Consumer Interactions with the Superannuation Industry

Background Paper 22
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1. Purpose of the Paper

This paper will consider the superannuation system from the consumer (or member) perspective, discussing how a consumer enters the superannuation market, interacts with superannuation fund trustees and accesses their superannuation at retirement.

This paper covers the following topics:

1) the significance of superannuation for consumers;
2) demographics of superannuation fund members;
3) how a consumer enters the superannuation system;
4) superannuation contributions;
5) types of superannuation funds a consumer may enter;
6) returns, fees and costs and insurance;
7) account switching;
8) lost and unclaimed superannuation;
9) conditions of release of superannuation; and
10) superannuation complaints handling.
2. Significance of superannuation for consumers

Superannuation is one of the three main ways by which individuals can fund their retirement (known as the ‘three pillars’ of retirement income):¹

1) **the Age Pension**: a publicly funded income stream that varies according to the income and assets of the person receiving the pension (‘means tested’);

2) **compulsory superannuation**: this accumulates during a person’s working life. If a person is over 18 and earns more than $450 per month, they are generally eligible to be paid the ‘Superannuation Guarantee’: 9.5% of their ordinary time earnings² are paid into a superannuation account, which they can access when they reach a certain age (their ‘preservation age’³); and

3) **voluntary savings**: a person can contribute their own funds into their superannuation (receiving tax concessions⁴ if they do so), or invest in other assets they can draw on during retirement (such as property or shares).

Superannuation is a significant contributor to household wealth. In 2015-16, superannuation was the largest household financial asset, making up

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² ‘Ordinary time earnings’ are earnings attributable to award, standard or agreed hours or work, before tax and any other deductions. Amounts salary sacrificed, non-cash components of salary packages, overtime payments and reimbursements to employees (such as for travel, entertainment and meals) are excluded. See Australian Bureau of Statistics, *6302.0 - Average Weekly Earnings, Australia, Nov 2017* (22 February 2018) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/6302.0Glossary1Nov%202017?openpendocument&tabname=Notes&prodno=6302.0&issue=Nov%202017&num=&view=> (Glossary: ‘Weekly ordinary time earnings’).


around 50% of household financial assets (up from 41% in 2005-06) (see Chart 1).  

![Chart 1: Share of household financial assets, 2015-16](image)

When considering non-financial assets such as property and vehicles, in 2015-16 superannuation comprised around 17% of total household assets (up from 13% in 2005-06), making it the second-largest household asset after the family home in Australia.

Superannuation also makes up a large part of the Australian financial system (see Box 1).  

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7 Ibid.
Box 1: Superannuation’s share of the Australian financial system

As at the December quarter 2017, the superannuation sector was the second-largest sector in the financial system by asset size, making up around 29% of the assets of Australian financial institutions. Superannuation’s share of the financial sector has increased from around 19% in the December quarter 2007.  

Chart B1: Assets of financial institutions, December quarter 2017

Superannuation entities held around $2.6 trillion in assets as at the March quarter 2018. As at the March quarter 2018, the size of the superannuation sector was equivalent to approximately 144% of nominal gross domestic product (GDP) in the four quarters to March 2018.

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9 Ibid.
Box 1: Superannuation’s share of the financial system (cont.)

In annual terms, over the past 10 years superannuation assets as a per cent of GDP have increased from around 108% of GDP in June 2007 to around 142% in June 2017, an increase of 34 percentage points.\(^\text{12}\)

Chart B2: Superannuation assets as a per cent of GDP, 2007 to 2017

Source: Australian Prudential Regulation Authority (APRA), ABS\(^\text{13}\)

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\(^\text{13}\) Ibid.
3. Superannuation fund members

3.1. Superannuation accounts

As at 30 June 2017, over 14.8 million Australians had a superannuation account, with around 40% holding more than one account. Males were more likely to hold more than one superannuation account and were increasingly likely to hold multiple accounts as the number of accounts increased (see Chart 2).

Chart 2: Percentage of employees with more than one superannuation account

The percentage of employees with more than one superannuation account has decreased slightly since 2013, with the percentage of employees holding only one superannuation account increasing by five percentage points, from 55% in 2013 to 60% in 2016 (see Table 1).

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15 Ibid.

16 Ibid.

17 Ibid.
Table 1: Percentage of employees with more than one superannuation account

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>One</td>
<td>55%</td>
<td>55%</td>
<td>57%</td>
<td>60%</td>
</tr>
<tr>
<td>Two</td>
<td>26%</td>
<td>26%</td>
<td>25%</td>
<td>25%</td>
</tr>
<tr>
<td>Three</td>
<td>11%</td>
<td>11%</td>
<td>10%</td>
<td>9%</td>
</tr>
<tr>
<td>Four</td>
<td>5%</td>
<td>5%</td>
<td>4%</td>
<td>4%</td>
</tr>
<tr>
<td>Five</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
<td>1%</td>
</tr>
<tr>
<td>Six+</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
<td>1%</td>
</tr>
</tbody>
</table>

Source: ATO\textsuperscript{18}

As at 30 June 2017, superannuation fund members were predominantly younger, with those aged less than 35 years making up around one-third of all member accounts and those aged less than 50 years making up around two-thirds of all member accounts (see Chart 3).\textsuperscript{19}

Chart 3: Share of superannuation fund member accounts, as at 30 June 2017

The number of superannuation accounts held by members less than 35 years of age has decreased significantly over the past 10 years (see Chart 4).\textsuperscript{21} There could be various explanations for this decrease. For example, there may be fewer employees aged less than 35 years receiving superannuation contributions, members aged less than 35 years may be

\textsuperscript{18} Ibid.


\textsuperscript{20} Ibid.

\textsuperscript{21} Ibid.
consolidating their accounts, or they may be choosing to remain with their existing superannuation fund (that is, exercising choice of fund).

**Chart 4: Number of superannuation fund member accounts, 2007 to 2017**

3.2. Financial literacy and superannuation fund members

The 2009 Review of the Governance, Efficiency, Structure and Operation of Australia’s Superannuation System, chaired by Mr Jeremy Cooper (‘Cooper Review’) noted that ‘a key tenet of the 1997 Wallis Report was that super fund members should be treated as rational and informed investors … these settings assume that members have the tools at their disposal, and the necessary regulatory protections in the market place, to enable them to make optimal decisions’.23

The Cooper Review noted that this was not the case for many superannuation fund members. It cited the 2006 Australian Bureau of Statistics (ABS) Adult Literacy and Life Skills Survey of Australians, which found that ‘46 per cent of 15-74 year olds, or some seven million people, would struggle to understand documentation such as job applications, maps and payroll forms. Fifty-three per cent of surveyed Australians reached just the second of five levels in a practical numeracy test, while 70 per cent (about 10.6 million people) managed only to progress to level 2 in a series of problem-solving exercises. Level 3 is regarded by the survey developers as the minimum required for individuals to meet the complex demands of everyday life and work in the emerging knowledge-based economy’.24

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22 Ibid.
24 Ibid.
Cooper Review noted that ‘a compulsory system based on informed investors making rational choices fails to confront this reality’. 25

The latest figures from the ABS Programme for the International Assessment of Adult Competencies, Australia, 2011-12, show similar results. Over one-third of Australians aged 15-74 (around 44%) had a literacy level of Level 2 or below, while over one half of Australians aged 15-74 (around 54%) had numeracy skills at Level 2 or below. 26 In general, the proportion of people attaining a literacy or numeracy level of Level 3 or above decreased as age increased. 27

The Productivity Commission, in its Stage 3 Draft Report of its review of the competitiveness and efficiency of the Australian superannuation system, noted that close to ‘60 per cent of [superannuation fund] members do not understand their fees and charges, and around 40 per cent lack an understanding of basic investment options (such as growth, balanced and conservative) … about 30 per cent of Australians have rather low levels of financial literacy’. 28

The Productivity Commission suggested that broadly, ‘Australians are less financially literate in matters relating to superannuation and retirement planning than in financial matters generally’. 29 It noted that poor financial literacy ‘often results in poor economic decision making’ 30 and that an efficient superannuation system ‘would enable those who lack financial literacy skills to obtain trustworthy advice and guide their choices’. 31

25 Ibid.
27 Ibid (Spreadsheet: Programme for the International Assessment of Adult Competencies, 2011-12, Table 2 Literacy, Numeracy and Problem solving in technology-rich environments skill level of persons aged 15–74 years, By sex and age group).
31 Ibid.
For this reason, the Cooper Review recommended, and the Australian Government subsequently legislated, to introduce simple ‘default’ superannuation products that may suit members who do not, or do not wish to, actively engage with their superannuation. These products (MySuper products) are discussed in the next section.

3.3. Entry into the superannuation system

Most employees will enter the superannuation system when they become eligible to receive Superannuation Guarantee payments. As mentioned in Section 2, the Superannuation Guarantee requires employers to pay the equivalent of 9.5% of an employee’s ordinary time earnings into a superannuation fund, when an employee is paid $450 or more before tax in a month and is over 18 years, or under 18 years and works over 30 hours a week.32

Most employees can choose the superannuation fund into which their superannuation contributions will be paid.33 If an individual chooses their superannuation fund, they are considered to have made a ‘choice of fund’.

3.3.1. MySuper

If a person cannot, or does not, choose their superannuation fund, their employer is required to place their superannuation contributions into a ‘default’ superannuation fund selected by the employer. The fund selected must offer a MySuper product.\(^{34}\) As at 31 March 2018, there were 92 superannuation entities that offered 107 MySuper products (with 6 entities offering more than one MySuper product).\(^{35}\)

MySuper products are designed to be simple products that are suitable for members who do not necessarily actively engage with their superannuation. They are governed by additional legislation which restricts the types of fees that can be charged on the product and limits the investment options to a single diversified investment option or lifecycle option. All MySuper products must also contain life and permanent disability insurance on an opt-out basis, with some exceptions.\(^{36}\)

The Australian Prudential Regulation Authority (APRA) must authorise the trustee of a superannuation fund to offer a MySuper product and most funds can only offer one MySuper product (although, in some circumstances, a trustee may be authorised to offer additional MySuper products, such as a large employer MySuper product or a material goodwill MySuper product).\(^{37}\)

As at 30 June 2017, the majority of superannuation accounts (56%) were MySuper accounts. Of these, 50% were the result of the default fund arrangements and 6% were chosen by members (see Chart 5). However, when looking at the amount of money each account holds (‘member benefits’), the majority of superannuation money (around two-thirds or 67%) was placed in non-MySuper (‘choice’) products (see Chart 6).\(^{38}\)

\(^{34}\) Ibid.
\(^{38}\) Data are for APRA-regulated entities with more than four members, as these are the only entities that can offer MySuper products. Australian Prudential Regulation Authority, Statistics: Annual Superannuation Bulletin June 2017 (28 March 2018)
3.3.2. Default funds in Modern Awards

Modern Awards (industrial awards) can specify which superannuation funds can be chosen by employers as a default fund for employees covered under a particular award. A list of default funds may be provided in a particular award. The default fund chosen must offer a MySuper product. Generally, a person covered by an award can choose to remain in the fund they have been allocated, or choose their own fund.\(^{40}\)

Current law requires that default fund terms in Modern Awards be reviewed every four years and requires each award to specify between two and 15 superannuation funds that can be a default fund for employees covered by that award. The first four-yearly review of default fund terms has not yet taken place.\(^{41}\)

3.3.3. Deemed choice in certain enterprise agreements and workplace determinations

Some enterprise agreements or workplace determinations specify a fund into which superannuation must be paid. The fund specified must offer a MySuper product. In these cases, an employee may have limited or no

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39  Ibid.
40  The Fair Work Commission notes that superannuation contributions ‘are to be made to a default superannuation fund specified in the modern award unless the employee has chosen another fund for the contributions’. See Fair Work Commission, Superannuation fund reviews (1 May 2018) <https://www.fwc.gov.au/awards-and-agreements/modern-award-reviews/superannuation-fund-reviews#field-content-1-heading>.
choice of fund. These employees are considered to have made a ‘deemed choice’. In response to Recommendation 12 of the 2014 Financial System Inquiry, the Government has agreed to ‘extend the choice of fund arrangements to more employees by removing the deemed choice for certain enterprise agreements and workplace determinations’.

3.3.4. Self-managed superannuation funds (SMSFs)

Alternatively, a consumer can choose to manage their own superannuation, by setting up a self-managed superannuation fund (SMSF). SMSFs are entities with four members or less, all of whom are trustees or directors of the corporate trustee. Trustees of SMSFs are considered to be acting in their own interests and therefore are not regulated by APRA, unlike superannuation fund trustees who are separate from the members of the fund. SMSFs are regulated by the Australian Taxation Office.

3.3.5. Exempt public sector superannuation schemes (EPSSSSs)

A small percentage of employees, as a result of their public sector employment, may be placed into an exempt public sector superannuation scheme (EPSSS). These schemes are governed by separate legislation and are outside the regulatory powers of APRA unless the scheme elects to be prudentially regulated by APRA. Exempt public sector superannuation schemes are listed in Schedule 1AA of the Superannuation Industry (Supervision) Regulations 1994. Schemes that have elected to be regulated by APRA are not listed in the regulations.

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47 Ibid.

3.4. Superannuation contributions

Chart 7 shows the relative shares of employer and employee contributions to superannuation. In the year to 30 June 2017, around 62% of superannuation contributions were employer contributions, up significantly from 38% in the year to 30 June 2007. The high share of member contributions in the year to 30 June 2007 was likely a response to the Australian Government’s ‘Simplified Superannuation’ reforms, which simplified the rules about how much members could contribute to superannuation from 1 July 2007.

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Over the past 10 years, contributions to corporate and industry funds (and in recent years, public sector funds) have mainly been employer contributions, while a relatively high proportion of contributions to retail funds were member contributions (see Chart 8).\textsuperscript{52}

\textit{Source: APRA}\textsuperscript{51}


\textsuperscript{52} Types of superannuation funds are discussed in Section 4. Ibid.
3.5. Male and female superannuation account balances

As at 30 June 2017, the average female superannuation account balance in APRA-regulated funds with more than four members (that is, excluding small APRA funds and SMSFs) was $55,576 and the average male superannuation account balance was $69,164.\textsuperscript{54} Many individuals have more than one superannuation account, so the average account balance may not reflect the average superannuation balance per person.

Table 2 shows the difference in male and female superannuation account balances by type of fund.\textsuperscript{55} The difference in the average superannuation account balances of males and females are most stark in corporate funds and public sector funds.

\textsuperscript{53} Ibid.


\textsuperscript{55} Types of superannuation funds are discussed in Section 4.
Table 2: Male and female average superannuation account balances, as at 30 June 2018

<table>
<thead>
<tr>
<th></th>
<th>Corporate</th>
<th>Industry</th>
<th>Public sector</th>
<th>Retail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>212,811</td>
<td>51,205</td>
<td>212,035</td>
<td>49,713</td>
</tr>
<tr>
<td>Female</td>
<td>114,716</td>
<td>39,466</td>
<td>124,121</td>
<td>43,130</td>
</tr>
<tr>
<td>Difference (M-F)</td>
<td>98,095</td>
<td>11,739</td>
<td>87,914</td>
<td>6,583</td>
</tr>
</tbody>
</table>

Source: APRA\textsuperscript{56}

As Superannuation Guarantee payments are linked to employment, labour force participation, part-time employment and levels of ordinary time earnings can affect the accumulation of superannuation balances. The participation rate of females has increased over the past 40 years but remains lower than the male participation rate (see Chart 9).\textsuperscript{57}

Females are also more likely to work part-time (see Chart 10),\textsuperscript{58} which results in lower ordinary-time earnings (and therefore lower superannuation). Additionally, those who work in multiple part-time jobs may not be eligible for the Superannuation Guarantee, as each individual job may pay a wage that is below the $450 per month threshold.\textsuperscript{59}

Similarly, since May 2012 (the earliest point at which data are available), male full-time ordinary time earnings have been consistently higher than female full-time ordinary time earnings. In November 2017 (latest data), average full-time adult ordinary time earnings (seasonally adjusted) were $1,665.00 per week for males and $1,409.40 for females (see Chart 11).\textsuperscript{60}


\textsuperscript{58} Ibid. Seasonally adjusted data are used. Rates are calculated by dividing ‘Employed part-time, Males’ by ‘Labour force total, Males’ and ‘Employed part-time, Females’ by ‘Labour force total, Females’.


4. Superannuation funds

Superannuation contributions are placed in a product offered by a superannuation fund and invested on behalf of the members of the fund to earn a return. In Australia, regulated superannuation funds are established as trusts. An individual or a company (the ‘trustee’) holds superannuation

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62 Ibid. Seasonally adjusted data are used. Rates are calculated by dividing ‘Employed part-time, Males’ by ‘Labour force total, Males’ and ‘Employed part-time, Females’ by ‘Labour force total, Females’.


64 Superannuation Industry (Supervision) Act 1993, s19(2).

### 4.1. Types of superannuation funds

Trustees of superannuation funds are regulated in Australia in one of three ways:

- **APRA-regulated funds**: prudential regulation by the Australian Prudential Regulation Authority (APRA);
- **self-managed superannuation funds (SMSFs)**: compliance regulation by the Australian Taxation Office (ATO); or
- **exempt public sector superannuation schemes (EPSSSs)**: regulation by separate Commonwealth or State legislation.\footnote{Points summarised from Australian Taxation Office, *Fund type definitions*, Super Fund Lookup <https://superfundlookup.gov.au/Help/FundTypeDefinitions>.}

As at 31 March 2018, there were 132 superannuation fund trustees licensed by APRA (known as registrable superannuation entity (RSE) licensees), which were the trustees of 205 large APRA funds and 2,085 small APRA funds (SAFs).\footnote{Australian Prudential Regulation Authority, *Statistics: Quarterly Superannuation Performance, March 2018* (29 May 2018) 8 <https://www.apra.gov.au/sites/default/files/1805-QSP-1803.pdf> (‘Key Statistics’).} APRA-regulated funds held just under two-thirds (65\%) of total superannuation assets, while SMSFs held just over one quarter (27\%) of total superannuation assets (see Chart 12).\footnote{Ibid. ‘Life office and statutory funds’ refers to assets held for superannuation for retirement purposes in statutory funds of life insurance companies, excluding those held by superannuation entities. See Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf> (definition of ‘Balance of life office statutory funds’).}
Between 30 June 2007 and 30 June 2017, there was an increase in the percentage of assets held by APRA-regulated funds (see Chart 13).

4.2. APRA-regulated funds

Broadly, there are two types of APRA-regulated funds: large APRA funds (more than four members) and small APRA funds (SAFs) (four members or less). SAFs are similar to SMSFs but the trustee of a SAF is not a member.
of the fund, so SAFs are regulated by APRA. As at 31 March 2018, there were 2,085 SAFs holding around $2.2 billion in assets.74

Large APRA funds can be split into four categories. The number of funds in operation and assets held as at 31 March 2018 are listed below.75

- **Corporate funds (24 funds holding $54.7 billion in assets)** are classified by APRA as ‘not for profit’ (profits invested back into the fund to benefit members).76 Corporate funds are arranged by an employer for its employees. They may have a board of trustees appointed by the employer and employees or the fund may be operated by a large industry or retail fund.77

- **Industry funds (40 funds holding $598.8 billion in assets)** are classified by APRA as ‘not for profit’.78 Industry funds may cater to employees in particular industries (such as construction or hospitality) although many are now open to the public (‘public offer’).79

- **Public sector funds (18 funds holding $443.4 billion in assets)** are classified by APRA as ‘not for profit’.80 Public sector funds cater to government employees. Employers may contribute more than the minimum 9.5% Superannuation Guarantee.81

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75 Number of funds and assets held are sourced from Ibid.


• Retail funds (123 funds holding $602.6 billion in assets) are classified by APRA as ‘for profit’ (owner aims to retain some profit from running the fund).\textsuperscript{82} Retail funds are usually run by banks and investment companies and generally have a large number of investment options.\textsuperscript{83}

There are two types of APRA-regulated rollover funds which cannot receive employer contributions in the same way as other superannuation funds.

• Approved deposit funds (ADFs) can receive, hold and invest certain types of rollovers (such as eligible termination payments\textsuperscript{84}) until funds are withdrawn or a condition of release is satisfied.\textsuperscript{85}

• Eligible rollover funds (ERFs) are superannuation funds or ADFs which can receive benefits automatically rolled over from other funds. ERFs typically accept monies from other funds where a member has become ‘lost’.\textsuperscript{86}

APRA also regulates pooled superannuation trusts (PSTs) which are trusts in which regulated superannuation funds, approved deposit funds and other PSTs invest. The assets of PSTs are not included in total superannuation assets, as all of their assets will be captured in other superannuation entity categories.\textsuperscript{87}

As at 31 March 2018, both industry and retail funds each held around 35% of the assets of APRA-regulated funds (see Chart 14).\textsuperscript{88}


\textsuperscript{86} Ibid (definition of ‘Eligible Rollover Funds (ERFs)’).

\textsuperscript{87} Ibid (definition of ‘Pooled Superannuation Trusts (PSTs)’).

Chart 14: Share of assets held by APRA-regulated superannuation funds, as at 31 March 2018

Calculation of these percentages does not include funds which are not regulated by APRA.

Source: APRA\textsuperscript{89}

Between 30 June 2007 and 30 June 2017, the share of assets in industry and public sector funds has increased, while the percentage held in retail funds has decreased (see Chart 15).\textsuperscript{90}

\textsuperscript{89} Ibid.\textsuperscript{89}

Between 30 June 2007 and 30 June 2017, the share of member accounts held in industry and public sector funds has increased, while the share held in retail funds has decreased (see Chart 16).92

As at 30 June 2017, industry funds had the highest proportion of MySuper member accounts and MySuper member benefits, as well as the highest

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91 Ibid.
92 Ibid (Table 11a Number of member accounts - trend).
93 Ibid.
number of members who had chosen to remain in a MySuper product (see Charts 17 and 18).94

### Chart 17: Share of member accounts by type, as at 30 June 2017

- **Corporate**
- **Industry**
- **Public sector**
- **Retail**

**MySuper: Choice**  |  **MySuper: Default**  |  **Choice/Unknown**
--- | --- | ---

### Chart 18: Share of member benefits by type, as at 30 June 2017

- **Corporate**
- **Industry**
- **Public sector**
- **Retail**

**MySuper: Choice**  |  **MySuper: Default**  |  **Choice/Unknown**
--- | --- | ---

Source: APRA95

### 4.2.1. Fund proliferation and scale

The 2014 Financial System Inquiry noted in its Final Report its concerns about the number of funds in the superannuation system, noting that the ‘fragmented nature of the Australian superannuation system has limited the extent to which superannuation fund members benefit from scale economies, notwithstanding recent fund consolidations. This contributes to higher fees and lower after-fee returns to members’.96 The Inquiry noted that in June 2013, ‘80 per cent of … APRA regulated superannuation funds held only 20 per cent of assets’.97

These figures are consistent with more recent data. As at 30 June 2017, of the 168 superannuation funds whose reporting date is 30 June and asset size has been published by APRA, only 34 funds (around 20%) held assets of over $10 billion. These funds held around 83% of the superannuation assets published.98

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94 Ibid (Table 11b Member profile by account type and by fund type – trend).
95 Data are for APRA-regulated entities with more than four members. See Ibid (Table 11b Member profile by account type and by fund type – trend).
97 Ibid.
Within each fund, 42 funds (all retail funds) offered over 100 investment options (with 16 funds offering over 1,000 investment options) and 31 funds (a mix of fund types) offered between 20 and 100 investment options. Ninety-five funds (a mix of fund types) offered 20 or fewer investment options. 99

By number of member accounts, 46 funds had over 100,000 member accounts (the largest fund operating over two million member accounts) while 122 funds had less than 100,000 member accounts. 100

4.2.2. Governance of APRA-regulated funds

Superannuation fund trustees which are corporations will have one or more directors. Directors may represent an employer-sponsor 101 or members of the fund or may be ‘independent’, meaning they are not members of the fund and not associated with employers or employees of the fund or representing their interests in any capacity. 102

Directors must comply with the trustee and director covenants in section 52 and section 52A of the Superannuation Industry (Supervision) Act 1993, including performing the trustee’s or director’s duties and exercising the trustee’s or director’s powers in the best interests of the beneficiaries of the fund (the ‘best interests duty’). 103

If a standard employer-sponsored fund is not a public offer fund, it must have an equal number of employer and employee (member) representatives on its board. If such a fund is a public offer fund, it may have either an independent trustee or an equal number of employer and employee (member) representatives on its board. 104

Broadly consistent with Recommendation 13 of the 2014 Financial System Inquiry, the Australian Government has proposed that at least one-third of directors of a superannuation fund board must be independent directors,

99 Ibid.
100 Ibid.
101 An employer-sponsor of a regulated superannuation fund is an employer who contributes to the superannuation fund for the benefit of their employees who are members of the superannuation fund or the dependants of an employee in the event of the death of the member. See Superannuation Industry (Supervision) Act 1993, s16(1).
102 See Ibid s10(1) (definition of ‘independent director’).
103 Ibid s52(2)(c) and s52A(2)(c).
104 Ibid, s89, s92 and s93. The definition of an ‘independent trustee’ is prescribed in s10(1).
including the chair. Legislation to implement this policy has not yet been passed by Parliament.

4.2.3. Protection against fraud or theft

There are additional protections in Part 23 of the Superannuation Industry (Supervision) Act 1993 that apply to members of APRA-regulated funds against fraudulent conduct or theft. If fraudulent conduct or theft has caused a ‘substantial diminution of the fund leading to difficulties in the payment of benefits’ of a regulated superannuation fund other than an SMSF, ‘the trustee of the fund may apply to the Minister for a grant of financial assistance for the fund’. These are known as the ‘Part 23 provisions’. The Minister may impose a levy on other superannuation funds for the Commonwealth to recover the amount of the grant of financial assistance.

The Part 23 provisions do not extend to SMSFs. This is because the trustees of the SMSF are also the members of the fund, and therefore there is no separation of decision-making power between the trustee and the members. The members of the SMSF are therefore bearing their own risk, including the risk of fraud or theft.

The differences in access to financial assistance between APRA-regulated funds and SMSFs was highlighted following the 2009 collapse of Trio Capital, which was the trustee of four superannuation funds and 28 managed investment schemes (MISs). The Australian Government provided $71.7 million in compensation to eligible investors under the Part 23 provisions, but direct investors and SMSFs were unable to be compensated under these provisions.
5. Returns, fees and costs and insurance

5.1. Returns

Superannuation funds invest members’ money to increase the member’s retirement income over the member’s working life. Similar to a managed fund, money is pooled with other members’ money and invested on a member’s behalf by investment managers. The aim of most superannuation funds is to earn a return on the invested money to increase members’ superannuation balances over time.

Higher-return investments often also face a higher risk of achieving negative returns. As a result, superannuation funds generally offer a range of investment options ranging from low risk to high risk, from which members can choose based on their risk preferences. The investment which a superannuation fund undertakes may be ‘active’ (where managers select investments based on an independent assessment of each investment’s worth) or ‘passive’ (where a manager will match the performances of certain market indices rather than trying to outperform them).

Common investment options offered by superannuation funds are:

- **Growth**: invests a high proportion (85%) of assets in growth assets such as shares or property. This mix aims for higher returns in the long run but may experience higher losses than with lower-risk options;

- **Balanced**: invests in a mixture of growth assets (70%) and defensive assets such as fixed interest securities and cash (30%). This mix aims for reasonable returns and also aims to reduce the risk of losses;

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116 Ibid.
• **Conservative**: invests in mostly defensive assets (70%), with a smaller proportion in growth assets (30%). This investment mix aims to reduce the risk of losses and therefore accepts a lower return over the long run; and

• **Cash**: one of the lowest-risk options, this investment aims to eliminate investment losses by investing in deposits in Australian authorised deposit-taking institutions (ADIs) or in a ‘capital guaranteed’ life insurance policy.  

Members of retail funds may also be given the option to choose their own investment portfolio through ‘master trusts’ or ‘wraps’, where individual managed funds or investments can be chosen by the member, likely with the assistance of or on the recommendation of a financial adviser.  

• **A master trust** allows an investor to hold a portfolio of managed funds. Generally, fees and some taxes are bundled into the unit price for each investment and income from the underlying assets is paid to the master trust and distributed to members. Underlying funds are usually not portable if a member wishes to change their investment option.

• **A wrap** allows an investor to hold investments such as managed funds and direct shares in a portfolio. Generally, fees and taxes are unbundled from the unit price and disclosed separately. Income from underlying investments is paid directly to the member’s account and assets are portable.

A member’s return on their investment will depend on the return earned on the investment, less the fees charged to the member. Fees are discussed in the next section of this paper.

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119 Ibid (‘What is a master trust?’).

120 Ibid (‘What is a wrap?’).
Chart 19 shows the five-year annualised rate of return for APRA-regulated funds with more than four members. The rate of return published by APRA is a whole-of-fund based return, calculated as net earnings after tax divided by cash-flow adjusted net assets.\(^{121}\) This may not necessarily equal the specific rate of return to members, but gives a broad indication of the returns being earned by each type of fund. In general, retail funds have achieved lower rates of return compared to other fund types.\(^{122}\)


123 Ibid.
5.2. Fees and costs

Fees a consumer may face in relation to superannuation are described in Table 3.

Table 3: Summary of superannuation fee types

<table>
<thead>
<tr>
<th>Fee type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>Relates to the administration or operation of the fund</td>
</tr>
<tr>
<td>Investment</td>
<td>Relates to the investments of the assets of the fund</td>
</tr>
<tr>
<td>Insurance</td>
<td>Relates to insurance premiums paid by the trustee in relation to a member or members. It excludes insurance contracts where the benefit to the member is based on the performance of an investment rather than the realisation of a risk</td>
</tr>
<tr>
<td>Advice</td>
<td>Relates to the provision of financial product advice to a member by the trustee</td>
</tr>
<tr>
<td>Activity</td>
<td>Relates to an activity of the trustee that is engaged in at the request, or with the consent, of a member of that relates to a member and is required by law</td>
</tr>
<tr>
<td>Switching</td>
<td>Charged to recover costs of switching all or part of members’ interests within the fund</td>
</tr>
<tr>
<td>Exit</td>
<td>Charged to recover the costs of disposing of all or part of members’ interests in a fund</td>
</tr>
</tbody>
</table>

Source: APRA124

As at 30 June 2017, the two main types of fees charged by APRA-regulated funds with more than four members were administration and investment fees. Compared to other types of APRA-regulated funds, a relatively high proportion of the total fees of retail funds can be attributed to advice and activity fees (see Chart 20).125

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A large proportion of superannuation expenses faced by APRA-regulated funds with more than four members are also administrator expenses or investment manager expenses. The share of expenses in the chart below is broadly similar to that of previous years (APRA publishes data from 2014).

Retail funds expend relatively more on financial advice paid for by members than other types of superannuation funds, while industry funds have a relatively high proportion of other expenses that are not further specified by the publicly available APRA data.

5.2.1. Marketing and advertising

Superannuation funds, like other financial institutions, may advertise to attract new members. Although APRA collects data on overall fund expenses, APRA does not currently publish data on expenses relating specifically to marketing and advertising, nor does it collect data on

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126 Ibid.
127 Ibid (Table 7c Expenses by service provider role and by fund type - trend).
expenses relating to the management and operation of a fund on a ‘look-through’ basis (which involves requiring the RSE licensee to seek information from the third party to which expenses are being paid for reporting purposes\textsuperscript{128}).

Schedule 8 of the Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Bill 2017 proposes to enhance APRA’s ability to collect information on expenses incurred by RSEs and RSE licensees in managing or operating the RSE, including the power to ‘enable reporting standards to be made that require RSEs to provide APRA with their expenses relating to … management and operation on a look through basis.’\textsuperscript{129} This Bill has not yet been passed by Parliament.

### 5.2.2. Financial advice

Consumers can receive advice regarding their superannuation from a financial adviser independent of their superannuation fund, or through superannuation funds themselves. The Association of Superannuation Funds of Australia (ASFA) notes that many funds ‘are directly involved in the provision of advice while others [use] another entity that may or may not be owned by the superannuation trustee’.\textsuperscript{130}

ASFA notes that it ‘is relatively common for the bulk of costs of scaled advice to be covered by general administration fees charged to members by funds (intra-fund advice) or a combination of [a] general administration fee and a specific fee for the service provided’.\textsuperscript{131} By contrast, ‘the costs of providing full personal advice are recovered by … a specific fee linked to the account of the member receiving the advice’.\textsuperscript{132}

### 5.3. Insurance

The main types of insurance offered by superannuation funds are death cover or life insurance (where a benefit is paid to beneficiaries on a

\textsuperscript{128} Explanatory Memorandum, Parliament of the Commonwealth of Australia, Senate, Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Bill 2019, Chapter 9, Reporting Standards, 113 [9.7]  
\textsuperscript{129} Ibid.  
\textsuperscript{130} Association of Superannuation Funds of Australia, \textit{ASFA survey on the provision of financial advice by superannuation funds} (2014) 4  
\textsuperscript{131} Ibid.  
\textsuperscript{132} Ibid.
member’s death) and total and permanent disability (TPD) insurance (where a member is paid a benefit if they become seriously disabled and are unlikely to work again). Some funds also offer income protection insurance, which pays a member an income stream for a specified period if the member cannot work due to temporary disability or illness.

Life insurance through superannuation is ‘typically group insurance, which means the insurance contract is between the trustee and insurer, rather than the member. The member must make any insurance claims through the trustee’.

Usually, because of the greater number of members involved, insurance premiums are cheaper than if a member purchases an individual life insurance policy and some funds will cover members without requiring a health check. However, a group life policy may not cover all types of events that life insurance outside of superannuation covers. As the contract is held between the trustee of the superannuation fund and the insurer, the cover is usually not portable and may be slower to pay out (since the insurer will pay the trustee, who will then release the funds to beneficiaries).

Superannuation funds who offer a MySuper product must offer both death and TPD insurance cover on an opt-out basis to MySuper members. There are some legislated restrictions on opting out of insurance within superannuation. A trustee may require that MySuper members, if they choose to opt out of insurance, must opt out of both death and TPD benefits, or must opt out of death cover if they also opt out of TPD cover. The regulations also permit a superannuation fund trustee to undertake in writing that it cannot provide opt-out insurance cover if the trustee in reasonably satisfied that the risk to be insured either cannot be provided by an insurer at a reasonable cost or provided on an opt-out basis.

134 Ibid.
137 Superannuation Industry (Supervision) Act 1993, ss68AA(1) and s68AA(5).
138 Ibid ss68AA(6).
139 Superannuation Industry (Supervision) Regulations 1994, r. 9.49.
As death and TPD cover is required to be provided with every MySuper product, consumers who change jobs but do not elect to have their superannuation contributions paid into their current superannuation account will likely receive another default superannuation account and may receive with it another insurance policy. Consumers may not be able to make a claim on more than one insurance policy, although the consumer is paying fees for the insurance. The Productivity Commission, in its 2017 Review of Superannuation Efficiency and Competitiveness, raised significant concerns about the cost of multiple insurance policies to superannuation fund members.140

In the 2018-19 Budget, the Australian Government announced that it would legislate to ensure ‘that cover is offered on an opt-in basis for accounts of young members below the age of 25, inactive accounts that have not received a contribution in 13 months (where the member has not elected to retain existing cover), and low balance accounts below $6,000’.141 The Australian Government estimated that ‘around 5 million individuals will have the opportunity to save an estimated $3 billion in insurance premiums by choosing to opt-in to this cover, rather than paying for it by default’.142

6. Account switching

There is very little detailed public available information about superannuation fund member switching. APRA publish data on ‘outward rollovers’ and data on switching between choice and MySuper products within a fund. In general, members in corporate, industry and public sector funds are more likely to switch from a MySuper product to a choice product within the fund, while those in retail funds were more likely to switch from a choice product to a MySuper product within the fund.143

The Productivity Commission Stage 3 Draft Report of its review of the competitiveness and efficiency of the Australian superannuation system


142 Ibid.

suggests that a ‘range of evidence indicates that fund and investment switching rates are modest ... between 2 and 10 per cent of members’ and ‘around half do so because they change jobs or their employer switches fund providers’. The Productivity Commission estimates that the annual rate of switching investment options is around 6% to 9% of members.

A 2017 report by Rice Warner, commissioned by Industry Super Australia to respond to the Productivity Commission’s review of the competitiveness and efficiency of the Australian superannuation system, uses both APRA data and its ‘Super Insights’ database to examine superannuation account switching in Australia. The report notes that as at June 2015, around 72% of rollovers had a destination in the retail sector, that members of all ages were more likely to switch into retail funds and that members with balances over $100,000 were twice as likely to switch to a retail fund relative to an industry fund.

The Rice Warner report notes that neither fee levels nor investment performance appear to be the drivers of switching between funds, as around 49% of member are charged a higher fee after switching (a further 31% did not have a noticeable change in fees paid) and historical returns for the incumbent and successor fund tended to be similar, with 56% of members receiving lower returns. The report estimates that switching activity results in an aggregate increase in fees paid by members of $137 million per year and an aggregate decrease in returns of 0.46%, or $284 million per year.

Analysis by Roy Morgan research shows that among those who switched superannuation provider in three years to November 2015, just over one quarter (26.9%) of those switching their superannuation received advice from a financial planner/adviser, with a further 8.2% receiving advice from an accountant. Around 31% of those switching their superannuation did not get any advice. 15.8% of those switching to an industry fund received

145 Ibid 217.
146 Ibid.
148 Ibid 3-4.
149 Ibid 4.
professional advice (financial planner/adviser or accountant), although the main source of advice for people switching to an industry fund was the employer (29.6%). 42% of those switching to a retail fund received professional advice (financial planner/adviser or accountant).\textsuperscript{150}

The average superannuation balance of those seeking professional advice was $233,000, compared to $109,000 for those who received no advice and $96,000 for those that received advice from their employer. The median superannuation balance of those receiving professional advice was $104,000, compared to $37,000 for those who received no advice and $24,000 for those who received advice from their employer.\textsuperscript{151}

\textsuperscript{151} Ibid.
7. Lost and unclaimed superannuation

The definition of a ‘lost member’ is set out in regulation 1.03A of the Superannuation Industry (Supervision) Regulations 1994. Broadly, a ‘lost member’ of a superannuation fund is a member who is:

- **inactive** (broadly, has been with the fund for more than two years and has not received a contribution or rollover in the last five years of membership);

- **uncontactable** (broadly, cannot be contacted at any known address, has not made contact with the fund (including accessing account details electronically) in the last 12 months and has not received a contribution or rollover in the last 12 months); or

- **transferred as a lost member** from another superannuation provider.152

A member is not lost if their address has been confirmed in the past two years, or they have indicated that they want to remain a member of the fund. SMSF members cannot be lost members.153

Money held for the lost member remains with the superannuation provider unless it meets the definition of ‘small’ (less than $6,000) or insoluble (inactive accounts of unidentifiable members). In these cases it is paid to the ATO as unclaimed superannuation money and is returned to the member when they are found.154

As the ATO only holds the superannuation money of ‘small’ accounts, a majority of lost and unclaimed superannuation accounts are held with the ATO, but a majority of the superannuation money (‘member benefits’) held in lost superannuation accounts remains with superannuation funds. Of the nearly $18 billion in lost and unclaimed superannuation in 2016-17, around

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153 A member can be permanently excluded from being a lost member if they indicate ‘by a positive act’ that they wish to continue to be a member of the fund or they contact the fund and state they wish to continue to be a member. See Ibid.  

$14 billion was held with superannuation funds (lost inactive or lost uncontactable), with the remaining held by the ATO (see Chart 22).  

**Chart 22: Lost and unclaimed superannuation: share of funds held, 2014-15 to 2016-17**

As at 30 June 2017, for APRA-regulated funds with more than four members, retail funds had the highest share of accounts that were considered lost or inactive, while industry funds had the highest share of superannuation money (‘member benefits’) held in an inactive or lost account (see Charts 23 and 24).

**Chart 23: Share of member accounts by status, as at 30 June 2017**

**Chart 24: Share of member benefits by status, as at 30 June 2017**


156 Ibid.

8. Conditions of release of superannuation

An individual can access their superannuation when they retire, reach their preservation age, reach age 65 or meet another condition of release stated in the law, such as being temporarily or permanently incapacitated, being diagnosed with a terminal medical condition or undergoing severe financial hardship. Benefits can either be released as a lump sum or as an income stream (‘pension’), although some conditions of release restrict the form of the benefit paid (‘cashing restrictions’).158

If a superannuation fund member is under 60 years of age, they can only access their preserved benefits159 when they reach their preservation age, cease gainful employment and have no intention to become gainfully employed in the future. If a member is at least 60 years of age, they can access their preserved benefits when they leave a job; however, if they resume employment, they are restricted from accessing the superannuation accumulated in subsequent jobs. At age 65 a member may cash their benefits at any time.160

As at 30 June 2017, measured by number of accounts, the most common condition of release of superannuation benefits as a lump sum was retirement (23% of accounts that released a lump sum benefit), followed by unclaimed money and lost members (21% of accounts that released a lump sum benefit). The most common condition of release for opening a pension account was attaining age 65 (26% of pension accounts opened), followed by retirement (24% of pension accounts opened).161


8.1. Death benefit distribution

The law regarding the distribution of superannuation death benefits can be complex. As a result, the Superannuation Complaints Tribunal (SCT) provides a simplified explanation of the law on its website. The SCT deals with consumer complaints regarding superannuation death benefit distributions (see Section 9).

The SCT notes that when ‘a member of a superannuation fund dies the trustees of the fund must pay a death benefit in accordance with the fund’s rules. Most superannuation fund rules allow the fund trustees to decide how the death benefit should be divided among a number of potential beneficiaries’. The SCT also notes that the law restricts the persons to whom a death benefit can be paid to a member’s legal personal representative or one or more of the member’s dependants.

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163 Ibid.
9. Superannuation complaints handling

Section 101 of the *Superannuation Industry (Supervision) Act 1993* requires that superannuation funds must have an internal dispute resolution (IDR) procedure that aligns with the procedures required of financial services licensees and must give written reasons for its decisions relating to a complaint. ASIC may specify by legislative instrument by when reasons must be given and what matters must be included in the written reasons.\(^{164}\)

External dispute resolution (EDR) for superannuation complaints, including complaints about insurance within superannuation, is currently governed by the *Superannuation (Resolution of Complaints) Act 1993*. This Act establishes the SCT,\(^{165}\) which has statutory powers to make decisions regarding superannuation complaints brought before the SCT as if it were the trustee of a superannuation fund or other decision-maker.\(^{166}\) The legislation contains provisions specifying the jurisdiction of the SCT in considering complaints. Notably, the SCT cannot consider a complaint unless it has first been through IDR.\(^{167}\)

In 2016-17, the SCT received 2,138 complaints, of which 1,376 complaints were within its jurisdiction. Of these, 694 complaints (around 50%) related to administration (such as deduction of insurance premiums, account balances and fees and charges), 409 complaints (around 30%) related to death (the majority relating to death benefit distribution) and 273 complaints (around 20%) related to disability benefits.\(^{168}\)

In 2017, the Review of the financial system external dispute resolution and complaints framework, chaired by Professor Ian Ramsay (‘Ramsay Review’) recommended that the Superannuation Complaints Tribunal, the Financial Ombudsman Service and the Credit and Investments Ombudsman be replaced by a single EDR body to resolve all financial sector disputes.\(^{169}\)

In 2018, the *Treasury Laws Amendment (Putting Consumers First: Establishment of the Australian Financial Complaints Authority) Act 2018*...

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166. Ibid s37-s37G.
167. Ibid s19.
passed the Parliament. This Act amended the Corporations Act to establish the Australian Financial Complaints Authority (AFCA) and made amendments to how internal and external dispute resolution for superannuation will be taken forward.\textsuperscript{170}

AFCA is expected to begin accepting complaints on 1 November 2018 and the SCT will continue to accept new complaints until 31 October 2018.\textsuperscript{171} The SCT will continue to operate beyond AFCA’s commencement to resolve existing complaints it has on hand and complaints lodged with the SCT will not be transferred to AFCA.\textsuperscript{172}

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\textsuperscript{170} Treasury Laws Amendment (Putting Consumers First – Establishment of the Australian Financial Complaints Authority) Act 2018.
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\textsuperscript{172} The Hon Kelly O’Dwyer MP, Minister for Revenue and Financial Services, ‘Putting Consumers First: Australian Financial Complaints Authority Takes Shape’ (Media Release) 1 May 2018 \texttt{<http://kmo.ministers.treasury.gov.au/media-release/044-2018/>.}
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