Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

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 earnings[2] 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 concessions[4] 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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1 The following points are summarised from Australian Government, The Treasury, *Australia’s retirement income system: Three pillars of retirement incomes,* <https://treasury.gov.au/programs-and-initiatives-superannuation/charter-of-superannuation-adequacy/report/part-1/>.

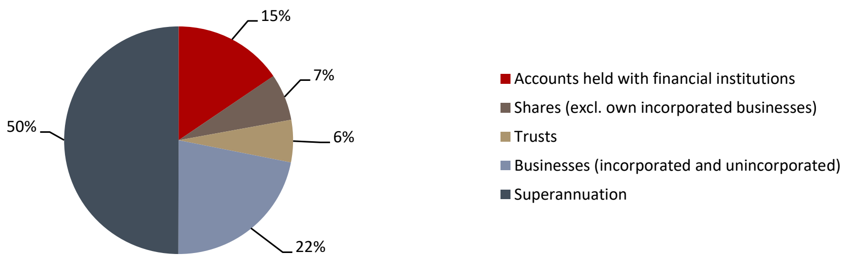
2 ‘Ordinary time earnings’ are earnings attributable to award, standard or agreed hours or work, before tax and any other deductions. Amounts salary sacrificed, non-cash components of salary packages, overtime payments and reimbursements to employees (such as for travel, entertainment and meals) are 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?opendocument&tabname=Notes&prodno=6302.0&issue=Nov%202017&num=&view=> (Glossary: ‘Weekly ordinary time earnings’).

3 Access to superannuation benefits are generally restricted to members who have reached preservation age, which ranges from age 55 to 60, depending on a person’s date of birth. See Australian Taxation Office, *Preservation of super* (1 December 2015) <https://www.ato.gov.au/super/self-managed-super-funds/paying-benefits/preservation-of-super/>.

4 Individuals are charged a lower rate of tax (15%) for ‘concessional contributions’ to superannuation. There are caps on the concessional contributions a person can make each financial year. See Australian Taxation Office, *Concessional contributions* (18 June 2018) <https://www.ato.gov.au/Individuals/Super/In-detail/Withdrawing-and-paying-tax/Super-contributions---too-much-can-mean-extra-tax/?page=2#Concessional_contributions>.

around 50% of household financial assets (up from 41% in 2005-06) (see Chart 1).[5]

Chart 1: Share of household financial assets, 2015-16



Source: Australian Bureau of Statistics (ABS)[6]

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.[7]

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

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5 Australian Bureau of Statistics, 6523.0 – Household Income and Wealth, Australia, 2015-16 (13 September 2017) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6523.02015-16?OpenDocument> (Spreadsheet: Household Wealth and Wealth Distribution, Australia 2015-16, Table 2.4 HOUSEHOLD ASSETS AND LIABILITIES, 2003-04 to 2015-16).

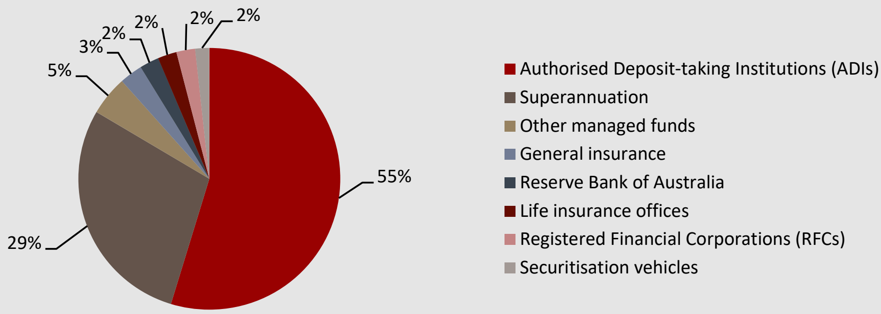
6 Australian Bureau of Statistics, 6523.0 – Household Income and Wealth, Australia, 2015-16 (13 September 2017) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6523.02015-16?OpenDocument> (Spreadsheet: Household Wealth and Wealth Distribution, Australia 2015-16, Table 2.4 HOUSEHOLD ASSETS AND LIABILITIES, 2003-04 to 2015-16).

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.[8]

Chart B1: Assets of financial institutions, December quarter 2017



Source: Reserve Bank of Australia (RBA)[9]

Superannuation entities held around $2.6 trillion in assets as at the March quarter 2018.[10] 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.[11]

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8 Reserve Bank of Australia, *Statistics: Assets and Liabilities: Assets of Financial Institutions – B1* (December 2017) <http://www.rba.gov.au/statistics/tables/>.

9 Ibid.

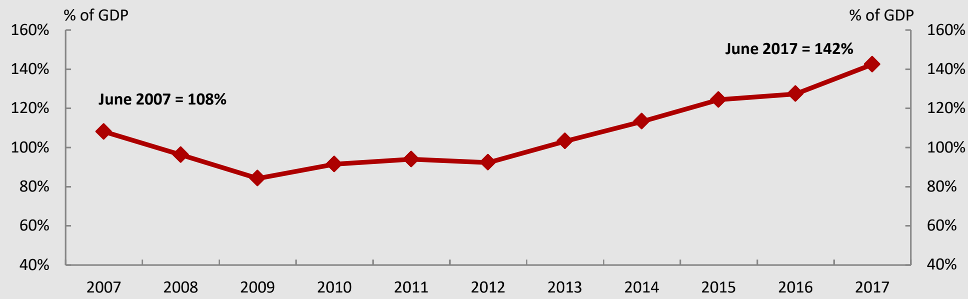
10 Australian Prudential Regulation Authority, *Statistics: Quarterly Superannuation Performance, March 2018* (29 May 2018) 8 <https://www.apra.gov.au/sites/default/files/1805-QSP-1803.pdf>.

11 Ibid; Australian Bureau of Statistics, *5206.0 – Australian National Accounts: National Income, Expenditure and Product, Mar 2018* (6 June 2018) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/5206.0Mar%202018?OpenDocument> (Spreadsheet: Table 3. Expenditure on Gross Domestic Product (GDP), Current prices). 'Gross Domestic Product, $millions, Original' used to calculate superannuation assets as a per cent of GDP.

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.[12]

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



Source: Australian Prudential Regulation Authority (APRA), ABS[13]

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[12] Figures calculated from Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin, June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 8a Total superannuation assets - trend); Australian Bureau of Statistics, *5206.0 – Australian National Accounts: National Income, Expenditure and Product, Mar 2018* (6 June 2018) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/5206.0Mar%202018?OpenDocument> (Table 36. Expenditure on Gross Domestic Product (GDP), Chain volume measures and Current prices, Annual). Current prices used to calculate superannuation assets as a per cent of GDP. Figures may differ slightly from the figures published in APRA's *Annual Superannuation Bulletin*, as GDP figures may have been revised since the APRA publication.

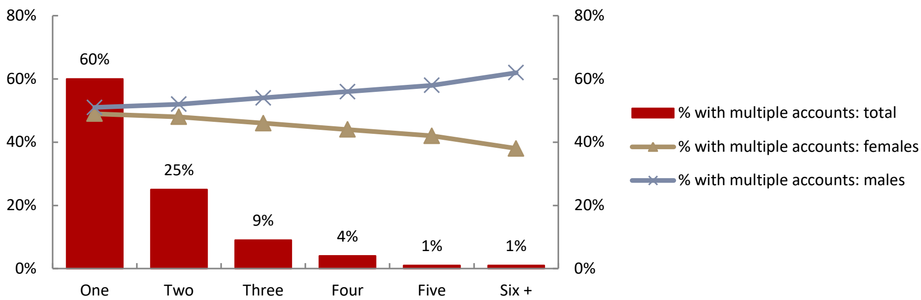
[13] Ibid.

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.[14] 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).[15]

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



Source: Australian Taxation Office (ATO)[16]

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).[17]

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[14] Australian Taxation Office, *Super accounts data overview: Number of super accounts* (9 October 2017) <https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Super-statistics/Super-accounts-data/Super-accounts-data-overview/>.
[15] Ibid.
[16] Ibid.
[17] Ibid

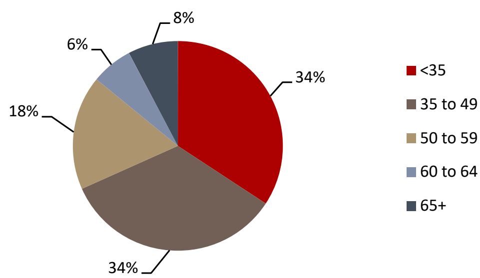
Table 1: Percentage of employees with more than one superannuation account

	2013	2014	2015	2016
One	55%	55%	57%	60%
Two	26%	26%	25%	25%
Three	11%	11%	10%	9%
Four	5%	5%	4%	4%
Five	2%	2%	2%	1%
Six+	2%	2%	2%	1%

Source: ATO[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).[19]

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



Source: APRA[20]

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).[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

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18 Ibid.

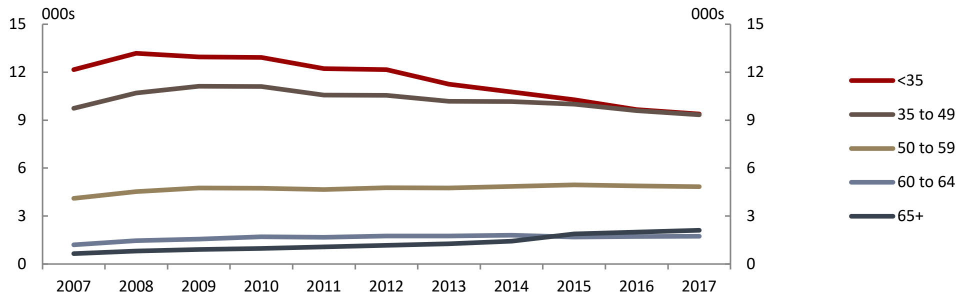
19 Figures calculated from Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin, June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 12b Membership profile by gender and age – trend).

20 Ibid.

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



Source: APRA[22]

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] The

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22 Ibid.

23 Review of the Governance, Efficiency Structure and Operation of Australia's Superannuation System, *Final Report Part 1: Overview and Recommendations* (30 June 2010) 8 <https://static.treasury.gov.au/uploads/sites/1/2017/06/R2009-001_Final_Report_Part_1_Consolidated.pdf>.

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]

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[25] Ibid.

[26] Australian Bureau of Statistics, *4228.0 - Programme for the International Assessment of Adult Competencies, Australia, 2011-12* (9 October 2013) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4228.02011-12?OpenDocument> (Spreadsheet: Programme for the International Assessment of Adult Competencies, 2011-12, Table 1 Literacy, Numeracy and Problem solving in technology-rich environments skill level of persons aged 15–74 years, By sex).

[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).

[28] Productivity Commission, *Superannuation: Assessing Efficiency and Competitiveness – Draft report* (April 2018) 23 <http://www.pc.gov.au/__data/assets/pdf_file/0003/228171/superannuation-assessment-draft.pdf>.

[29] Productivity Commission, *Superannuation: Assessing Efficiency and Competitiveness – Draft report* (April 2018) 219 <http://www.pc.gov.au/__data/assets/pdf_file/0003/228171/superannuation-assessment-draft.pdf>.

[30] Ibid, citing Lusardi and Mitchell (2014).

[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'.

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[32] Australian Government Fair Work Ombudsman, *Tax & Superannuation: Superannuation guarantee*, <https://www.fairwork.gov.au/pay/tax-and-superannuation>.

[33] Australian Securities and Investments Commission, *How super works: How to choose a super fund* (4 September 2017), ASIC's MoneySmart, <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works>.

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]

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[34] Ibid.

[35] Australian Prudential Regulation Authority, *Statistics: Quarterly Superannuation Performance, March 2018* (29 May 2018) 9 <https://www.apra.gov.au/sites/default/files/1805-QSP-1803.pdf>

[36] See generally Australian Securities and Investments Commission, *MySuper: What is MySuper?* (3 July 2018), ASIC's MoneySmart, <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/choosing-a-super-fund/mysuper>.

[37] The three different types of MySuper products are authorised under the *Superannuation Industry (Supervision) Act 1993* s27T, s29TA and s29TB. See Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf> (definitions of 'Generic MySuper products', 'Large Employer MySuper product', 'Material Goodwill MySuper product).

[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)

Chart 5: Share of member accounts by type, as at 30 June 2017

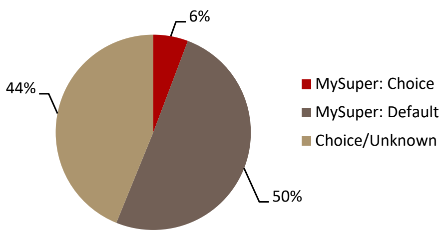
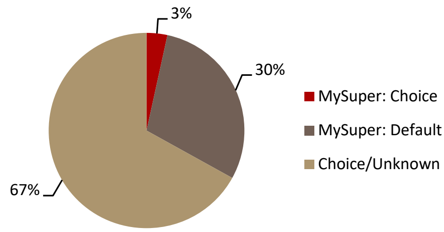


Chart 6: Share of member benefits by type, as at 30 June 2017



Source: APRA[39]

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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<https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 11b Member profile by account type and by fund type – trend).

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>.

41 See Fair Work Commission, *Varying modern award default fund terms* (12 February 2016) <https://www.fwc.gov.au/awards-and-agreements/modern-award-reviews/superannuation-fund-reviews/overview/varying-modern-award>.

choice of fund.[42] 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'.[43]

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.[44] Trustees of SMSFs are considered to be acting in their own interests[45] and therefore are not regulated by APRA, unlike superannuation fund trustees who are separate from the members of the fund.[46] SMSFs are regulated by the Australian Taxation Office.[47]

3.3.5. Exempt public sector superannuation schemes (EPSSSs)

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.[48]

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42 Australian Securities and Investments Commission, *How super works: How to choose a super fund* (4 September 2017), ASIC's MoneySmart, <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works>.

43 See Australian Government, *Improving Australia's financial system: Government response to the Financial System Inquiry* (20 October 2015) 14 <https://static.treasury.gov.au/uploads/sites/1/2017/06/Government_response_to_FSI_2015.pdf>.

44 Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf> (definition of 'Self-managed superannuation fund).

45 See Australian Taxation Office, *Thinking about self-managed super* (28 October 2015) <https://www.ato.gov.au/Super/Self-managed-super-funds/Thinking-about-self-managed-super/>.

46 See generally Australian Taxation Office, *Compare SMSFs with other super funds* (29 October 2015) <https://www.ato.gov.au/Super/Self-managed-super-funds/Thinking-about-self-managed-super/Compare-SMSFs-with-other-super-funds/>.

47 Ibid.

48 See Australian Prudential Regulation Authority, *Exempt Public Sector Superannuation Schemes (EPSSS)* <https://www.apra.gov.au/exempt-public-sector-superannuation-schemes-epsss>; *Superannuation Industry (Supervision) Regulations 1994*, Schedule 1AA.

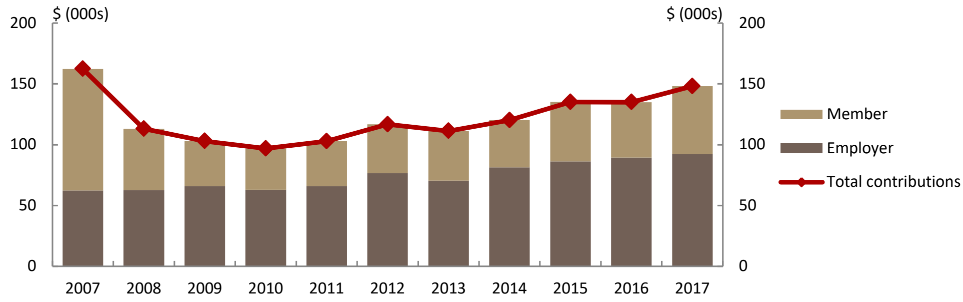
3.4. Superannuation contributions

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.[49] 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.[50]

49 Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 4a Financial performance by fund type - trend). Total contributions (employer and member) are used.

50 See Australian Government, *Simplified Superannuation: Simplified Superannuation – Final Decisions* (5 September 2006) <http://simplersuper.treasury.gov.au/documents/decision/html/final_decision_full.asp>.

Chart 7: Employer and member contributions, 2007 to 2017



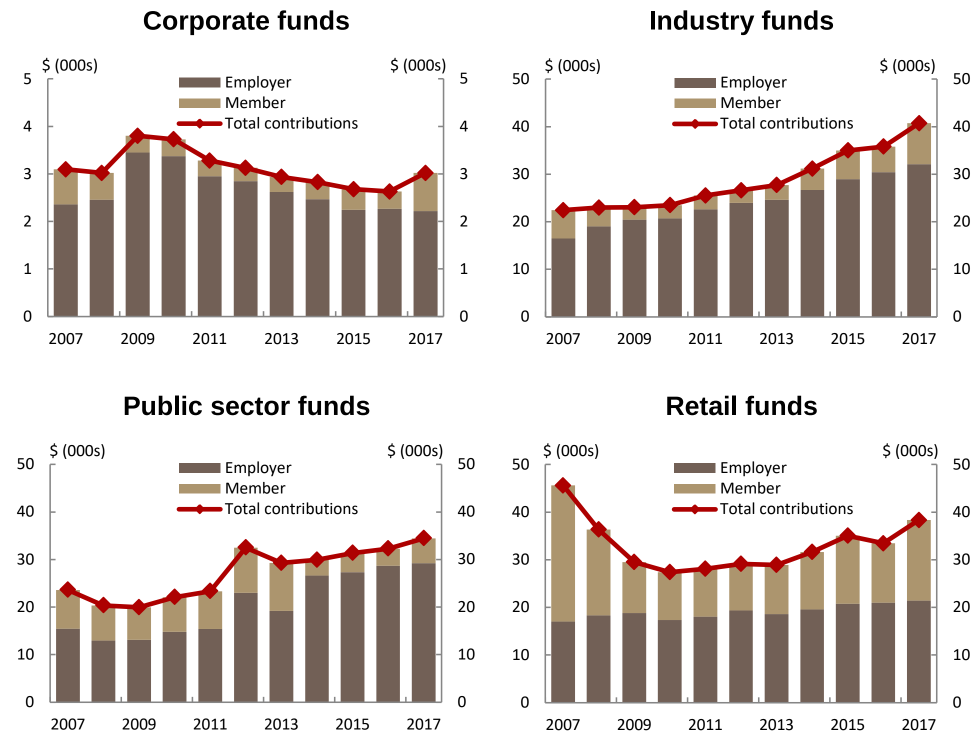
Source: APRA[51]

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).[52]

[51] Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 4a Financial performance by fund type - trend). Total contributions (employer and member) are used.

[52] Types of superannuation funds are discussed in Section 4. Ibid.

Chart 8: Employer and member contributions by fund type, 2007 to 2017



Source: APRA[53]

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.[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.[55] The difference in the average superannuation account balances of males and females are most stark in corporate funds and public sector funds.

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53 Ibid.

54 Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 11d Member profile by gender and fund type - trend).

55 Types of superannuation funds are discussed in Section 4.

Table 2: Male and female average superannuation account balances, as at 30 June 2018

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

Source: APRA[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).[57]

Females are also more likely to work part-time (see Chart 10),[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.[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).[60]

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56 Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 11d Member profile by gender and fund type - trend).

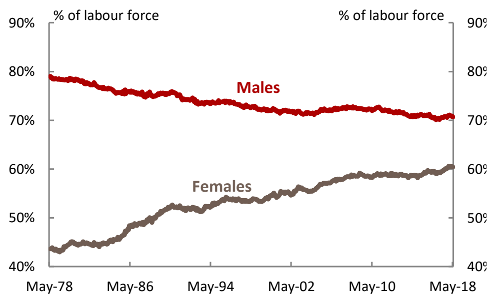
57 Australian Bureau of Statistics, 6202.0 - Labour Force, Australia, May 2018 (14 June 2018) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6202.0May%202018?OpenDocument> (Table 1. Labour force status by Sex, Australia - Trend, Seasonally adjusted and Original). Seasonally adjusted data are used.

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'.

59 Women In Super, *Women and Super – Why the Numbers Don't Stack Up* <http://www.womeninsuper.com.au/content/the-facts-about-women-and-super/gjumzs>.

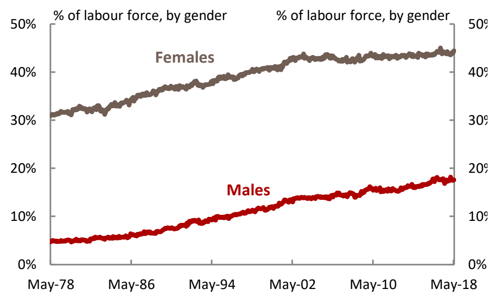
60 Australian Bureau of Statistics, *6302.0 – Average Weekly Earnings, Australia, Nov 2017* (22 February 2018) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6302.0Nov%202017?OpenDocument> (TABLE 2. Average Weekly Earnings, Australia (Dollars) - Seasonally Adjusted).

Chart 9: Labour force participation rates, 1978 to 2018



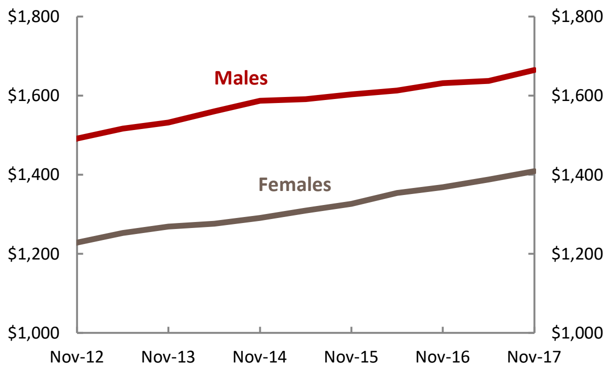
Source: ABS[61]

Chart 10: Part-time employment rates, 1978 to 2018



Source: ABS[62]

Chart 11: Average weekly ordinary time earnings, 2012 to 2017



Source: ABS[63]

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.[64] An individual or a company (the 'trustee') holds superannuation

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61 Australian Bureau of Statistics, 6202.0 - Labour Force, Australia, May 2018 (14 June 2018) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6202.0May%202018?OpenDocument> (Table 1. Labour force status by Sex, Australia - Trend, Seasonally adjusted and Original). Seasonally adjusted data are used.

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'.

63 Australian Bureau of Statistics, *6302.0 – Average Weekly Earnings, Australia, Nov 2017* (22 February 2018) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6302.0Nov%202017?OpenDocument> (TABLE 2. Average Weekly Earnings, Australia (Dollars) - Seasonally Adjusted).

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

assets for the benefit of another person (the 'beneficiary'),[65] which is the superannuation fund member, or their dependants upon the member's death.[66]

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.[67]

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).[68] 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).[69]

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65 See generally Australian Taxation Office, *Trustees and beneficiaries* (10 September 2015) <https://www.ato.gov.au/General/Trusts/Trustees-and-beneficiaries/>.

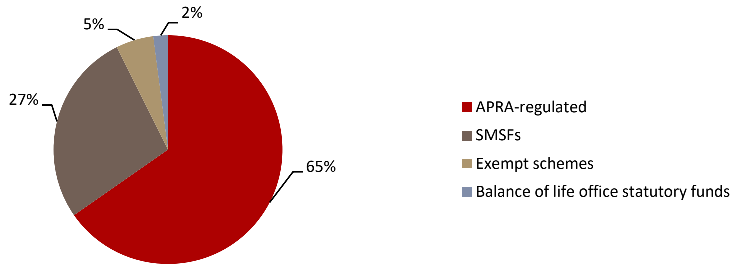
66 Australian Securities and Investments Commission, *Glossary – beneficiary* (28 July 2015) ASIC's MoneySmart <https://www.moneysmart.gov.au/glossary/b/beneficiary>.

67 Points summarised from Australian Taxation Office, *Fund type definitions,* Super Fund Lookup <https://superfundlookup.gov.au/Help/FundTypeDefinitions>.

68 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').

69 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').

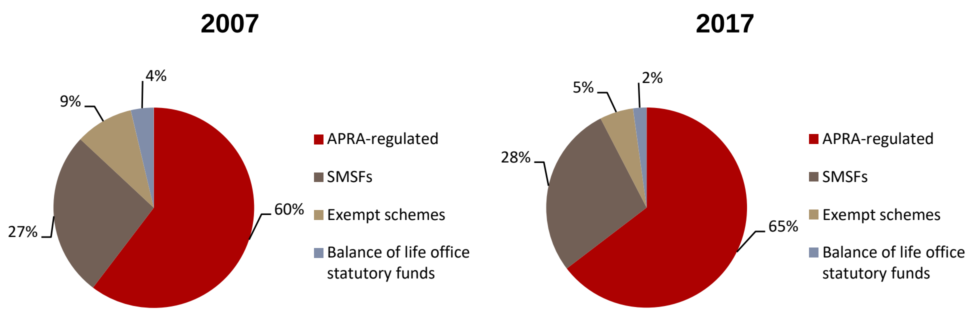
Chart 12: Share of assets held by superannuation funds, as at 31 March 2018



Source: APRA[70]

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).[71]

Chart 13: Change in share of assets held by superannuation funds, 2007 to 2017



Source: APRA[72]

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

70 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’).

71 Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 8a Total superannuation assets - trend).

72 Ibid.

of the fund, so SAFs are regulated by APRA.[73] 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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73 See e.g. Australian Executor Trustees, *Small APRA funds* < http://www.aetlimited.com.au/smsf-services/for-advisers/small-apra-funds>.

74 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').

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

76 Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf> (definition of 'Corporate funds').

77 Australian Prudential Regulation Authority, *Types of super funds: Corporate funds* (18 October 2017) ASIC's MoneySmart <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/choosing-a-super-fund/types-of-super-funds>.

78 Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf> (definition of 'Industry funds').

79 Australian Prudential Regulation Authority, *Types of super funds: Industry funds* (18 October 2017) ASIC's MoneySmart <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/choosing-a-super-fund/types-of-super-funds>.

80 Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf> (definition of 'Public sector funds').

81 Australian Prudential Regulation Authority, *Types of super funds: Public sector funds* (18 October 2017) ASIC's MoneySmart <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/choosing-a-super-fund/types-of-super-funds>.

- **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).[82] Retail funds are usually run by banks and investment companies and generally have a large number of investment options.[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[84]) until funds are withdrawn or a condition of release is satisfied.[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'.[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.[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).[88]

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82 Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf> (definition of 'Retail funds').

83 Australian Prudential Regulation Authority, *Types of super funds: Retail funds* (18 October 2017) ASIC's MoneySmart <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/choosing-a-super-fund/types-of-super-funds>.

84 Australian Government, Australian Business Register, *Approved Deposit Fund* ABN Lookup <https://abr.business.gov.au/Help/EntityTypeDescription?Id=1>.

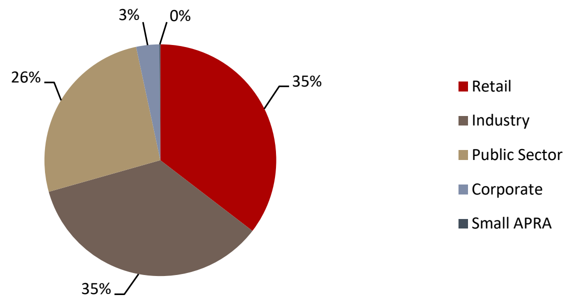
85 Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf> (definition of 'Approved deposit funds (ADFs)').

86 Ibid (definition of 'Eligible Rollover Funds (ERFs)').

87 Ibid (definition of 'Pooled Superannuation Trusts (PSTs)').

88 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').

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[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).[90]

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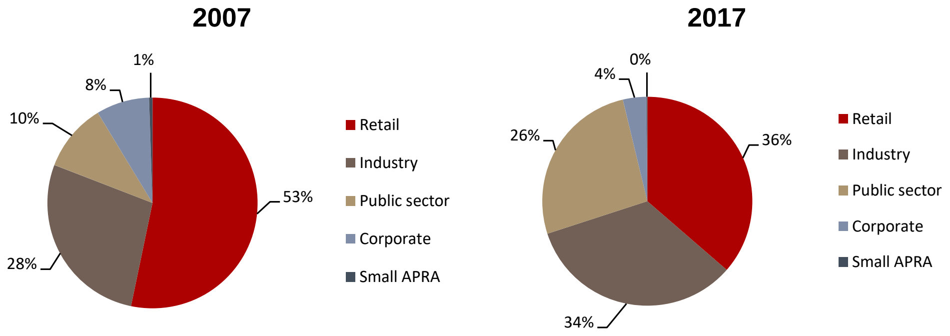
89 Ibid.

90 Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 8a Total superannuation assets - trend).

Chart 15: Change in share of assets held by APRA-regulated superannuation funds, 2007 to 2017

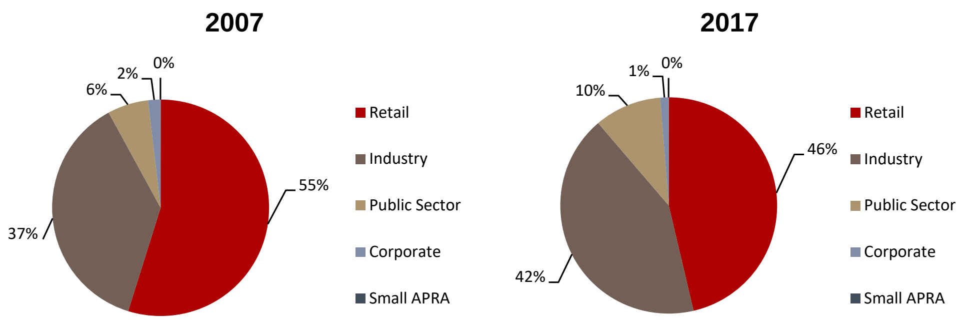


Calculation of these percentages does not include funds which are not regulated by APRA.

Source: APRA[91]

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]

Chart 16: Change in share of accounts held by APRA-regulated superannuation funds, 2007 to 2017



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

Source: APRA[93]

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

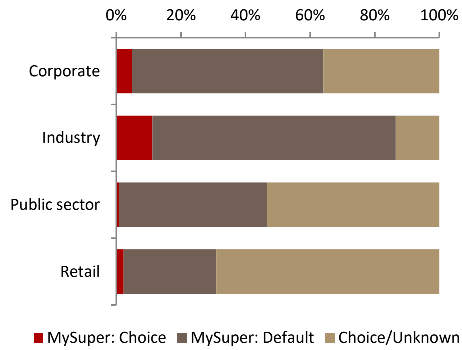
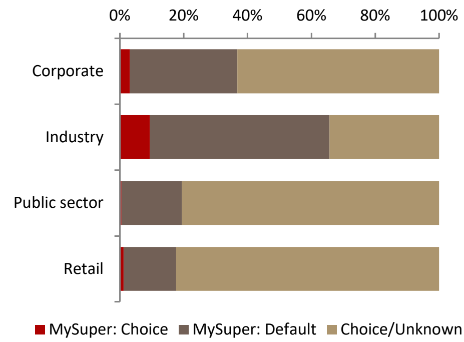


Chart 18: Share of member benefits by type, as at 30 June 2017



Source: APRA[95]

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).
96 Financial System Inquiry, *Final Report* (November 2014) 103 <http://fsi.gov.au/files/2014/12/FSI_Final_Report_Consolidated20141210.pdf>.
97 Ibid.
98 Data calculated from Australian Prudential Regulation Authority, *Statistics: Annual Fund-level Superannuation Statistics June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-AFLSS-201706.xlsx> (Table 2: Fund-level profile and structure).

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,

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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.[105] 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'[106] 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'.[107] 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.[108]

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.[109]

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).[110] 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.[111]

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[105] The 2014 Financial System Inquiry recommended mandating a majority of independent directors on the board of corporate trustees of public offer superannuation funds, including an independent chair. See Australian Government, *Improving Australia's financial system: Government response to the Financial System Inquiry* (20 October 2015) 14 <https://static.treasury.gov.au/uploads/sites/1/2017/06/Government_response_to_FSI_2015.pdf>.

[106] *Superannuation Industry (Supervision) Act 1993*, s229(1).

[107] Ibid.

[108] *Superannuation (Financial Assistance Funding) Levy Act 1993,* s6(1) and s7(1).

[109] See Australian Government, Australian Taxation Office, *Compare SMSFs with other super funds: Fraudulent conduct or theft* (29 October 2015) <https://www.ato.gov.au/Super/Self-managed-super-funds/Thinking-about-self-managed-super/Compare-SMSFs-with-other-super-funds/>.

[110] Australian Government, The Treasury, *Review of the Trio Capital Fraud and Assessment of the Regulatory Framework* (2013) 6 <https://static.treasury.gov.au/uploads/sites/1/2017/06/Trio_Capital_Fraud_Review.pdf>.

[111] See The Hon Kelly O'Dwyer MP, Minister for Revenue and Financial Services (in her former role of Minister for Small Business and Assistant Treasurer), 'Government decision on financial

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.[112] Similar to a managed fund, money is pooled with other members' money and invested on a member's behalf by investment managers.[113] 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.[114] 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[115]) or 'passive' (where a manager will match the performances of certain market indices rather than trying to outperform them[116]).

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;

assistance relating to the collapse of Trio Capital' (Media Release) 1 April 2016 <http://kmo.ministers.treasury.gov.au/media-release/032-2016/>.

112 Australian Securities and Investments Commission, *Super investment options* (27 March 2018) ASIC's MoneySmart <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/super-investment-options>.

113 Australian Securities and Investments Commission, *How super works* (4 September 2017) <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works>.

114 See generally Investopedia, *Risk-Return Tradeoff* <https://www.investopedia.com/terms/r/riskreturntradeoff.asp>.

115 Dan Hunt, *A New Take on the Active vs. Passive Investing Debate* (17 January 2018) Morgan Stanley, <https://www.morganstanley.com/access/active-vs-passive-investing>.

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.[117]

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.[118]

- 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.[119]

- 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.[120]

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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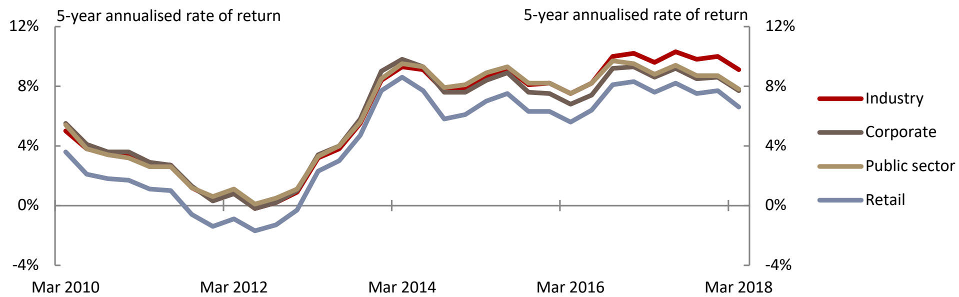
117 Points summarised from Australian Securities and Investments Commission, *Super investment options* (27 March 2018) ASIC's MoneySmart <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/super-investment-options>.
118 See Australian Securities and Investments Commission, *Master trusts & wraps* (19 April 2017) ASIC's MoneySmart <https://www.moneysmart.gov.au/investing/financial-advice/meeting-with-a-financial-adviser/master-trusts-and-wraps>.
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]

Chart 19: 5-year annualised rate of return, by fund type, 2010 to 2018



Source: APRA[123]

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121 Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf> (definition of 'Rate of return').

122 Australian Prudential Regulation Authority, *Statistics: Quarterly Superannuation Performance, March 2018* (29 May 2018) <https://www.apra.gov.au/sites/default/files/1805-QSP-1803.xlsx> (Spreadsheet Table 2c Corporate funds - performance ratios, Table 3c Industry funds - performance ratios, Table 4c Public sector funds - performance ratios, Table 5c Retail funds - performance ratios).

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

Fee type	Description
Administration	Relates to the administration or operation of the fund
Investment	Relates to the investments of the assets of the fund
Insurance	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
Advice	Relates to the provision of financial product advice to a member by the trustee
Activity	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
Switching	Charged to recover costs of switching all or part of members' interests within the fund
Exit	Charged to recover the costs of disposing of all or part of members' interests in a fund

Source: APRA[124]

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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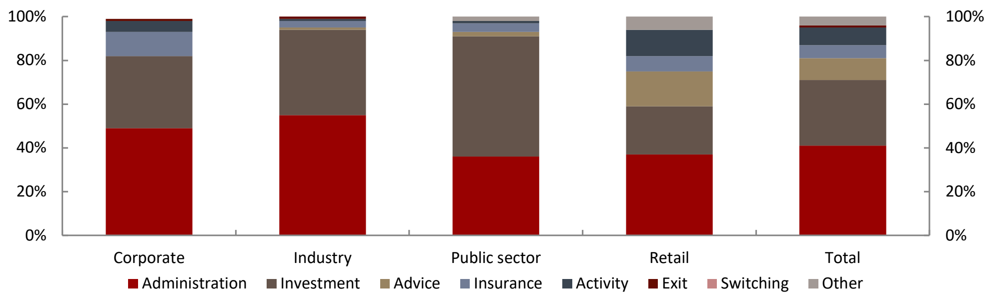
124 Definitions summarised from relevant entries in Australian Prudential Regulation Authority, *Annual Superannuation Bulletin Glossary* (28 March 2018) <https://www.apra.gov.au/sites/default/files/Glossary%2520ASB.pdf>.

125 Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 6a. Fees paid by source of payment by fund type).

Chart 20: Proportion of total fees by fund type, as at 30 June 2017

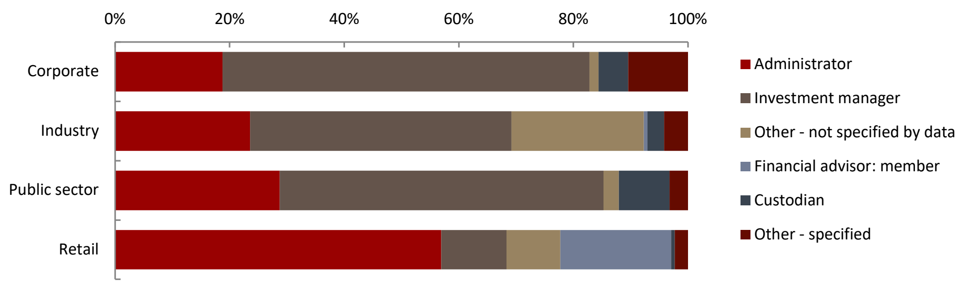


Source: APRA[126]

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.

Chart 21: Share of superannuation fund expenses by fund type, as at 30 June 2017



Source: APRA[127]

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[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.'[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'.[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'.[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'.[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

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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] <http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/s1089_ems_7cfefa66-ce46-4014-97e3-fcadbfeb9fdb/upload_pdf/645979em.pdf;fileType=application%2Fpdf>.

129 Ibid.

130 Association of Superannuation Funds of Australia, *ASFA survey on the provision of financial advice by superannuation funds* (2014) 4 <https://www.superannuation.asn.au/ArticleDocuments/359/1402-ASFA-survey-provision-financial-advice.pdf.aspx?Embed=Y>.

131 Ibid.

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).[133] 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.[134]

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’.[135] 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).[136]

Superannuation funds who offer a MySuper product must offer both death and TPD insurance cover on an opt-out basis to MySuper members.[137] 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.[138] 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.[139]

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133 Australian Securities and Investments Commission, *Insurance through super* (15 September 2017) ASIC’s MoneySmart <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/insurance-through-super>.
134 Ibid.
135 Australian Securities and Investments Commission, *Report 529: Member experience of superannuation* (June 2017) 14 <https://download.asic.gov.au/media/4346029/rep529-published-30-june-2017.pdf>.
136 See generally Australian Securities and Investments Commission, *Insurance through super: Why get life insurance through your super?* ASIC’s MoneySmart <https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/insurance-through-super>.
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

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140 Productivity Commission, *Superannuation: Assessing Efficiency and Competitiveness – Draft report* (April 2018) 245 <http://www.pc.gov.au/__data/assets/pdf_file/0003/228171/superannuation-assessment-draft.pdf>.

141 The Hon Kelly O'Dwyer MP, Minister for Revenue and Financial Services, 'Encouraging and rewarding Australians by protecting your superannuation' (Media release) 8 May 2018 <http://kmo.ministers.treasury.gov.au/media-release/050-2018/>.

142 Ibid.

143 Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 18a MySuper products changes in membership profile by fund type - trend).

suggests that a ‘range of evidence indicates that fund and investment switching rates are modest … between 2 and 10 per cent of members’[144] and ‘around half do so because they change jobs or their employer switches fund providers’.[145] The Productivity Commission estimates that the annual rate of switching investment options is around 6% to 9% of members.’[146]

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.[147]

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.[148] 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.[149]

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

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[144] Productivity Commission, *Superannuation: Assessing Efficiency and Competitiveness – Draft report* (April 2018) 226 <http://www.pc.gov.au/__data/assets/pdf_file/0003/228171/superannuation-assessment-draft.pdf>.
[145] Ibid 217.
[146] Ibid.
[147] Rice Warner, commissioned by Industry Super Australia, *Member switching* (12 September 2017) 2-3 <http://www.industrysuperaustralia.com/assets/Reports/Rice-Warner-Industry-Super-Member-Switching-180917-FN-1.pdf>.
[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).[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.[151]

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[150] Roy Morgan Research, *Over $35 billion in superannuation switched but nearly one third of switchers didn't get any advice* (6 January 2016) <http://www.roymorgan.com/findings/6617-over-35-billion-in-super-switched-but-nearly-one-third-didnt-get-advice-201601052255>.

[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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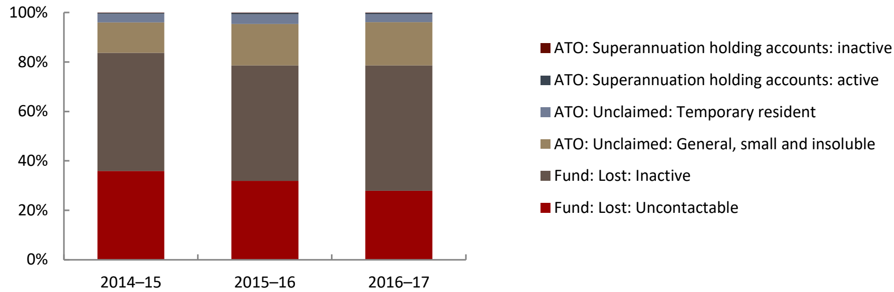
[152] Points summarised from Australian Taxation office, *What a lost member is* (3 January 2017) <https://www.ato.gov.au/super/apra-regulated-funds/in-detail/apra-resources/protocols/lost-members-register---protocol-document/?page=3>.

[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.

[154] Australian Taxation Office, *Lost members register – protocol document: Legislative content* (3 January 2017) <https://www.ato.gov.au/Super/APRA-regulated-funds/In-detail/APRA-resources/Protocols/Lost-members-register---protocol-document/?page=2#Legislative_content>.

$14 billion was held with superannuation funds (lost inactive or lost uncontactable), with the remaining held by the ATO (see Chart 22).[155]

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



Source: ATO[156]

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

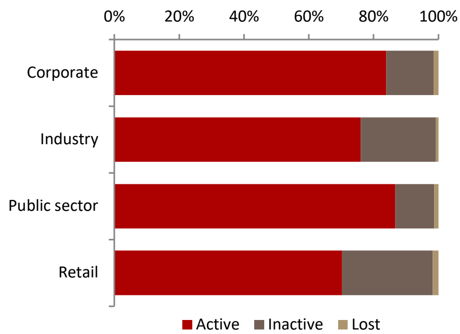
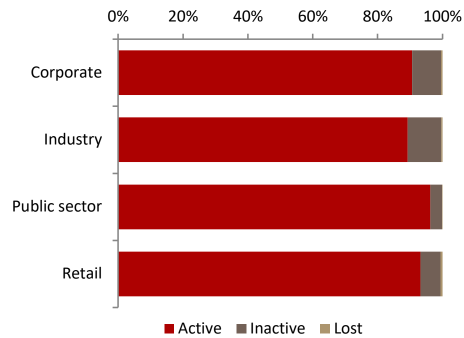


Chart 24: Share of member benefits by status, as at 30 June 2017



Source: APRA[157]

155 Australian Taxation Office, *Super accounts data overview: Lost and ATO-held super* (9 October 2017) <https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Super-statistics/Super-accounts-data/Super-accounts-data-overview/>.

156 Ibid.

157 Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 11b Member profile by account type and by fund type – trend).

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 benefits[159] 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]

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158 Australian Taxation Office, *Conditions of release* (2 May 2016) <https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Conditions-of-release/#Retirementundersuperlaws>.

159 All contributions made by or on behalf of a member, and all earnings since 30 June 1999 are preserved benefits Preserved benefits may be cashed voluntarily only if a condition of release is met. Other rules apply to the cashing of non-preserved benefits. See Australian Taxation Office, *Preservation of super: preserved benefits* (1 December 2015) <https://www.ato.gov.au/super/self-managed-super-funds/paying-benefits/preservation-of-super/#Preservedbenefits>.

160 Australian Taxation Office, *Conditions of release* (2 May 2016) <https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Conditions-of-release/#Retirementundersuperlaws>.

161 Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018) <https://www.apra.gov.au/sites/default/files/2018-ASB-201706.xlsx> (Table 5a Members' benefit payments by condition of release - trend).

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’.[162] 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.[163]

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[162] Superannuation Complaints Tribunal, *Death benefits* (July 2014) 1 <http://www.sct.gov.au/dreamcms/app/webroot/uploads/documents/Death%20Brochure%20Web.pdf>.

[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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[164] *Superannuation Industry (Supervision) Act 1993*, s101.
[165] *Superannuation (Resolution of Complaints) Act 1993*, s6.
[166] Ibid s37-s37G.
[167] Ibid s19.
[168] Superannuation Complaints Tribunal, *Annual Report 2016-17* (19 September 2017) 25-27 <http://www.sct.gov.au/dreamcms/app/webroot/uploads/documents/Superannuation%20Complaints%20Tribunal%20Annual%20Report%202016-17%20-%20web.pdf>.
[169] Review of the financial system external dispute resolution and complaints framework, *Final Report* (April 2017) 14 <https://static.treasury.gov.au/uploads/sites/1/2017/06/R2016-002_EDR-Review-Final-report.pdf>.

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.[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.[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.[172]

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[170] *Treasury Laws Amendment (Putting Consumers First – Establishment of the Australian Financial Complaints Authority) Act 2018.*

[171] Superannuation Complaints Tribunal, *Authorisation of body to operate the Australian Financial Complaints Authority* <http://www.sct.gov.au/latest-news/authorisation-of-body-to-operate-the-australian-financial-complaints-authority>.

[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 <http://kmo.ministers.treasury.gov.au/media-release/044-2018/>.