

SUBMISSION

Submission to APRA:
Superannuation Data
Transformation:
publications and
confidentiality

29 November 2023

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File: 2023/37

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Submitted via email to: superdatatransformation@apra.gov.au

29 November 2023

Dear Mr Cagliarini

Superannuation Data Transformation publications and confidentiality

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this feedback in response to your consultation on *Superannuation Data Transformation publications and confidentiality* (Consultation).

ABOUT ASFA

ASFA is a nonprofit, non-partisan national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$3.6 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing over 90 per cent of the 17 million Australians with superannuation.

GENERAL COMMENTS

Thank you for the opportunity to provide feedback on the consultation on *Superannuation Data Transformation publications and confidentiality* (Consultation).

ASFA member organisations support transparency and generally welcome the publication of data with respect to the superannuation industry.

Member organisations have welcomed APRA's proposed amendments in response to APRA's 2022 consultation, such as lagging publication of information on investment allocations, at the fund or investment option level, by at least 90-days to mitigate the market sensitivity of such information.

Members have also welcomed APRA's statement that it will make an assessment as to whether the benefits of publishing total expenses by each category at the fund-level outweighs any commercial detriment. They have indicated, however, that it is imperative that APRA recognise the need to protect the confidentiality of certain data with respect to third party service providers and certain unlisted assets.

SPECIFIC COMMENTS

1. Expenses by category at fund level – service providers & commercially sensitive information

Member organisations have expressed significant concerns that, in circumstances where there are limited, or even single, service providers in a particular category, this would enable third parties to have access to, or be able to derive, what is extremely sensitive commercial information, and may even be 'commercial in confidence' under the relevant agreement.

Revealing commercially sensitive information potentially could harm the relationship between super funds and their service providers and, more importantly, may detrimentally affect the ability of funds to negotiate with service providers and attain favourable commercial terms. Publishing such information potentially will have the effect of reducing competition in the market and impede the ability of funds to negotiate with service providers.

This would not be beneficial for the financial interests of super fund members. While reporting such data to APRA may be of benefit for prudential supervision, when it comes to publication of this data there is no clear benefit for members and in fact it is likely to be detrimental to their interests.

Given this we submit that, as opposed to publishing the details of certain categories of expenses, it would be more appropriate to publish aggregated data. This would avoid the disclosure of commercially sensitive information relating to third-party providers, while still yielding useful information 'rolled-up' to the next level.

While the data would continue to be reported by funds to APRA on a disaggregated basis, member organisations have indicated that consideration should be given to aggregating the following categories of expenses for the purposes of publication:

- administration
- custodial services
- external audit
- internal audit
- legal services
- asset consultants
- consultants – professional services
- professional indemnity (PI) insurance
- marketing providers (related party excluded)
- commercial sponsorships (related party excluded).

Member organisations have queried whether there is any benefit for members with the publication of data about services such as these and whether publication would be in the best financial interest of members, given that publication of commercially sensitive data could be detrimental.

To support transparency it will be important to ensure that items are not aggregated beyond the point needed to maintain commercial confidentiality. By way of example, expenses with respect to Asset Consultants and Custodial Services could be categorised as expenses with respect to Investment Operations.

2. Disclosure of some data without accompanying information could be potentially misleading

The disclosure of certain data items without additional information has the potential to be misleading to the users of the data.

By way of example, the disclosure of investment costs, such as performance fees, without being accompanied by information with respect to investment returns, does not provide a context for the fees and so potentially may be misinterpreted and even misleading.

In particular, active investment strategies often are more costly but tend to generate greater returns over a medium to long term horizon.

Similarly, performance fees tend to increase as outperformance increases. Without providing the context of the investment returns achieved, investment fees, such as performance fees, may not be interpreted, analysed and assessed appropriately.

This would especially be the case where users of the data attempt to compare data with respect to investment costs, such as performance fees, as any comparison of investment options may not be on a 'like for like' basis. Without the context of investment returns it may be interpreted that a member in a product with higher investment costs would be worse off, however, the difference in investment costs may well be exceeded by the increase in investment returns.

Given this, we submit that, when publishing any data, consideration should be given to whether the publication of particular data items should be accompanied by explanatory information (e.g. an explanation of the relationship between investment returns and investment costs) in order to inform and assist users of the data.

3. Detailed asset class characteristics – ability to determine value of specific unlisted assets

Member organisations have welcomed APRA's proposal to mitigate the market sensitivity of publishing information on investment allocations, at the fund or investment option level, by lagging publication of this data by at least 90-days.

Having said that, significant concerns remain with respect to the publication of data about asset categories where there are limited, or even single, assets in a particular category, especially infrastructure assets. Publication of data with respect to these categories would enable third parties to have access to, or to be able to derive, the valuation of specific unlisted assets. This is sensitive commercial information, the publication of which can detrimentally affect the trustee's ability to optimise management of the asset, including being able to obtain a fair price on part or full disposal. This is not in the best interest of members.

Given this, we recommend that, with respect to unlisted assets, a policy position should be adopted to publish the market values at asset class level, to avoid potentially disclosing market sensitive information to the detriment of members.

4. Inconsistencies with reported / published data could lead to misinterpretations

Member organisations have expressed concern that there are some inconsistencies with some of the data that is reported to APRA, as well as inconsistencies between data that is required to be disclosed under different disclosure obligations.

These inconsistencies could lead to significant misinterpretations of published data.

4.1. Inconsistencies with some of the data that is reported to APRA

Member organisations have identified that some elements of the data reported to APRA are open to a degree of interpretation, while in other instances funds may classify certain data elements differently, resulting in different outcomes.

This is especially the case with the classification of certain types of investments and expenses.

Members have identified that with respect to categories in SRF 550 Asset allocation (SRF 550), in assigning certain assets to categories of asset classes and options, depending on how the asset is held, funds may assign assets differently.

Similarly, with respect to *SRF 332 Expenses* (SRF 332), funds may classify certain expenses differently, leading to different outcomes in the data being reported.

4.2. Inconsistencies between data required to be disclosed under different obligations

4.2.1. Expenses – Annual Member Meeting notices

Member organisations have identified that the Annual Member Meeting (AMM) notices required under the *Superannuation Industry (Supervision) Amendment (Annual Members' Meetings Notices) Regulations 2022* require trustees to disclose expenses on a different basis to the requirements for the reporting of expense data under SRF 332.

These differences include:

- the use of cash accounting as opposed to accrual accounting
- definitions for different categories of expenses; and
- that AMM disclosure of expenses is limited to five categories, whereas SRF 332 requires the reporting of a longer list of different types of expenses.

4.2.2. Investments – Portfolio Holdings Disclosure

Member organisations have identified that, with the allocation of assets to different categories of asset classes, there are likely to be discrepancies with the disclosure under the Portfolio Holdings Disclosure (PHD) regime.

By way of example, there are different 'look through' requirements under PHD as opposed to APRA SDT data reporting. PHD reporting does not include 'look through' for investments held by non-associate entities, so it is expected that there will be reconciling differences between disclosures under PHD and data that is published as part of APRA SDT reporting regime.

4.2.3. Fees and costs – RG 97

Member organisations have identified that there are differences between the data reported to APRA with respect to investment fees and costs and what is required to be disclosed in super fund Product Disclosure Statements (PDSs) under ASIC's *Regulatory Guide 97 Disclosing fees and costs in PDSs and periodic statements* (RG 97).

In particular, there are differences between the basis on which some investment fees and costs are disclosed under RG 97 and the data that is reported to APRA. By way of example, the performance reported to APRA are the performance fees paid in the past financial year, while the performance fees disclosed under the RG 97 regime are on the basis of a five-year rolling average.

4.2.4. Need for accompanying explanatory information

Given the inconsistencies between data required to be disclosed under different, separate disclosure obligations and the basis on which similar data is reported to APRA, we believe it would be beneficial if APRA were to identify where such differences exist and provide explanatory information to assist users of the data.

This information should be explicit as to any potential differences in the data disclosed, along the lines of '[data item] may/will be different to the figure published in the fund's PDS,' ideally accompanied by an explanation of the difference.

5. Need for Post Implementation Review of the SDT project and disclosure obligations

Given the proposal to publish the vast majority of data reported to APRA as part of the Superannuation Data Transformation (SDT) programme of work, and the potential for data inconsistencies to lead to potentially confusing, or even misleading, interpretations of the data, we submit that consideration should be given to performing a review and analysis of data consistency under SDT, as well as a review of the various regulatory disclosure regimes that require disclosure of comparable data.

5.1. Post Implementation Review of the SDT project

Member organisations have suggested that there is a need for a post implementation review of the SDT project with respect to data consistency, in particular with respect to investment asset allocation and the classification of expenses.

The outcomes of any such review could result in amendments or modifications to the data reporting forms and /or guidance, as well as provide information that would assist with the publication of the data. This could include identifying data items where it would be more appropriate to publish on an aggregated basis and where there is a need to provide contextual information and advice to assist users of the publications to interpret and analyse the data.

5.2. Review of disclosure obligations

Member organisations have suggested that a review be undertaken of the differences between certain data elements that are reported to APRA, and consequently potentially may be published, and other disclosures required under other regulatory obligations, such as under AMM Notices, PHD and ASIC RG 97.

Any such review should focus on ensuring that data that is reported and published is consistent, to facilitate comparison on a 'like for like' basis, and that the publication of data is not misleading or capable of being misinterpreted. Ideally the publication of SDT data by APRA and data disclosed under other regulatory regimes should be aligned as much as possible, which may necessitate changes to APRA data reporting and/or the relevant disclosure regime.

6. Could APRA publications be more cost-effective way to deliver AMM Notice and PHD?

Member organisations have suggested that, given the enhanced data disclosure under APRA's SDT project, it may be possible to utilise the publication of this data by APRA as a more efficient and cost-effective method to disclose AMM Notice information, and potentially PHD, to members.

Potentially this could significantly reduce the expenses associated with producing specific AMM and PHD disclosure and thereby result in improved financial outcomes for super fund members.

Should you have any queries with respect to this, please contact me on [REDACTED] or via [REDACTED].

Yours sincerely

[REDACTED]
Director, Policy