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29 November 2023

Australian Prudential Regulation Authority
Level 24, 535 Bourke Street
Melbourne VIC 3000
Attention: General Manager, Macro and Industry Insights

By email: superdatatransformation@apra.gov.au

Dear Sir or Madam,

Superannuation Data Transformation – Publications and confidentiality consultation

Thank you for the opportunity to provide comments on APRA's consultation on the proposed publication of certain data, and determination as 'non-confidential' certain data, under reporting standards SRS Expenses (***SRS 332.0),*** SRS 550.0 Asset Allocation (SRS 550.0), SRS 605.0 RSE Structure (SRS 605.0) and SRS 606.0 RSE Profile (SRS 606.0).

1 Background

Diversa Trustees Ltd (***Diversa***) and CCSL Limited are RSE licensees that provide independent trustee services to 18 superannuation funds. Statements made by Diversa in this letter may be taken to be made jointly by Diversa and CCSL Limited.

The funds for which Diversa acts as trustee includes retail master trusts, corporate funds including defined benefits, platforms (wraps), pooled superannuation trusts and risk only superannuation funds.

Cumulatively, the funds under Diversa's trusteeship are composed of approximately 320,000 members with more than $11.9 billion in funds under management.

2 Overview

Diversa is generally supportive of reforms that promote greater transparency in the superannuation industry. In particular, Diversa supports measures that are likely to lead to better outcomes for members, including by assisting members to better understand the operation of the superannuation industry and assess the performance of their fund.

In view of the above, Diversa does not take issue with the majority of proposals proposed by APRA as part of this consultation.

Diversa does, however, wish to identify some limitations that arise in connection with APRA's proposal to publish and designate 'non-confidential' certain data reported under SRS 332.0, namely, the proposal to publish, at a fund-level, the total expenses paid to a payee where the payee is a promoter, and the name of that promoter (***Promoter Expense Data***).

The limitations relate chiefly to the reliability of the Promoter Expense Data if published in the form it is proposed to be collected. That leads to a risk that members will misinterpret the data and misconstrue its meaning.

Additionally, Diversa considers that the publication of the Promoter Expense Data is likely to have adverse commercial consequences for promoters which may in turn lead to adverse outcomes for members.

3 Specific comments

3.1 Reliability of Promoter Expense Data and risk that it presents an incomplete picture to members

As an independent trustee, Diversa contracts directly with third parties to provide promoter services to the funds under Diversa's trusteeship. Those contractual arrangements vary between promoters in relation to the scope of the services being provided by different promoters and accordingly the fees that the promoter receives for those services.

Diversa is concerned that the proposed form in which the Promoter Expense Data will be collected (and subsequently published) is based on a 'one size fits all' approach that does not take account of the multitude of commercial arrangements that govern the arrangements between trustees and promoters.

Promoters' varied service offering

In some cases, Diversa engages promoters to perform activities that traverse beyond the 'traditional' service offering of promoting a fund, and extend to such operational activities as administration of the fund, investment and portfolio management, service provider management, IT development and technology services, member contact services and/or engagement with distributors such as financial advisers and dealer groups.

In these instances, the fee that Diversa pays those promoters reflects the wide-ranging activities that the promoters undertake. For that reason, the fee paid may be larger than fees paid to promoters whose service offerings are confined to marketing and direct distribution to customers.

The Expense Promoter Data that is collected pursuant to SRS 332.0 accounts for this variation to some degree by enabling a trustee to report promoters' fees according to certain 'Expense Types'. However:

a) many promoter agreements will typically provide for a single fee to be paid to a promoter in exchange for all of the services which they provide. While the trustee obtains the information needed to perform an allocation between the different 'Expense Types', that allocation necessarily involves a degree of subjective assessment, which may not then be apt for the type of reporting contemplated by APRA or be reliable for readers;

   For example, the portion of the fee that is paid to a promoter in respect of their IT development and technology services could be considered to be a specific ‘Administration Services’, ‘Member Services’ or ‘Marketing and Distribution’ type expense or just the most applicable ‘Other’ expense type depending on the nature and scope of these services.

b) further, the categories of 'Expense Type' that are enumerated are derived principally from traditional trustee outsourced service provider offerings, and including three omnibus categories of ‘Other’ (one each for the Administration Services, Member Services and Marketing and Distribution expense groupings). This presents a risk that the fee apportioned to any non-traditional or difficult to categorise services provided by promoters will just be labelled ‘Other’, creating problems with the data. Specifically:

   i. the volume of fees that may be categorised as 'Other' has the potential to confuse readers and, absent further information as to the nature of those payments, leave readers without a clear impression as to the value being provided by the promoter for those services; and

ii. expenses that are recorded as ‘Other’ are not recorded under more specific categories potentially leading to a lack of integrity in those data sets.

Varied arrangements for the payment of promoter fees

Additionally, in other instances, the relevant outsourcing arrangement between Diversa and a promoter requires:

a) Diversa to pay the promoter a sum representing certain costs associated with the management and administration of the fund, in aggregate, for a particular period; and

b) the promoter to distribute that sum to other third parties to pay the fees those third parties respectively charge for their activities (these may include administration, IT, platform, insurance, investment or customer support services).

For example, a retail fund promoter may receive $2M per annum in fees from a fund. However, the promoter may be required under the terms of the arrangement with the Trustee to pay $600K to the fund administrator, $150K to the custodian $700K to other service providers (eg. investment administration expenses, insurance administration expenses etc). This would mean that while the promoter was paid $2M, only $550K of these amounts were available to cover the expenses incurred by the promoter in provide their services. Note that these numbers are a hypothetical and do not correspond with any specific promoter relationship.

The intended treatment of such arrangements is unclear under SRS 332.0. It could be said that the Expense Promoter Data that a trustee would report in such circumstances pursuant to SRS 332.0 would be the name of the promoter and the total amounts paid to that promoter categorised by 'Expense Type' where, the amounts the promoter then pays to other service providers (who are not connected entities) are categorised as 'Other', in addition to all non-promoter services that the promoter itself performs.

If reported in this way, the Expense Promoter Data would not capture the additional contextual and highly relevant information that the $2M paid to the promoter and categorised as 'Other' was then distributed amongst other third parties, leaving the promoter with the lesser amount of $550K.

Diversa is concerned that in the circumstances described above, the publication of Expense Promoter Data in the form proposed by APRA will provide members with unreliable information and potentially a distorted picture of the amount that a fund pays to promoters for the services supplied by promoters and the value provided by that promoter.

The presentation of this data to members is likely to create confusion as to the value being provided by different promoters. This is not an issue that could be readily addressed by requiring more granular data to be produced. That is because, as mentioned above, promoter agreements typically provide for the payment of a single fee, as opposed to separate fees for the different types of service being provided by the promoter.

3.2 Adverse effects on promoters

Diversa is aware from consultation with promoters who are presently appointed to Diversa's funds that a significant contingent of them consider that APRA's proposal to publish the Expense Promoter Data is likely to lead to adverse commercial consequences for their businesses.

Reduction in promoters in the market

While Diversa does not speak for these promoters, Diversa is concerned that, if implemented, APRA's proposal will lead to promoters exiting the market (for example if there is undue downwards pressure on fees charged by promoters notwithstanding the breadth of services they provide) and a further consolidation of the promoter sector within the superannuation industry.

In recent years, Diversa has observed a downward trend in the availability of outsourced service providers, including promoters. Diversa has observed that there are now fewer participants in the market who have the expertise and capability to competently perform promoter services.

While this development has engendered some consequences that are positive for the superannuation industry (including the simplification of trustees' outsourced service provider arrangements and the better identification of promoters who do have satisfactory capabilities), a negative consequence of this trend is that trustees now have fewer options when engaging a promoter for a fund and, accordingly, have less bargaining power in those commercial negotiations. This has the potential to result in trustees compromising in commercial arrangements with respect to fees paid to promoters, and other adviser fees, membership and administration costs.

Another negative consequence of the reduction in promoters in the market is that, in some cases, remaining (and available) promoters offer a more confined service offering than they otherwise would in a highly competitive market. This means that trustees may be required to withdraw services previously provided to members or engage additional third parties to provide the services that would otherwise be performed by a promoter. This has the potential to give rise to negative financial outcomes for members if the fees of these other types of outsourced service providers are more expensive than promoters (such as, in general terms, administrators). It may also drive fragmentation in the promoter service market as more service providers are required to deliver the same services to members and perversely the trustee may be required to devote additional resources to the management of more outsourced service provider arrangements. Diversa is concerned that, should more promoters exit the market, these issues will be exacerbated.

Potential for increased risk to trustees

While not currently an issue, Diversa is also concerned that increased pressure on promoters may introduce additional risks for trustees which may be costly to manage (costs which may ultimately be borne by members). For example, if more promoters exit the market it may become more difficult to remove underperforming promoters due to the lack of availability of alternative service providers. Similarly, the lack of alternative providers may also make it more costly for trustees to implement appropriate recovery and exit planning (in accordance with APRA CPS 190). Finally, a more fragmented promoter market may exacerbate the current trend amongst superannuation service providers to shift liability risk onto the trustee as smaller or more risk adverse service providers (including promoter service providers) are less willing or able to manage risk on their own balance sheets.

Reduction in service offering

Diversa supports the reduction of fees and costs associated with the administration of funds and understands that an objective in APRA's proposal in publishing Promoter Expense Data is to help members identify inappropriate fund expenditure.

However, Diversa is aware of a contingent of promoters who do not currently earn a significant profit on their operations. Any increased pressure to further reduce costs may affect promoters' ability to continue providing the same breadth of services, innovate in their current service offering or invest in technology to support their services, all of which are essential for the long-term benefit of members and the health of the superannuation industry as a whole.

Thank you for considering Diversa's submission to APRA's consultation.

For further information in relation to Diversa's submission, please contact us.

Sincerely, [redacted]

[redacted]

CEO