



30 June 2022

TO: ALL RSE LICENSEES OF DEFINED BENEFIT FUNDS

REVIEW OF AMENDMENTS TO THE SUPERANNUATION GUARANTEE (ADMINISTRATION) ACT 1992

The *Superannuation Guarantee (Administration) Act 1992* (SGAA) was amended on 4 September 2020 by the *Treasury Laws Amendment (Your Superannuation, Your Choice) Act 2020* (Your Superannuation, Your Choice Act).

The amendments provide that employers who make contributions for employees under workplace determinations or enterprise agreements made on or after 1 January 2021 need to provide those employees with choice of fund.¹ Prior to the amendments, employers did not have to provide choice of fund to employees where contributions were made for an employee under a workplace determination or enterprise agreement, regardless of when the determination or agreement was made. The amendments extend the circumstances in which choice of fund must be offered to employees and enable more employees to choose a superannuation fund.

Failure to comply with the choice of fund requirements in respect of an employee (other than in limited circumstances) attracts a penalty increase to the individual superannuation guarantee shortfall. The SGAA was amended to clarify the limited circumstances where employers would not have an increased individual superannuation guarantee shortfall for failing to provide choice of fund to certain members of a Defined Benefit scheme (DB scheme).²

The Your Superannuation, Your Choice Act requires APRA to conduct a review to identify any unintended consequences of the amendments to the SGAA on the operation of DB schemes, including the ongoing viability and profitability of DB schemes, and consider whether any amendments are necessary to rectify any unintended consequences identified by the review.

The purpose of this letter is to seek your input into APRA's review of the impact of the amendments on DB schemes, with reference to the questions listed below. Accordingly, these questions are designed to help us understand the implications of the amendments on your DB scheme, in terms of operations, profitability, funding and viability, and any resulting actions taken since September 2020. We recognise that not all questions will be relevant for all DB

¹ Refer to the *Treasury Laws Amendment (Your Superannuation, Your Choice) Act 2020* (the Your Superannuation, Your Choice Act), which commenced on 4 September 2020.

² Subsections 20(2) and (3) provide a carve out from the requirement that an employer provide choice of fund to certain DB members, in line with the carve out under subsection 32NA(7) and (8). The new subsection 20(3A) is a technical amendment to provide a carve out in line with subsection 32NA(9). Subsection 20(3A) is satisfied if the employee would be entitled on their retirement, resignation or retrenchment to the same amount of benefit from the DB scheme, whether or not the employer had made contributions for the employee to a different fund.

schemes, so please respond to those questions that apply to your DB schemes. Please also provide any additional data, as necessary, to inform your responses.

Topic	Questions
About your DB schemes(s)	<ol style="list-style-type: none"> 1. Do you currently have any DB schemes that are open to new members? If so, how many? 2. Have any of your DB schemes closed to new members since 30 June 2020? If yes, what was the reason for closing the scheme? 3. Have you wound-up any DB schemes since 30 June 2020? If so, what was the reason for winding up the scheme?
Overall impacts on DB scheme	<ol style="list-style-type: none"> 4. How have the amendments affected your DB scheme(s)? In particular, have the amendments affected the operation, profitability, funding and viability of your DB scheme(s)? Please provide details, including any impact on the vested benefits index (VBI) resulting from the changes. 5. Have you taken any actions as a direct consequence of the amendments? For example, have you provided information about the amendments, and their impact, to members? If so, please provide details about these actions.
Impacts on choice of fund	<ol style="list-style-type: none"> 6. How many members of your DB scheme have opened, or moved to, non-DB products since 1 January 2021? Please provide details where you are aware these members have done so, to access choice of fund. 7. Are there any members for whom notional contributions were made into your DB scheme under a workplace determination or enterprise agreement in circumstances not covered by ss. 20(2) to (3A)? Please provide details about the number of members affected and how many are eligible for choice of fund as a result of the amendments made by the Act. 8. How many of the employers of the members of your DB scheme offered choice of fund to the members as a result of the amendments? Where this has been the case, how has this choice been offered to members? 9. Do your fund rules permit employers to offer choice of fund on a voluntary basis? If so, have any employers offered choice of fund to any members of your DB scheme on a voluntary basis since 1 January 2021? How has this choice been offered to members? 10. Have any employers ceased to provide choice of fund to employees who fall within ss. 20(3A) and do they now contribute to the DB scheme in respect of those employees as a result of this amendment?
Impacts on exemption from shortfall	<ol style="list-style-type: none"> 11. Before September 2020, were any of the employers of members of your DB scheme subject to a penalty increase in the SG shortfall under subsection 19(2B) as a result of not providing choice of fund to members of the DB scheme who would otherwise have fallen within the new s. 20(3A)? 12. Please provide any other information relating to the impacts of ss. 20(3A) (if any) on your DB scheme.

Topic	Questions
Any other impacts	13. Do you have any further comments to make about the impact of these amendments beyond those outlined above?

Our review will also be informed by the annual data reported to APRA under *Reporting Standard SRS 160.0 Defined Benefit Matters* (SRS 160.0) and *Reporting Standard SRS 160.1 Defined Benefit Member Flows* (SRS 160.1).

To the extent not already reported to APRA, please provide the data requested in the table below.

Request for data	As at 30 June 2020	As at 30 June 2021	As at 31 May 2022
How many DB schemes are under your trusteeship? (both open and closed to new members)			
How many DB members are in each of your DB schemes? How many members joined your open DB schemes in the previous 12 months? How many members exited your DB schemes in the previous 12 months?			
What is the total assets held your DB schemes? (\$'000)			

The consultation will be open for 10 weeks, closing on 8 September 2022. APRA invites your responses to the consultation. Written responses on the consultation should be sent to superannuation.policy@apra.gov.au by 8 September 2022.

If you have any queries regarding this letter, please contact your responsible supervisor.

Yours sincerely

Renée Roberts

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