AIST

AIST response to APRA paper on data publication and confidentiality

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AIST

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the $1.7 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST advocates for financial wellbeing in retirement for all Australians regardless of their gender, culture, education or socio-economic background. Through leadership and excellence, AIST supports profit-to-member funds to achieve member-first outcomes and fairness across the retirement system.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

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Executive summary

AIST has a longstanding commitment to transparency and disclosure throughout superannuation, including support for detailed and meaningful information being published by the Australian Prudential Regulation Authority (APRA). We support the publication of additional information about all superannuation products, funds and the industry.

We and the profit-to-member funds we represent have been active participants in Government and APRA data reporting, collection and publication initiatives for the past decade, and are committed to improving their outcomes.

The AIST response addresses a range of issues raised in the discussion paper. Most notably, AIST:

- Calls for APRA to more strongly recognise that the disclosure of **commercially sensitive information** may impede the ability of funds to deliver the best returns for members.
- Strongly advocates for **industry type segmentation** (e.g., industry fund, retail fund) of performance, fee and other, as the large and persisting outperformance of profit-to-member funds is of critical importance to consumers, fund members and any understanding of the superannuation system.
- Calls for a **review of risk related metrics**, with a view to establishing a simple measure that is meaningful and useful to consumers and fund members.
- Agrees with the proposal for products to be grouped in APRA publications by their **growth/defensive assets ratio**.
- Recommends the **deferral of further insurance publications** by a year and priority consultation with to improve comparability and remove areas where there may be misinterpretation.
- Seeks the **aggregation of expense information at the level of expense group classification** in the first annual publication of fund and product level data, following by a review of outcomes.
- Recommends that the '**Expense Group Type' be amended** to include a separate category for financial planning and advice related expenses, and for the reporting and publication of payment and donation data be separated in all instances.
- Recommends that information on **derivative exposure** should remain confidential, noting the disclosure of some derivative data in the Portfolio Holdings regime.
- Seeks the publication of actual asset allocation to be subject to the same delayed disclosure
- Calls for APRA to adopt the guiding principle for superannuation that disclosure must be meaningful and useful, in line with the approach taken in relation to banking

Submission

Introduction

AIST welcomes the opportunity to respond to the proposals in the publications and confidentiality discussion paper and makes the following comments following extensive discussion with our member super funds and iterative consultation process with APRA.

AIST and profit-to-member funds have appreciated the extensive and ongoing process that APRA has undertaken throughout Superannuation Data Transformation including focus groups for key topics and direct discussions with industry associations.

AIST supports the proposition that disclosure and meaningful publication of data generates greater understanding of superannuation and supports improved and informed decision-making.

However, even though this discussion paper has been published later than APRA initially intended, it is nonetheless premature given that APRA is still continuing to work with the industry focus group to clarify reporting requirements for asset allocation and expense reporting and has not expressed a final view on important elements of these requirements.

Aims of publications

AIST submits that the purpose of publishing superannuation data should be made clearer and more explicit by APRA, in order that the community can assess whether its aims are being fulfilled, while at the same time avoiding market sensitive disclosures that compromise member interests through appropriate confidentiality determinations.

AIST supports the objectives noted in the executive summary of the discussion paper and the overview of chapter three, that is:

> *Greater transparency in the superannuation industry will foster more informed public discussion of superannuation-related issues, promote better practices through comparability `and peer review and drive accountability in the industry.*

These objectives should be applied consistently across all areas of APRA's jurisdiction and respect any potential commercial concerns relating to the data collected from RSEs.

Existing publications should only be discontinued if there is a new equivalent, and APRA should restate the principle that there will be no reduction in the breadth, depth or quality of the data published.

Use of representative members

AIST supports the use of representative members and recommends that an account balance of $250,000 is used in addition to $10,000, $50,000 and $100,000.

Topic 4: Segmentation

AIST disagrees with the proposal in section 2.8.1 to not segment data in the new publications by fund type.

The assertion that product and investment option segmentation makes fund type segmentation less relevant is strongly disputed. The claim that increased superannuation fund consolidation makes fund type segmentation less distinct and not useful in relation to BFID obligations is also contested. AIST is only aware of one example of convergence between profit-to-member and retail.

If, however, APRA wanted to merge the industry, public sector and not-for-profit corporate fund types, this would not be opposed by AIST.

We highlight that the distinction between industry, public sector and not-for-profit corporate funds on the one hand, and retail funds on the other remains. For example, a clear and material distinction between industry and retail funds relates to how their MySuper products have been established. For retail funds, MySuper products are set up as stand-alone sub-plans; in industry funds, the MySuper product is set up at an investment option level. This difference strongly supports segmentation by fund type as it will allow a much clearer comparison between funds.

Member outcomes

AIST considers it prudent and necessary that the same principle that APRA is applying to all confidentiality determinations should apply to segmentation data. For example, APRA explicitly outlines that increasing transparency of collected data leads to improvements in member outcomes by pressuring RSE licensees to improve. AIST argues that removing fund-type segmentation is antithetical to this goal and is detrimental to members.

AIST acknowledges that there are some underperforming products in each fund type, however, the incidence of these is much lower for industry, public sector and not-for-profit corporate funds. This holds true across different types of products, be they conservative, balanced, or high growth products. Therefore making fund-type segmentation data available can only benefit members by allowing appropriate comparisons at all levels.

AIST argues that there must be a strong case for member detriment in publishing fund-type segmentation data. Otherwise, we reiterate that it should remain in the public domain to support the objectives APRA has outlined in the Discussion Paper, including increasing transparency to improve member outcomes, and enabling the use of data to inform member decision-making. This approach is consistent with the approach to the rest of the data collection and publishing.

It is in the public interest for the propensity of profit-to-member funds to outperform to be identified. It is also in the public interest if there is any change in the relative position of different industry types to be identified and brought to the public’s attention.

Each of the principles of informing the public, influencing by comparison and driving accountability is advanced by publishing fund type segmentation.

AIST recommends that data should be segmented in the new APRA publications by fund type.

Topic 5: Fees and costs arrangements

AIST agrees that representative member balance should be applied to illustrate fee arrangements. These should reflect heatmap balances and some higher balances should be considered.

Topic 6: Performance

Net return publications should be truly net of administration fees, and AIST agrees that publication should use highest fees for a representative member.

AIST notes that APRA proposes publication of risk-adjusted returns using the Sharpe Ratio. While this is the most commonly used measure of risk-adjusted returns, it can oversimplify the risks associated with an investment product, especially those which invest in assets that are not marked to marked daily such as unlisted property and infrastructure assets.

Furthermore, publication of a Sharpe Ratio would sit aside other related risk measures, such as the Standard Risk Measure, Target Returns (expressed as 'CPI plus') and Your Future Your Super performance assessment.

Despite this plethora of risk-related metrics, the challenge of taking account of risk and conveying its impact on returns, particularly in a way that is comprehensible and useful to consumers, remains unfinished business. APRA should use this opportunity to articulate and hopefully simplify the use of each risk metric, and the purpose for which they will be used.

AIST has been advocating for more than 10 years for the development of a risk measure that is meaningful and of use to consumers. In the context of the 'temporary' use of the Standard Risk Measure that was (and remains a component of the MySuper Product Dashboard, AIST submitted to the Parliamentary Joint Committee on Corporations and Financial Services in October 2012 that: clearly identify a process and a timetable (of not more than 18 months from 1 July 2013) for implementing a more fit-for-purpose risk measure.

AIST has been involved in the development of alternate risk measures, including those developed by RiceWarner, the Actuaries Institute and AustralianSuper. Each of these should be reconsidered in a structured consultation by APRA. However, this consultation should also aim to simplify and reduce the number of related-related measures to be used by consumers.

AIST recommends that APRA undertakes the long-delayed review of risk-related metrics, including alternatives to the Sharpe Ratio and the Standard Risk Measure.

AIST supports publication of return objectives reported under SRF 705.1 Table 1 for TDP investment options but submits that Return Objective Target Return should also be published.

Target return disclosure is a key part of MySuper product dashboards. It is a future looking metric and provides a significant public benefit by recording a trustee's future targets. Publication of these targets at a product level will support an assessment of the fund's ability to set and meet objectives.

Topic 7: Asset allocation

AIST generally supports the proposed asset class categories proposed to be published. AIST suggests that these be reviewed following the first full year of publication, including consideration of other asset class characteristics that should be published.

AIST recommends publication of data segmented by allocation to growth assets in bands. Segmentation on this basis will make it easier to compare and understand the performance of products on a 'like-for-like' basis.

These bands should follow the ranges similar to the ones used by the major ratings agencies. For example, the publication of data could be segmented under the bands shown below.

High Growth	Growth	Balanced	Conservative
81-100% Growth	61-80% Growth	41-60% Growth	21-40% Growth

Topic 8: Insurance

Insurance fee difference

Subject to the timing issue identified in the next point, AIST generally supports the calculation of the difference between premiums paid by members and premiums paid to insurers, subject to caveats about terminology and calculation period.

This should not be identified as a fee, as it is not an additional amount charged to the member. It would be double counted if added to the premium to imply total cost to the member. Activity Fees (including Insurance fee) is included in Fees and Costs (SRS 706) and that the Cost of cover amount disclosed to APRA in Insurance (SRS 250) means '*the total amount deducted from a member's account in order to pay for the insurance cover provided. This may include both an insurance premium paid to the insurer and an insurance fee collected by the RSE*.'

There may be timing differences which should be taken into account. Fees are reported in the year they are paid to a fund, while the rebate relates to years of claims experiences and the ongoing level of confidence about claim levels.

While these figures should largely balance over time, this will take more than a year. This is most likely to be the case in relation to premium adjustments, and the differences should be published using a 3-5-year time horizon. Other factors linked to these payments include tax deductions for insurance premiums, insurance reserves and member rate subsidies (top ups or repatriations). This context will not be easy to explain and risks confusing members.

If a short time horizon is used it is likely that that the claims loss ratio might over- or underestimate the actual position and be misleading.

AIST recommends that any publication of insurance fees differences use a 3 to 5-year time horizon.

Timing of insurance data publications

AIST supports the publication of improved and more comparable insurance information at both industry, fund type and RSE level. However, we submit that, given APRA's current consideration of initial data submitted under Phase 1 and the issues associated with insurance data generally, the publication of additional insurance information should be delayed until 2023.

Reporting and publication of insurance information should be the subject of a separate consultation with industry to ensure that the quality and comparability of data is sufficient to support publication of meaningful information. The current proposal to publish representative member examples of default insurance design that mostly focuses on premium cost and no other factors that represent value – such as claims ratio, acceptance rates and claims handling experience – risks misleading members to make a decision on cost alone which could leave them unprotected.

Although much of this information is already in the public domain (e.g. in PDSs), it is noted that PDSs also include additional relevant information that will not be published by APRA such as terms and conditions and relevant exclusions.

This consultation should also consider the methodology and structure of the proposed insurance in superannuation heatmap and consider information that is already published such as the Life Insurance Claims and Disputes Statistics publication.

AIST recommends APRA undertakes urgent consultation with industry to identify and address issues with insurance data reporting and publications and suggests that APRA convene an insurance in superannuation data reporting and publications roundtable in June, as a first step.

APRA should also advise Government that the delayed response to and progress in relation to the 2019 Treasury consultation on universal terms for insurance within MySuper is contributing to lack of comparability issues.

Default insurance offering fund comparisons

APRA is proposing to publish representative member examples of default insurance design at a fund level. This includes occupation category cover, cover level and insurance cover cost. This product level data does not include any information on other factors that represent value when considering insurance such as claims ratio, acceptance rates, claims handling experience etc. Providing this level of information alone could be misleading and focusing for members given it is not easily comparable and does not take into account insurance terms and conditions nor difference risk profiles of fund membership.

This type of comparison at a product level will likely lead to members comparing policies on price alone, potentially leaving them in a worse position. Whilst APRA have stated that this information is already in the public domain (e.g. via PDS), it is noted that this is alongside other information such as terms and conditions that are relevant when assessing the value of an insurance policy.

Insurance within superannuation can be very complicated. Representative member represents particular challenges given this may give the impression that it is applicable for someone at this age/cohort. Insurance is particularly an individual circumstance – depending on pre-existing conditions, employment etc.

Risks of misinterpretation of data

Further complications to the comparability of products across the spectrum of funds arise from how publicly available data may be interpreted. We consider the following items require further consideration by APRA:

1. Structural differences in insurance products provided by different funds – for example, features of each product, policy terms, and definitions.
2. Actuarial reserving would distort any comparison between products.
3. Data will not capture insurance arrangements based on demographics and claims experience of membership. Occupational information is not reported for all members, so the underlying membership (and therefore risk) will not be reflected in the higher premium for those funds with a higher risk occupational demographic. This would distort any comparison of default cover between funds.

4. Differences in claim lags between funds will distort the use of data for comparison of products. The cash-based reporting does not reflect the extent to which assumed claim lags are based onto the product pricing.

Confidentiality

While disclosure is strongly supported it also needs to be balanced with measures to protect the ability of funds to deliver the best returns for members.

Section 57 of the APRA Act (Determinations of confidentiality) should be applied consistently across all areas of APRA's jurisdiction, with the same level of detail required in confidentiality submissions by regulated entities in each sector. Further details of arrangements for banking and insurance, and implications for superannuation are addressed in the next section.

Where APRA considers that the benefit to the public from the disclosure of information outweighs any detriment to commercial interests that the disclosure may cause, it should issue written reasons in each case.

Non-disclosure of superannuation data should be allowed where disclosure harms the ability of funds to deliver the best returns for members.

Expense reporting

AIST's concerns about confidentiality relate to commercial sensitivity about pricing arrangements with individual investment managers and other service providers and the ability of competitors to use expenses data to determine strategy. Many arrangements include contractual terms requiring non-disclosure of fees to protect their competitive positions.

Where there is only one service provider in an expense type, disclosing the expense also means that the contract price is disclosed. The more granular the expense type, and the APRA reporting is to a highly granular level, the greater the risk of this occurring.

There are a range of expense types where there is generally one service provider (eg, member transaction processing under administration expenses, and external and internal audit fees under corporate overheads).

Making contract costs public will reduce the ability of funds to secure the best commercial terms, increasing costs for members.

Even where individual arrangements are not disclosed, inferences will often be able to be drawn when a few pieces of disclosed information are put together.

This is also a risk where there are multiple providers in any one expense category. For example, providers will be able to know a fund's budget amount for that category and will use this to leverage their contract position (particularly if a fund was reducing the number of providers in a category). There is also a risk that some providers might be less likely to contract with a fund or might build in the cost of detriment for contract amounts being in the public domain.

The granularity of expense data will also make it possible for competitors to determine fund distribution strategy, compromising fund intellectual property and diminishing competitive advantage.

Disclosing granular details of investment management expenses, including competitive pricing data at the sector/asset class level, may result in breaches of confidentiality agreements with Investment Managers. These Investment Managers may be identifiable by information provided in publicly available publications. Further, any publication with this level of break-down may be misleading to members as their holdings are reflected at Member Investment Option (MIC) level, rather than at the underlying asset Sector or Portfolio levels.

Using the granular expense data, competitors would be able to determine the fund's acquisition channels and reverse-engineer the strategy. They could leverage the strategy to disrupt acquisition using information that was not available to the market when the fund invested in the strategy. The effectiveness of the spend would be diminished to the detriment of the fund's members.

APRA should issue further guidance to assist RSEs in the identification of what might be of detriment, and justification for confidentiality should include the capacity to identify or infer the commercial arrangements between a RSE and a contractor or service provider.

APRA must respect all potential commercial concerns relating to the data collected from RSEs, and its procedures should provide RSEs with the opportunity to put procedures and processes in place when considering requests to release data.

AIST recommend:

- In the first annual publication of fund and product level data, data should be aggregated at the level of expense group classification.
- In circumstances where publication at expense group level may lead to detriment of member interests, that data should remain confidential.
- Following the first round of publications and over the course of the following year, APRA should consult with stakeholders to assess whether there was an appropriate balance of public disclosure, and protection of member and commercial interests.
- The following SRF 332.0 expenses data should not be determined to be non-confidential from the period ending on or after 30 June 2022:
    - **Table 1:** Agree that *Service Provider details* should remain confidential.
    - **Table 2:** *Expense Type* (Column 4) should not be determined to be non-confidential.
    - **Table 3:** *Investment Expense Service Type* (Column 3), *Investment Asset Class Sector Type* (Column 4), *Investment Listing Type* (Column 5), *Investment Domicile Type* (Column 6), and *Asset Class Description* (Column 7) should not be determined to be non-confidential.

Avoiding publication of misleading information

Some expense categories need to be amended to avoid misleading information being reported and published. It is vitally important that this be addressed so that the nature of expenditure is reported to APRA and fully and accurately conveyed to the public.

Advice fees paid to financial planners (i.e. an Expense Type) are reported as 'Marketing and Distribution' (i.e. an Expense Group). If this is reflected in APRA publications, it may be wrongly assumed that all expenses in this group are what is generally thought of as marketing costs. However, the inclusion of advice fees could result in the reported amount being significantly higher than actual marketing costs. Profit-to-member funds regard advice as a member service, and not as a distribution channel.

SRF 332.0 includes Payments Or Donations To Industry Associations; Payments Or Donations To Political Parties; Payments Or Donations To Trade Bodies as Marketing-related expenses.

If this conflation of “payments” and “donations” is reflected in APRA publications as it currently is in the proposed new publications, it will not be possible to tell if an amount is a payment or a donation.

Payments and donation items are very different expenses, and the conflation of the two may lead to the wrong and misleading assumption that payments made under these expense items are donations.

A donation has the same meaning as a gift under the Electoral Act. That is, a disposition made without consideration in money or money's worth or with inadequate consideration. A payment in this case is made in return for a good or service. This is an important distinction, and one that is adhered to by the Australian Electoral Commission (AEC), where entities expressly report, and the AEC publishes as either a ‘donation’ or ‘other receipt’.

Not differentiating between payments and donations may reflect poorly on the prudent operation of a super fund, and such a wrong assumption is encouraged by APRA’s current itemisation.

The conflation of payments and donations is inappropriate for both reporting and publication, and both should be bought in line with the approach taken by the AEC as a matter of urgency.

It is unclear why this conflation has occurred given the very different nature of the two items. Both of these points have been raised in expense group meetings with APRA over the past two years, and remain issues of significant concern.

When a question about this was asked during consultations on reporting, APRA responded:

> *APRA expense reporting will capture all expenses that have been incurred and is not limited to expenses that need to be communicated to members at the annual general meeting. The expanded data collection will provide a full picture of expenses across the industry.*

However, the aspiration of providing a ‘full picture of expenses’ will not be realised unless the conflation of payments and donations is addressed, and the expense items are separated.

The expenses required to be communicated to members in Annual Member Meeting (AMM) notices can then be clearly identified and not miscategorised as they would be in the proposed APRA yearly fund-level publication if this isn’t resolved. It is noted that APRA’s consultation with industry about the relationship between Super Data Transformation and AMM notice requirements is continuing and APRA has not expressed a final view about this.

AIST recommend:

- That the ‘Expense Group Type’ be amended to include a separate category for financial planning and advice related expenses.
- That the reporting and publication of payment and donation data be separated in all instances.

Investment data publication

Derivative financial instruments

Publishing data related to derivatives has the potential to compromise member outcomes. Concerns relating to unlisted asset valuations and derivatives were addressed in the Portfolio Holdings Disclosure (PHD) regulations.

However, there are differences between the PHD regime and APRA reporting regimes. Compared to PHD, which only reports contract type and net market value, the proposed fund-level Actual Asset Allocation publication (Table 2) includes additional granularity for a fund's derivatives holdings including: gross positive and negative market value; derivative type (e.g., OTC or exchange traded); exposure type (e.g. interest rate swap). This applies at the fund level, but it also has the potential to be detrimental for members when considered at the aggregate industry level.

This additional granularity presents two risks. Derivatives are usually used to hedge physical risks. Only showing one aspect of the trade could be misleading and suggest more investment risk is being taken in derivatives than is otherwise the case.

In addition, publication of asset class and positive and negative gross exposure makes it easier for market participants to determine how funds are positioned, how they engage and the frequency of their engagement with the market. Banks will be able to anticipate funds approaching them to trade and this will provide them with the opportunity to raise prices and impose extra costs on funds. These extra costs will either be in wider bid-ask spreads, or in extra costs for any up-front costs (e.g. put options).

This impact can be felt in exchange traded derivatives (specifically exchange traded options) but more particularly in over-the-counter (OTC) derivatives such as forwards, swaps and equity options where market opacity is beneficial to a fund's ability to implement positions, both in terms of price and volume terms.

Aggregating derivative information across funds will still allow other market participants to position themselves around broad superannuation fund exposures. Reporting this additional granularity on a lagged basis will not address these problems. Derivative exposures for funds are unlikely to change over a short-term horizon and so a fund's current derivative portfolio is likely to be similar to what it would be even with a lag. Overall, this will have a negative impact on member outcomes.

AIST is also unclear on how synthetic exposures for forex derivatives will be reflected in reporting. If mapped to Cash as seems to be the requirement, reporting will give the impression that derivatives are being used to gain exposure to Cash.

AIST recommend that information on derivative financial instruments reported under *SRF 550.2 Derivatives and Counterparties* should be not determined to be non-confidential at product, RSE or industry level.

Tables 7 and 8 of the Quarterly Product Level Publication

The asset allocation section of tables 7 and 8 includes:

- Commodities, which is not an investment asset class sector type in table 2 of SRF 550
- Private debt, which is also not an investment asset class sector type in table 2 of SRF 550.

The Asset allocation section of tables 7 and 8 does not include Currency Exposure, which is an investment asset class sector type in table 2 of SRF 550. It is unclear how actual currency exposure will be reported in tables 7 and 8 for those funds that manage currency exposure at the option level. The tables only seem to accommodate reporting of hedging for international equites.

AIST recommend:

- That APRA address inconsistencies between reported asset class sector types and intended publications.
- That APRA should also seek additional feedback on how long some data items should remain confidential to avoid market sensitive disclosures, in line with the approach taken for banking and insurance.

It is noted that portfolio holding disclosure occurs 90 days after the bi-annual reporting dates.

Comparison with arrangements for banking

AIST notes that the data confidentiality approach relating to authorised deposit-taking institutions (ADIs) aligns to Basel's Pillar 3 requirements. These requirements highlight the importance of disclosure but have as a guiding principle that disclosure must be meaningful and useful.

As part of this approach, APRA acknowledged the potential risks of publishing entity-level data that would outline an entity's financial position and performance and will initially only publish data that is already disclosed under current requirements. Market sensitive data will be lagged appropriately so as not to trigger any continuous disclosure obligations.

We again highlight that ADI data published by APRA on asset quality, financial performance, financial position, liquidity framework and capital framework are all either published with a lag or at existing levels of reporting by entities. This approach seeks to address risks of publishing entity-level data.

We maintain that APRA's approach towards the superannuation sector must equally consider:

- The usefulness/meaningfulness of the data being published
- The end user of the published data
    - APRA should highlight how the data would be useful for the end user in a published context
- Publishing entity-level data risks disclosing commercially sensitive information and impact competitiveness
- Aggregating data to de-identify entity-specific information as proposed by AIST would not impact the APRA's prudential requirements
- For asset allocation data, APRA should consider publishing it with a lag of 90 days after reporting dates.

AIST recommends:

- that APRA adopts the guiding principle for superannuation that disclosure must be meaningful and useful, in line with the approach taken in relation to banking; and
- That the publication of actual asset allocation be subject to the same delayed disclosure of 90 days after reporting dates.