

Discussion Paper - Superannuation Transfer Planning: Proposed enhancements

Super fund transfers are significant transactions that can bring real benefits to consumers. However, poor planning and execution can lead to significant cost, inconvenience and, in some cases, poor outcomes for consumers.

Super Consumers Australia supports APRA enhancing the prudential framework to ensure super funds are planning for and executing transfers well. Introducing new requirements into prudential standard SPS 515 will provide funds with clearer instructions on how to approach the planning and execution of transfers of MySuper assets. In particular, we welcome the specific requirement that funds only nominate receiving MySuper products that have not failed the performance test.

Transfer planning and execution must be conducted using a proper process that considers the consumer's experience of the merger. The end goal must be more than consumers finding themselves in a new fund. The process must also consider consumer rights, needs and expectations. To this end, our submission highlights the real world impacts of transfers for consumers. These stories demonstrate what happens when transfers are not done well. Some of the examples of poor execution we have been given by consumers include members not being able to make changes to investments or additional contributions for long periods of time, and having insurance turned on against their wishes. **We recommend APRA's guidance more explicitly acknowledge the need to plan for, make decisions about and execute transfers with consumer rights, needs and expectations in mind.**

As outlined in the proposed guidance, APRA - and ASIC - play a significant role in mergers by providing relief to facilitate or support transfers. We expect that this involves careful balancing of the needs of both the fund and the consumer. Currently, there is limited transparency around these decisions, making it difficult to determine the reasonableness of, for example, extended black out periods. **To increase decision-making accountability and ensure lessons learned are applied to future mergers, we recommend that there be:**

- **greater transparency about the relief provided to facilitate mergers, and**
- **published periodic ex-post reviews of transfers.**

The real world impacts of transfers

As the pace and volume of super fund transfers have increased, the number of confused or unhappy consumers contacting us has also increased. We have outlined two recent case studies of consumers frustrated about the experience they received during a merger.

Case study - Consumers frustrated with insurance turning back on

Super Consumers Australia received multiple contacts from consumers frustrated about having their insurance turned back on when their fund merged with another in 2022.

The letter from the fund to members stated:

*“We understand that you did not hold insurance in your [previous super fund]”
‘However, as a result of the recent merger, you have been provided with default cover”*

The consumers were not happy they were provided with default insurance cover as a result of the merger. In their words:

“The onus was on my daughter to cancel within 14 days of the letter to obtain a refund of premiums taken from the account. This is disgraceful. It was left to the member to ensure they were in the correct occupational premium rating. And the member needed to read the [fund] member guide for key details about the cover to ensure they met the eligibility criteria.”

“And [I] have to read the [fund] guide to ensure they met the eligibility criteria. All within a fortnight, or they lose their premiums paid. This would be difficult for some members to read and understand. The way [the fund] went about this transfer could leave many members paying premiums for an insurance that is of no use to them.

“Is this legal for a super fund to start such a procedure when I did not initiate this?”

“I had no insurance at all with [previous fund]. The letter from [new fund] was to advise me that “I qualify for insurance” and was an automatic opt-in requiring you to actually be the one to opt out of paying insurance. I spent NINE minutes on the phone to cancel this insurance and the person in the call centre had had many calls from [previous fund] customers like myself declining their “generous” uncalled for insurance.

“It should have been sent to my email, text and snail mail – with a read receipt requested. Those who didn’t reply should have been followed up.”

The consumers complained to the fund about the issue. The fund then canceled the policy and refunded premiums.

Super funds need to be better prepared to prevent this type of unsatisfactory consumer experience. Having the terms of one’s insurance, fees or investment options changed without any consent can have significant impacts on outcomes over a person’s lifetime. For insurance, the Productivity Commission estimated that the ‘typical’ low income worker’s balance at retirement would be \$85,000 lower at retirement due to insurance premiums. If the consumer has indicated that they do not want or need this insurance, it is crucial that this is taken into account.

The transfer planning process should, wherever possible, ensure that consumer preferences are recorded and that this flows through the transfer process. Where this isn’t possible, any changes should be communicated to consumers early, through multiple communication channels and in an easily understandable way.

Case study - Extended blackout periods

Super Consumers Australia was contacted about blackout periods that occurred during a fund merger in 2022. Consumers were frustrated they could not make personal contributions, withdraw funds or switch investment options for a four week period. The email provided these dates:

From 5pm, 11 April 2022 - 8am, 24 May 2022

You may be unable to make general account changes and updates

From 5pm on 22 April 2022 (until 24 May 2022)

You will be unable to make personal contributions via BPAY® and EFT to [fund]

From 4pm, 26 April 2022 - 24 May 2022

You will be unable to withdraw funds from your account^

You will be unable to switch investment options

Funds should be doing everything possible to minimise disruption and allow people to manage their super when mergers occur. Having to wait a month to make personal contributions, withdraw funds or switch investment options is highly unusual given the ready access to accounts consumers are used to.

We recognise that many mergers will constitute complex administrative processes. However, consideration should be given to what alternative processes funds could implement to allow people to log or register changes while systems are down for an extended period of time. Funds should also be giving people plenty of clear and effective notice (through multiple communication channels) ahead of these significant changes so that they can prepare.

These case studies highlight the very real impacts of transfers on consumers. Currently, APRA's proposed guidance says little about considering member needs and expectations as part of the transfer process; this line of thinking only indirectly emerges in the guidance on execution in a reference to the need for the transfer plan to consider member communications. Turning to member needs and expectations during the execution phase is too late. There are further opportunities to ensure a member-centric approach to transfers and we recommend APRA's guidance address this more explicitly in the guidance on planning and decision making. For example, proper planning for a potential transfer should enable early identification of likely 'pain points' or other frictions for members. The earlier these are identified, the more likely an appropriate solution or workaround can be developed. And, if there is no alternative, early identification will ensure that this is communicated early, effectively and through multiple channels.

Recommendation

We recommend APRA's guidance more explicitly acknowledge the need to plan for, make decisions about and execute transfers with consumer rights, needs and expectations in mind.

Increased transparency is needed

The consolidation of the superannuation industry will result in more transfers. APRA (and ASIC) will play a key role in these transfers and consumers must trust that the regulators are adequately prioritising their interests. Further, while we recognise that each merger is different, we also anticipate that there will be similarities that can be built upon to improve the process each time a merger occurs. Currently, there is little public transparency about mergers including whether and what relief was provided, how consumers and fund interests were balanced, and how effective the merger was after its completion.

Before a merger, APRA may elect to give funds relief from the portability rules or other regulatory requirements. Our understanding is that APRA receives relevant information from the super funds about their planning and decision making that will consider things like the internal systems of the fund, and the required blackout lengths and terms of the merger (insurance, retirement products etc). APRA then provides relief based on this information. In making this decision we expect funds and APRA to be balancing the needs and impact on consumers and the fund.

If these decisions and the evidence justifying them were made public it would provide better clarity for the community about the reasons for certain merger decisions. It would also ensure funds and the regulator were held accountable for exercising their discretion appropriately. Increased transparency would be consistent with practices of other regulators as outlined by the case studies below.

Case study - ASIC Overview of decisions on relief applications¹

Up until COVID interruption in March 2020, ASIC provided a public overview of situations where ASIC has exercised, or refused to exercise their exemption and modification powers.

In one example, ASIC provided relief to allow a super trustee to not provide an PDS and exit statement when undertaking a transfer. It detailed that consumers would not be affected by the relief because of the nature of the ownership, administration systems and the best financial interests of members.

After a transfer, our view is that regulatory best practice would be to conduct a review to identify lessons learned from the merger process and, in time, whether the merger delivered the benefits anticipated.

Case study - ACCC Ex-post mergers reviews

During 2021, the ACCC conducted ex-post reviews of six past merger decisions to inform and improve their merger investigative processes, investigation efficiency and their decisions. They identified that “there are instances where merger parties and third parties have distorted or omitted critical information relevant to the ACCC’s analysis. This highlights the weaknesses in the current informal clearance regime, including where merger parties decide what information they provide to the ACCC upfront and during the review.”²

Recommendation

To increase decision making accountability and ensure lessons learned are applied to future mergers, we recommend:

- **greater transparency about the relief provided to facilitate mergers; and**
- **publication of periodic ex-post reviews of transfers.**

One option would be to include this detail in a regular ‘State of Superannuation’ report, as recommended by the Productivity Commission.

¹ <https://asic.gov.au/regulatory-resources/find-a-document/reports/reports-on-relief-applications/>

² <https://www.accc.gov.au/system/files/Ex%20post%20review%20of%20merger%20decisions.pdf>