matters	RSE licensees and RSE auditors	<p>On 9 June 2022, APRA published a response to submissions on its proposed amendments to <i>Prudential Standard SPS 310 Audit and Related Matters (SPS 310)</i>.</p> <p>The proposed amendments, which were released for consultation on 10 December 2021, reflect changes to the superannuation reporting framework and set out the matters that would be subject to external audit.</p> <p>APRA has considered industry feedback regarding timing, and has decided to delay the commencement of the revised SPS 310 until the financial year ending 30 June 2023. It will provide a further update on any refinements to the revised SPS 310, when it finalises the standard later in 2022.</p>	<p>APRA will finalise the revised SPS 310 by the end of 2022.</p> <p>The revised SPS 310 will apply to audits from the FY ending 30 June 2023.</p>	Access the letter, and non-confidential submissions, on APRA's website here .
6.	Family law superannuation splits - interest rate for adjustment period determination registered	<p>Superannuation trustees</p> <p>Separated and divorced spouses, and separated de facto couples (except in W.A.)</p>	<p>The <i>Family Law (Superannuation) (Interest Rate for Adjustment Period) Determination 2022</i> was registered on 6 June 2022. The determination relates to orders or agreements providing for a base amount split of future superannuation benefits, which are payable in respect of:</p> <ul style="list-style-type: none"> a defined benefit superannuation interest; or an interest in a self-managed superannuation fund. <p>For the purposes of sub-regulation 45D(3) of the <i>Family Law Superannuation Regulations 2001 (Cth)</i>, the determination sets the interest rate as 0.047, where the adjustment period is the financial year beginning on 1 July 2022.</p>	The determination commences on 1 July 2022.	Access the determination here .
7.	APRA and ASIC release new	RSE licensees	On 1 June 2022, APRA and ASIC released 5 FAQs on the implementation of the retirement income covenant (RIC), to	RSE licensees are required to formulate	Access the FAQs on APRA's website here .

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	FAQs on the retirement income covenant		<p>assist RSE licensees in developing their retirement income strategies (RIS). The FAQs address:</p> <ol style="list-style-type: none"> 1. APRA's expectations of RSE licensees in relation to developing their RIS and meeting the requirements of the RIC by 1 July 2022; 2. that APRA will not be providing feedback on draft RIS; 3. what RSE licensees need to do from 1 July 2022 to implement their RIS; 4. existing guidance on reviewing the outcomes of retirement income products; and 5. that if the RSE is licensed to provide the advice, a RIS can, but isn't required to, cover the provision of financial advice. 	a RIS and publish a summary on the superannuation entity's website by 1 July 2022.	
8.	AFCA updates its funding model	AFCA members	<p>On 30 May 2022, AFCA published details about its new funding model. The new model implements a 'user-pays' approach that reduces the burden on smaller members, and those industries who are not heavy users of AFCA. Key features include:</p> <ul style="list-style-type: none"> • no complaint fees for the first five complaints closed within a financial year; • the annual Member Levy has been replaced by a simplified annual registration fee. All financial firm members pay a \$375.55 flat fee, while Authorised Credit Representative members pay a \$65.98 fee; • a simplified complaint fee structure; and • flexible invoicing -- members with a user charge over a certain threshold can opt-in to progressive invoicing over a financial year. <p>AFCA consulted on the proposed updates to its funding model over 10 March to 22 April 2022.</p> <p>The funding model will come into effect on 1 July 2022. The updated complaint fee schedule will apply to complaints closed from 1 July 2022 regardless of when they were received. Annual registration fee invoices will be sent in June 2022.</p>	The model will come into effect on 1 July 2022.	<p>Find out more about the new AFCA funding model here.</p> <p>Read the Consultation Report here.</p>
9.	Indigenous Superannuation	Superannuation trustees	<p>On 27 May 2022, AIST announced that the Indigenous Superannuation Working Group (ISWG) will lobby the new</p>	N/A.	Read the AIST media release here .

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	Working Group (ISWG) to lobby government on recognition of kinship structures		Commonwealth Government to ensure it reprioritises the recognition of kinship structures in Indigenous communities for the purposes of superannuation benefits. Chair Eva Scheerlinck said: "these relationships, which are critically important to the cultural identify of Aboriginal and Torres Strait Islander people, are not recognised in superannuation law, impacting who members can nominate to receive their super after they die, or to who a trustee can distribute the member's super after their death".		
10.	Treasury Discussion Paper on proposed financial institution supervisory levies for the 2022-23 financial year	Life insurers Super funds	<p>On 27 May 2022, Treasury published a discussion paper seeking industry feedback on the proposed financial institutions supervisory levies that will apply for the 2022-23 financial year.</p> <p>The total funding required in 2022-23 under the proposed levies for all relevant Commonwealth agencies (including APRA, ASIC, the ATO, the ACCC, and the Gateway Network Governance Body) is \$259.6 million. This is a 0.9% reduction from the 2021-22 requirement.</p>	Submissions are due by 10 June 2022.	Find out more on the Treasury website, here .
11.	Superannuation Data Transformation Phase 1 - FAQ updates and additions	RSE licensees	<p>On 26 May 2022, APRA updated two frequently asked questions (FAQs) on the reporting standards for Phase 1 of the Superannuation Data Transformation (SDT) project:</p> <ul style="list-style-type: none"> FAQ 550.0 j: What reporting does APRA expect under the staged implementation approach for SRS 550.0? FAQ 332.0 q: What are APRA's expectations for reporting under SRS 332.0 under the staged implementation approach? <p>The updates concern the staged implementation and best endeavours approach to reporting under Reporting Standards SRS 55.0 Asset Allocation and SRS 332.0 Expenses.</p> <p>On 5 May 2022, APRA published five additional FAQs on matters relating to the reporting standards for Phase 1 of the SDT project. The new FAQs are:</p>	N/A.	Access the SDT project FAQs here .

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			<ul style="list-style-type: none"> historical data FAQ 1.11: How should an RSE licensee report historical insurance data under SRF 251.2 - Insurance payments? FAQ 251.3 h: When should RSE licensees report tax rebates in SRF 251.3 table 2 column 11 'Insurance Premium Members Tax Rebate Amount' (tax rebates form insurance premiums)? FAQ 332.0 r: How should an RSE licensee classify an expense when considering APRA's look-through requirements? FAQ 550.0 q: What methodology does APRA expect RSE licenses to apply to calculate the modified duration where an RSE licensee aggregates fixed income securities for reporting in table 2 of SRF 550.0 and table 1 of SRF 550.1? FAQ 705.1 f: How should RSE licenses report SRF 705.1 table 1 column 8 'Investment Horizon Years Number' where the investment time horizon in the relevant return objective is not specified? 		
12.	ASIC releases Report 727, setting out its self-assessment against KPIs in 2020-21.	ASIC regulated entities	On 26 May 2022 ASIC published Report 727, which sets out ASIC's self-assessment of its performance against six common key performance indicators (KPIs) for Australian Government regulators in 2020-21. The report supplements ASIC's Annual report for 2020-21.	N/A	Access Report 727 here .
13.	APRA releases quarterly superannuation statistics	RSE licensees	<p>On 24 May 2022, APRA released its Quarterly Superannuation Performance Statistics and Quarterly MySuper Statistics for the March 2022 quarter.</p> <p>The Performance Statistics contain data (at the industry aggregate level, and segmented by fund type) relating to financial performance and position, asset allocation and key performance ratios. The MySuper Statistics contain data (at the individual product or lifecycle stage level) relating to product profile, asset allocation targets and ranges, investment performance and net returns, and fees and costs.</p>	N/A.	<p>Read APRA's media release here.</p> <p>Access the statistics on APRA's website here.</p>

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14.	ASIC consults on simplifying the ASIC Directive Transaction Rules (Reporting) 2013	Reporting entities	<p>On 16 May 2022, ASIC published its second consultation paper on proposals to update the <i>ASIC Derivative Transaction Rules (Reporting) 2013</i>. Consultation Paper CP 361 (CP 361) contains ASIC's proposed changes to the current ASIC Rules, which:</p> <ul style="list-style-type: none"> relate to the long lead time elements of implementing the internationally harmonised standards for the unique transaction identifier (UTI), the unique product identifier (UTP) and the data elements; specify ISO 20022 <i>Financial Services - Universal financial industry message scheme</i> as the data messaging standard; and simplify the current ASIC Rules by removing the outdated transitional provisions and consolidating some exemptions. <p>ASIC released its first consultation paper in November 2021.</p>	<p>The consultation closes on 8 July 2022.</p> <p>A third consultation paper will be released in Q4 2022.</p> <p>ASIC estimates the remade ASIC Rules will commence on 1 October 2023, and the further amended ASIC rules will commence on 1 April 2024.</p>	Access CP 361 here .
15.	Federal Court hands down judgment in <i>Sharma v H.E.S.T. Australian Ltd [2022] FCA 356</i> .	Superannuation trustees Insurers	<p>On 13 May 2022, the Federal Court of Australia handed down its judgment in the case of <i>Sharma v H.E.S.T. Australia Ltd [2022] FCA 536</i>.</p> <p>The appeal was made by Mrs Pragya Sharma against the AFCA's determination affirming the decisions of H.E.S.T Australia Limited (the Trustee), and CommInsure, to deny payment of additional death and income protection (IP) benefits of the deceased policy holder, Dr Deepak Sharma, on the basis he had fraudulently misrepresented his medical history. The insurer at the time the misrepresentation was made was OnePath, later to be replaced by CommInsure.</p> <p>The Court found that AFCA had materially erred in law in affirming the decision of CommInsure, holding that:</p> <ul style="list-style-type: none"> CommInsure was not in a position to avoid the contract under section 29 of the <i>Insurance Contracts Act 1984</i> (Cth) (ICA) as it is was not the insurer to whom the misrepresentation was made; the remedies for non-disclosure and misrepresentation in Division 3 of Pt IV of the ICA operate as an exclusive 	N.A.	<p>Read HWLE's article on the judgment here.</p> <p>Access the judgment here.</p>

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			<p>code, the effect of which was to limit the rights of CommInsure to those provided for in the ICA; and</p> <ul style="list-style-type: none"> section 33 of the ICA displaces the operation of common law and equitable principles of rescission after misrepresentation (unless there was breach of the duty of utmost good faith) and so there are no common law rights to avoid contracts of insurance for fraudulent misrepresentation. <p>AFCA determinations 693811 and 711994 were set aside, and the complaint was remitted back to AFCA for redetermination.</p>		
16.	APRA issues directions to superannuation trustee, Ness Super Pty Ltd	Superannuation trustees	<p>On 13 May 2022, APRA announced that it has issued directions to NESS Super Pty Ltd (NESS), the trustee of NESS Super, to ensure that NESS makes the necessary amendments to its constitution to allow the appointment of a second independent director. This will achieve an equal composition of employee, employer and independent directors on a six-person board.</p> <p>The directions follow an APRA governance review, and an independent review conducted by NESS, that identified skills gaps and deficiencies on the NESS Board.</p>	N/A.	Read APRA's media release here .
17.	APRA publishes remarks by APRA Chair Wayne Byrnes at FINSIA's 'The Regulators' event	Insurers Superannuation trustees	<p>APRA has published APRA Chair Wayne Byrnes's remarks to FINSIA's 'The Regulators' event on 13 May 2022. The remarks discuss broad themes currently impacting the banking, insurance and superannuation industries, and outline two regulatory initiatives high on APRA's agenda:</p> <ul style="list-style-type: none"> APRA's plan to modernise the prudential architecture; and APRA's 5 year roadmap for transforming its approach to financial data collection. 	N/A.	Read the remarks here .
18.	ASIC reminds AFS licensees of their obligations to manage	AFS licensees	<p>On 12 May 2022, ASIC published an reminder to AFS licensees that they must adequately manage cybersecurity risks as part of their licence obligations.</p> <p>ASIC states that it expects AFS licensees to:</p>	N/A.	Read the article here .

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	cybersecurity risks		<ul style="list-style-type: none"> be aware of the potential consumer harms arising from cybersecurity shortcomings; adopt good cybersecurity risk management practices to reduce potential harm to consumers; act quickly in the event of a cyber incident, to minimise the risk of ongoing harm; and consider if they are obliged to report the cyber incident to ASIC. <p>In addition, ASIC strongly encourages AFS licensees to report cyber incidents to the Australian Cyber Security Centre (ACSC).</p> <p>This reminder follows the recent Federal Court decision which found RI Advice Group Pty Ltd breached its AFS licence obligations by failing to have systems in place to adequately manage its cybersecurity risks (reported below).</p>		
19.	Federal Court finds RI Advice failed to adequately manage cybersecurity risks	AFS licensees	<p>On 5 May 2022, the Federal Court found that RI Advice Group Pty Ltd breached its AFS licence obligations:</p> <ul style="list-style-type: none"> to act efficiently and fairly, under s 912A(1)(a) of the <i>Corporations Act 2001</i> (Cth); and to have adequate risk management systems, under s 912A(1)(h) of the <i>Corporations Act 2001</i> (Cth); <p>when it failed to have adequate documentation and controls in place to manage cybersecurity risks across its authorised representative network.</p> <p>RI Advice was ordered to pay \$750,000 towards ASIC's costs, and to engage a cybersecurity expert to identify and implement any further measures necessary to adequately manage cybersecurity risks across its authorised representative network.</p>	N/A.	<p>Read ASIC's media release here.</p> <p>Access the judgement here.</p>
20.	Westpac penalised \$133 million after multiple ASIC legal actions for compliance failures	<p>Banks</p> <p>Superannuation trustees</p> <p>Wealth managers</p>	<p>On 22 April 2022, the Federal Court ordered Westpac to pay a \$40 million penalty for charging advice fees to over 11,800 deceased customers.</p> <p>This decision is the last to be handed down in the suite of six separate civil penalty proceedings ASIC filed against Westpac in November 2021. The six matters concerned:</p>	N/A.	<p>Read ASIC's media release here.</p> <p>Access the judgement here.</p>

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		Insurers	<ul style="list-style-type: none"> • Fees for no service - deceased customers • General insurance - duplicate policies, and policies issued without consent • Inadequate fee disclosure • Deregistered company accounts • Debt onsale - incorrect interest rates • Insurance in super - banned commission payments <p>In total, Westpac has been ordered to pay penalties of \$113 million.</p>		

COMING UP...

Reforms and other measures which are about to commence.

No.	What	Who	Need to know	Important dates	Links
1.	APRA data collection - Five-year data collection roadmap	APRA-regulated entities	<p>On 31 March 2022, APRA released its discussion paper, <i>Direction for data collections</i>, on APRA's evolving approach to data collection, the rationale for these changes and an outline of the 5-year implementation roadmap.</p> <p>APRA intends to collect richer data by transitioning away from, and eventually decommissioning APRA's current data collection system, Direct to APRA, and moving all of its data reporting across to APRA Connect by 2027.</p>	Submissions are due on 24 June 2022.	<p>Find out more here.</p> <p>Read the discussion paper here.</p>
2.	Non arm's length expenditure for super funds - Transitional compliance approach	Super funds	<p>The ATO has amended <i>Practical Compliance Guideline PCG 2020/5</i> to extend the compliance approach to the 2021-22 financial year.</p> <p>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).</p>	The transitional compliance approach only applies to general expenditure incurred on or before 30 June 2022.	Read the updated practical compliance guide on the ATO's website here .
3.	Key superannuation rates and thresholds for 2022-23	Superannuation trustees Superannuation members	On 11 April 2022, the ATO published the indexed superannuation rates and thresholds for 2022-23. Among other things, the superannuation guarantee (SG) rate will increase from 10% to 10.5% on 1 July 2022.	New rates and thresholds apply from 1 July 2022	The indexed superannuation caps and thresholds for 2022-23 are available here .
4.	Insurance in Superannuation - SPS 250 and SPG 250	Superannuation trustees	On 12 November 2021, APRA released its 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> . The final revisions are aimed at ensuring better member outcomes	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>

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			<p>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>		Access SPG 250 here .
5.	Enhancing Superannuation Outcomes Package - Legislation and supporting regulations	Super funds Employers	<p>The <i>Treasury Laws Amendment (Enhancing Superannuation Outcomes for Australians and Helping Australian Businesses Invest) Act 2021</i> (Cth) received Royal Assent on 22 February 2022. The Act:</p> <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 allows 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 took effect on 1 April 2022.	<p>Access the Act and explanatory memorandum here.</p> <p>Access the Regulations and explanatory statement here.</p>

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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. 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 allow 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>		
6.	Retirement Income Covenant	Superannuation trustees	The <i>Corporate Collective Investment Vehicle Framework and Other Measures Act 2022</i> (Cth) received assent on 23 February 2022. Schedule 9 of the Act amends the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth) 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 .
7.	Corporate Collective Investment Vehicle	Fund managers	The <i>Corporate Collective Investment Vehicle Framework and Other Measures Act 2022</i> (Cth) which was registered on 25 February 2022, amends the <i>Corporations Act 2001</i> (Cth) by introducing the Corporate Collective Investment Vehicle (CCIV), an entity specifically designed for funds management purposes. CCIVs are a new type of company that: <ul style="list-style-type: none"> are limited by shares; have a single corporate director, who is a director of a public company with an Australian Financial Services Licence; has a constitution; 	Corporate Collective Investment Vehicles can be used from 1 July 2022.	Access the Act here . Read the HWL Ebsworth commentary here .

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			<ul style="list-style-type: none"> have at least one sub-fund, which may differ in investment strategies; and must state that it is a CCIV in its name. <p>CCIVs have some key differences to managed investment schemes and other companies, including:</p> <ul style="list-style-type: none"> CCIVs do not involve the use of trusts; CCIVs have no officers or employees apart from their corporate director; and the replaceable rules of the <i>Corporations Act 2001</i> (Cth) do not apply. 		
8.	<i>ASIC Regulatory Guide 97 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>Insurers</p>	<p>Periodic statements for reporting periods commencing on or after 1 July 2021 must comply with the 'new' <i>ASIC Regulatory Guide 97 Disclosing fees and costs in PDSs and periodic statements (RG 97)</i>.</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 on or after 30 September 2022.	Access RG 97 here .
9.	Business introduction services - Extension of relief	Providers of a business introduction service	<p>On 1 April 2022, the relief under the <i>ASIC Corporations (Repeal and Transitional) Instrument 2017/186</i>, which preserves the effect of Class Order [CO 02/273], was extended by <i>ASIC Corporations (Amendment) Instrument 2022/0077</i> until 1 October 2022. The effect of Class Order [CO 02/273] was to provide relief from the fundraising, financial product disclosure, hawking and advertising requirements in the <i>Corporations Act 2001</i> (Cth) that would apply to a person making or calling attention to offers of securities or interests in a registered managed investment scheme through a business introduction service.</p> <p>The extended relief for business introduction services is subject to a new requirement that persons who rely on the relief from 1 April 2022 must provide written notice to ASIC setting out:</p>	<p>Instrument 2022/0077 commenced on 1 April 2022.</p> <p>Further amendments to the relief will apply from 1 October 2022 until 1 April 2025.</p>	<p>Read ASIC's 30.3.2022 media release here.</p> <p>Access the Instrument here.</p> <p>Access Class Order [CO 02/273] here.</p>

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			<ul style="list-style-type: none"> the name of the person; each exemption specified in specified in ASIC Class Order [CO 02/273] as in force immediately before its repeal which the person relies on; and the date the person started to rely on the exemption(s). <p>From 1 October 2022, the relief will be further amended to:</p> <ul style="list-style-type: none"> extend the relief for interests in managed investment schemes until 1 April 2025; and clarify that the design and distribution obligations (DDO) apply to persons who, but for the relief, would otherwise need to comply with the DDO. <p>At this stage, ASIC does not intend to remake the relief when it is due to expire on 1 April 2025.</p>		
10.	Superannuation calculators and retirement estimates - Extension of relief	Superannuation trustees Consumer groups	<p><i>ASIC Corporations (Repeal and Transitional - Relief for Providers of Retirement Estimates) Instrument 2022/204</i> was registered on 29 March 2022 and repeals ASIC Class Order [CO 11/1227 (<i>Relief for providers of retirement estimates</i>)] while providing transitional relief to extend its effect until 21 December 2022.</p> <p>Class Order [CO 11/1227] gave conditional relief from the licensing, conduct and disclosure obligations relating to personal advice in the <i>Corporations Act 2001</i> (Cth) that might otherwise apply to superannuation fund trustees who prepare retirement estimates for their members. The effect of Instrument 2022/204 will be to allow superannuation trustees to use the relief when sending annual statements to members for the 2021-22 financial year.</p> <p>ASIC intends to make a legislative instrument for both superannuation calculators and retirement estimates, that will not prevent trustees relying on the existing relief as there will be a transitional period.</p>	<p>Transitional relief for providers of retirement estimates has been extended until 31 December 2022.</p> <p>The new legislative instrument for both superannuation calculators and retirement estimates is due before the end of June 2022.</p>	<p>Read ASIC's media release here.</p> <p>Access the Instrument here.</p>

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11.	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 .
12.	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 commenced on 10 December 2021, subject to a 12 month transition period.	Access the Standard here .
13.	Quality of Advice Review - Submissions	AFS licensees	<p>On 11 March 2022, the Government released the Terms of Reference for its Quality of Advice Review. The Government released an Issues Paper for consultation on 25 March 2022.</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 	<p>Submissions on the Issues Paper closed on 3 June 2022.</p> <p>A report will be provided to the Government by 16 December 2022.</p>	<p>Read the press release issued by the Minister for Superannuation, Financial Services and the Digital Economy, here.</p> <p>Access the Terms of Reference here.</p> <p>Access the Issues Paper here.</p>

No.	What	Who	Need to know	Important dates	Links
			<ul style="list-style-type: none"> 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>		
14.	Internal dispute resolution data reporting requirements - ASIC instrument registered	<p>Financial services licensees</p> <p>Trustees of a regulated superannuation fund</p>	<p>On 30 March 2022, ASIC registered the <i>ASIC Corporations (Internal Dispute Resolution Data Reporting) Instrument 2022/205</i>.</p> <p>The Instrument specifies the information that financial services licensees must give ASIC relating to their internal dispute resolution (IDR) procedures. Trustees of a regulated superannuation fund (among others) are required to report to ASIC as if they were a financial services licensee, by providing data to ASIC every 6 months in a specified form.</p> <p>An 'initial cohort' comprising AMP Limited, United Super Pty Ltd, Unisuper Limited, Retail Employees Superannuation Pty. Limited and AustralianSuper Pty Ltd and their subsidiaries (among others) will be required to provide the IDR information to ASIC for the first time by 28 February 2023, for the reporting period ending 31 December 2022. All other relevant entities will join the framework and must report the first set of IDR data to ASIC by 31 August 2023 (for the reporting period ending 30 June 2023).</p>	The initial cohort of AFS licensees and trustees of regulated superannuation funds must give their first round of IDR information to ASIC by 28 February 2023, for the reporting period ending 31 December 2022. All other entities must report their first round of IDR information to ASIC by 31 August 2023, for the reporting period ending 30 June 2023.	<p>Read ASIC's media release here.</p> <p>Access the Instrument here.</p>
15.	Minimum pension drawdowns - Extension of 50% reduction	Super funds	The <i>Superannuation Legislation Amendment (Superannuation Drawdown) Regulations 2022</i> (Cth) extends the temporary 50% reduction in minimum annual payment amounts for superannuation pensions and annuities by a further year to 30 June 2023. The minimum drawdown requirements determine the minimum amount of a pension that a retiree must draw from their superannuation each year.	The extension of the 50% reduction in minimum annual payments for superannuation pensions and annuities is extended to 30 June 2023.	Access the Regulations here .

No.	What	Who	Need to know	Important dates	Links
16.	<i>Prudential Standard CPS 511 Remuneration and Prudential Practice Guide CPG 511 Remuneration</i>	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; • 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 of the Royal Commission (recommendations 5.1, 5.2 and 5.3) 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>	<p>With respect to RSE Licensees, CPS 511 will apply:</p> <p>a) to RSE licensees that are significant financial institutions (SFIs) from 1 July 2023; and</p> <p>b) non-SFI RSE Licensees from 1 January 2024.</p>	<p>Read APRA's media release on CPS 511 here.</p> <p>Access CPS 511 here.</p> <p>Read APRA's media release on CPG 511 here.</p> <p>Access CPG 511 here.</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.	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 12 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>
2.	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 hoped 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 	Submissions closed on 11 March 2022.	Find out more here .

No.	What	Who	Need to know	Important dates	Links
			<ul style="list-style-type: none"> how these practices might need to adapt over time. 		
3.	Financial Services and Credit Panel (FSCP) - ASIC consults on regulatory guidance	Financial advisers	<p>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.</p> <p>ASIC invited feedback on its approach to:</p> <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. 	<p>Submissions closed on 28 March 2022.</p> <p>The final, updated version of RG 263 was slated to be released in May 2022.</p>	Read ASIC's statement and access CPG 359 here .
4.	Family law proceedings - Western Australian (WA) de facto superannuation splitting	WA de facto couples who are party to family law proceedings	On 6 April 2022, the WA Government introduced into the WA Parliament the <i>Family Court Amendment Bill 2022 (WA)</i> . This Bill amends the <i>Family Court Act 1997 (WA)</i> to allow superannuation splitting matters for separating de facto couples in WA to be heard under the Federal <i>Family Court Act 1975 (Cth)</i> , at the same time that all other aspects of the property settlement are heard under the West Australian <i>Family Court Act 1997 (WA)</i> .	The Bill was introduced on 6 April 2022 and the provisions will take effect the day after the Bill receives assent.	Access the Bill here .
5.	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>	<p>Submissions closed on 29 April 2022.</p> <p>APRA proposes that the new prudential standards will come into force from 1 January 2024, and one year later for superannuation trustees for CPS 190.</p> <p>APRA will also consult on supporting guidance material in 2022.</p>	Access the discussion paper and draft prudential standards here .

No.	What	Who	Need to know	Important dates	Links
6.	APRA consultation - Definition of Significant Financial Institution	APRA-regulated institutions	<p>On 4 April 2022, APRA commenced consultation to adopt a single, aligned definition of 'Significant Financial Institution' (SFI) across the banking, superannuation and insurance prudential standards. The definition would be located in the central definitions standards for banking and insurance, and in each prudential standard that uses the concept of SFI, for superannuation. Edits would then be made to the prudential standards which differentiate requirements for SFIs and non-SFIs. For superannuation, these include</p> <ul style="list-style-type: none"> • <i>Prudential Standard CPS 511 Remuneration</i>; • <i>Prudential Standard CPS 190 Financial Contingency</i>; and • <i>Prudential Standard CPS 900 Resolution Planning</i>. 	Submissions closed on 2 May 2022.	Access the letter to industry and draft prudential standards here .
7.	APRA data collection - Phase 2 consultation of Superannuation Data Transformation Project	APRA-regulated entities	On 4 April 2022, APRA commenced consultation on phase 2 of its Superannuation Data Transformation project. In phase 2, APRA will focus on improving the depth and granularity of the data it collects across all the superannuation industry's business operations.	Submissions closed on 12 May 2022.	<p>Access the discussion paper here.</p> <p>Access the main consultation page here.</p>
8.	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.	On 16 May 2022, the matter was adjourned for further mention to 20 June 2022.	Read ASIC's media release here .
9.	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 matter is listed for a further case management hearing on 12 August 2022.	<p>View the originating process here.</p> <p>Read ASIC's media release here.</p>
10.	Revisions to <i>Prudential Standard SPS 530 Investment Governance</i>	RSE Licensees	<p>On 29 September 2021, APRA released its proposed revisions to <i>Prudential Standard SPS 530 Investment Governance</i> (SPS 530) for consultation.</p> <p>The revised SPS 530 makes a number of enhancements to valuation practices, stress testing and liquidity management</p>	<p>The consultation closed on 16 February 2022.</p> <p>APRA will consult on the accompanying</p>	Learn more here .

No.	What	Who	Need to know	Important dates	Links
			<p>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>guidance later in 2022.</p> <p>APRA intends for the updated SPS 530 to commence on 1 January 2023.</p>	
11.	Crypto-assets: Risk management expectations and policy roadmap - APRA letter	APRA-regulated entities	<p>On 21 April 2022, APRA released a letter to APRA-regulated entities setting out its risk management expectations and policy roadmap for crypto-assets. APRA expects that all entities will conduct appropriate due diligence before engaging in activities associated with crypto-assets, consider the requirements of <i>Prudential Standard CPS 231 Outsourcing</i> or <i>Prudential Standard SPS 231 Outsourcing</i> when relying on a third party in conducting activities involving crypto-assets, and apply robust risk management controls.</p> <p>APRA intends to release a draft prudential standard for consultation in mid-2022, on the operational risk requirements for APRA-regulated entities, including management of risks associated with crypto-asset activities.</p>	Draft prudential standard expected in mid-2022.	Access ASIC's letter here .
12.	Updated guidance on Putting Members' Interests First elections and successor fund transfers	Super Funds	<p>On 21 October 2021, APRA revised its frequently asked questions on the <i>Putting Members' Interests First</i> laws and <i>Protecting Your Super</i> package, to clarify that members who were not required to elect for insurance, as a result of the historical provisions in s68AAB and s68AAC of the <i>Superannuation Industry (Supervision) Act 1993</i> (SIS Act), can have their insurance continued in a successor fund without needing to elect for insurance.</p> <p>APRA's 21 October 2021 media release announced that the Government intended to amend the SIS Act in due course to give effect to this change.</p>	N/A	Read APRA's 21.10.2021 media release, and access the revised guidance, here .

No.	What	Who	Need to know	Important dates	Links
13.	APRA consultation - Additional draft life insurance reporting standards	Life insurers	<p>On 6 April 2022, APRA released for consultation additional draft life insurance reporting standards impacted by the introduction of the <i>Australian Accounting Standards Board 17 Insurance Contracts (AASB 17)</i>;</p> <p>This follows APRA's consultations published on 13 December 2021 on draft standards to integrate AASB 17 into the life insurance capital framework and reporting framework.</p>	Submissions closed on 3 June 2022.	Access the draft general insurance and life insurance reporting standards here .
14.	2021-22 Federal Budget announcement - Industry working group to consult on legacy life insurance and managed investment product rationalisation	<p>Life insurers</p> <p>Responsible entities and trustees of managed investment schemes</p>	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 policyholders and members from closed life insurance products and managed investment products to new products.	N/A	Access the 2021-22 Budget Paper No. 2 here .

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