FINANCIAL SERVICES COUNCIL

Manager, Superannuation Statistics
Australian Prudential Regulation Authority
GPO Box 9836
Sydney NSW 2001
Email: statistics@apra.gov.au

9 July 2015

Subject: Publication of annual superannuation statistics and confidentiality of superannuation data

Dear Sir/Madam

The Financial Services Council welcomes the opportunity to continue to consult with APRA in relation to the publication of superannuation statistics.

The FSC supports APRA's enhanced prudential and data collection powers in relation to superannuation funds. The FSC has sought to work constructively with APRA to ensure that its revised data collection is robust and allows APRA to fulfil its role as prudential regulator, whilst minimising the cost of the new requirements for industry and ensuring a good outcome in the publication of appropriate and meaningful statistics.

The publication of superannuation statistics has an important impact on public confidence in the integrity and stability of the superannuation system. It also provides a valuable source of data for industry analysts and receives widespread publication through media outlets.

APRA's May 2015 consultation paper follows the consultation process that began in 2013 on confidentiality and publication of data.[1] The 2015 APRA paper outlines proposed changes to the content and format of the annual superannuation statistics to be publicly released by APRA.

In this consultation paper, APRA is specifically seeking feedback on:

a) the proposed reporting changes and layout, and
b) APRA's proposal to determine non-confidential a small number of additional data items collected under these new reporting requirements.

In the recent past, our biggest issue has been the classification and segmentation of funds. The FSC was heartened that in light of feedback on this issue in January 2014, that APRA later adjusted the then proposed MySuper quarterly Excel statistical publication to specifically remove the proposed "Fund Status" column (with values For Profit and Not-For Profit) and therefore this categorisation does not appear in the latest (21 May 2015) issuance of the MySuper report. The FSC is concerned that this issue has remerged in the proposed annual Excel reports.

This submission therefore focuses on the FSC's concerns that APRA is continuing to segment the industry in a manner that is inconsistent with the other financial sectors APRA regulates, such as insurers and authorised deposit-taking institutions. The impact of ongoing segmentation, with the authority of APRA's branding, would be to entrench the politicisation of the sector and, as noted by APRA itself, mislead consumers when they make financial decisions and reduce the quality of debate within the industry.

[1] Refer to FSC submissions dated 3 February 2014, 30 May 2014 and 30 June 2014

This consultation and revision of APRA's annual statistical reports presents APRA with a rare opportunity to raise the standard of debate within the superannuation industry by no longer suggesting that segmentation is an appropriate filter through which to view the structure of the industry.

The FSC submits that all superannuation funds should simply be referred to in APRA's reports as 'superannuation funds'.

Reporting should occur at the following levels:

- Individual product level, to reflect a consumer's experience;
- Fund level, to show that a fund is stable and well regulated, but not to suggest that aggregated data reflects the 'performance' of the funds multiple investment options; and
- The 'whole of industry' level, to reflect the stability of the system.

Excluding the classification and segmentation of funds, the proposed reporting is mostly non-controversial, however, the FSC membership have a few additional comments so we fully appreciate the ability to review and provide feedback on the reports before they are finalised. We also thank APRA for the responses to the preliminary queries we raised in mid-June which have helped us to more fully consider and tailor this submission.

The Appendix to this submission covers several items:-

- Fund classification and segmentation;
- MySuper products with multiple Lifecycle Strategies;
- Privacy concerns with the proposed Excel reports;
- SRF 540.0 Fees and Disclosure of Fee Rebates;
- Whole of fund reporting; and
- Other issues – Table 6.

Please feel free to contact me on [redacted] if you have any further questions or comments in relation to this submission.

Yours sincerely

BLAKE BRIGGS
SENIOR POLICY MANAGER

APPENDIX A:

Fund classification and segmentation

APRA has undertaken several rounds of consultation on publication of data collected under the new reporting requirements. In each of those rounds there has been broad industry support for changes to the current segmentation practices, albeit different industry participants have different views on whether or not segmentation should occur.

The FSC was heartened that in light of feedback on this issue (discussed at length in January 2014), that APRA had adjusted the then proposed MySuper quarterly Excel statistical publication to specifically remove the column "Fund Status Indicator" (containing values of "For Profit" and "Not for Profit").

The FSC is concerned that the politicisation of this debate, as well as ongoing segmented debate within the industry itself, is causing APRA to default to its historical approach on segmentation. This is not an appropriate response where the "For-Profit"/ "Not-For-Profit" indeed the "Retail fund" vs "Industry fund" status has been shown to be misleading for consumers and where it also lowers the quality of industry debate.

The FSC is of the view that there are strong policy grounds to depart from the planned segmentation and for APRA to lead the industry to a higher, and more nuanced and sophisticated, standard of debate.

APRA Member, Helen Rowell, recently commented that:[2]

> *… I'd like to make a few comments on investment performance assessment and comparisons. In particular I'd like to emphasise… comparing apples with apples, rather than oranges or lemons.*
>
> *Industry participants, and the media, have long been reporting industry investment performance each quarter, based on peer comparisons often over very short periods. <u>We also see regular commentary about investment performance by industry segment, particularly focusing on comparisons between industry and retail funds based on average fund-level performance over various time periods. For a number of reasons, such comparisons are not meaningful in assessing whether investment objectives, and hence outcomes for members, are being achieved over the long term.</u>*
>
> *Firstly, <u>members' benefits are determined by the performance of the particular options in which they are invested, and this can vary significantly from overall performance at fund level</u>. This is particularly the case for retail funds, where a much smaller proportion of fund assets are held in the default investment option, as shown on Chart 2. At fund level, particularly for the retail segment, overall investment outcomes will be very heavily dependent on the particular options which members choose, and the asset allocation of those options… This difference in asset allocation, and hence the investment performance, for retail funds will be largely driven by the investment choices of individual fund members, given the relatively low proportion of assets in the default option(s) for these funds.*
>
> *Similarly, <u>average investment performance for any particular segment of the industry is not a meaningful basis for assessing whether investment objectives, and hence outcomes for members, are being achieved.</u> As Chart 4 shows, investment performance varies widely over different time periods for all industry segments. Further, as I just noted, members invest in specific funds or options, not an aggregation of funds by segment. The outcomes for members will vary quite widely depending on whether their particular fund or investment option achieves net returns over the long term that are above or below the average for all funds, or for some segment of the industry. Short term investment performance also varies much more*

[2] Helen Rowell, 29 April 2015, *The super system - what is on APRA's watch-list?*

widely than performance over longer periods, as shown by Charts 4 and 5, and the latter provides a more stable and reliable basis for assessing performance against objectives. And as Chart 4 shows, there are performance laggards in all segments of the industry over the different time periods.

A key objective of APRA's revised data collection, which has been progressively implemented since July 2013, is to facilitate like for like (or apples to apples) comparisons based on more granular information at investment option and MySuper product level. This is important for APRA, but is also of benefit for all industry stakeholders. Through our enhanced publications we will be seeking to focus on the assessment of performance relative to objectives over longer periods such as 5 and 10 years. In the case of the new investment option and MySuper product data, it will take a few more years before we get sufficient data to provide this longer term view. However it will be worth the effort that both APRA and the industry have put into this data collection if, as expected, it leads to enhanced understanding of the underlying differences between funds and key drivers of performance - hopefully raising the quality of the debate from current levels. Importantly, the new data collection will support more informed decision making and analysis by industry stakeholders in a range of areas, including trustees for whom the published information should provide a rich data source for benchmarking and analysis.

The FSC supports moving away from industry segmentation to raise the quality of debate in the superannuation industry and the flawed perception that the industry should be viewed based on the ownership structure of the fund.

The FSC is concerned that ongoing APRA publication of data at a segmented level will entrench the low quality debate around 'industry' versus 'retail', or 'profit' versus 'not-for-profit'. APRA should take the opportunity presented by its current review of data publication to break from the status quo and lead a higher standard of debate amongst industry participants. We also note this would be consistent with APRA's reporting in relation to the other sectors it regulates.

This principle applies to the range of data points APRA collects on superannuation funds, not simply fee and performance data. References to 'profit status' should not be included in public reports, nor should references to segment labels, such as 'industry', 'retail' or 'corporate' in APRA publications.

The FSC supports product level and 'whole of industry' level data publication, as well as fund level in circumstances where it is not being purported that fund level statistics reflect consumer experience (such as fees and returns). Reporting at the levels proposed by the FSC would allow:

- Consumers, and analysts such as Chant West, to interrogate the performance of individual products that reflect consumer experience and make informed decisions; and
- Consumers to observe that the superannuation industry, as well as individual APRA regulated funds, are stable and well regulated.

Provision of data at these levels allows third party analysts to aggregate data based on whichever type segmentation they choose, and be held legally responsible for using that data inappropriately. The FSC expects that industry participants will continue to use APRA's data in this manner, however, should APRA cease reporting segmented information, then the marketing and advocacy based on segmented information will cease to have the authority of a Commonwealth Government agency. This would contribute to the stability and de-politicisation of the superannuation industry and is in the interest of consumers.

APRA's letter to the industry dated 27 November 2014 advised, however, that:

The following industry segments will be used: corporate funds; industry funds; public sector funds; and retail funds. These segments are broadly the same as those for which APRA has previously published *statistics by industry segment. APRA will, however, review and update the population of each segment based on the more well-defined categorical information about RSEs and their trustees now being provided to APRA on SRF 001.0 and SRF 601.0….whereas previously trustees self-nominated their fund type and hence the segment in which they were included, subject to some review and monitoring by APRA.*

In the recent May 2015 consultation for annual reporting, APRA advised that the industry segmentation and classification will be retained in public reporting, although now planned to be altered slightly:

> ***Corporate funds**: RSEs with more than four members under the trusteeship of a <u>'not for profit'</u> RSE licensee and with a corporate membership base.*
>
> ***Industry funds:** RSEs with more than four members under the trusteeship of a <u>'not for profit'</u> RSE licensee and with either an industry or general membership base.*
>
> ***Public sector funds:** RSEs with more than four members under the trusteeship of a <u>'not for profit'</u> RSE licensee and with a government base membership base. Public sector funds also include superannuation schemes established by Commonwealth, State or Territory law (known as exempt public sector superannuation schemes).*
>
> ***Retail funds:** RSEs with more than four members under the trusteeship of a <u>'for profit' RSE licensee with a corporate, industry or general membership basis.</u>*
>
> ***Small funds:** superannuation entities with fewer than five members and include small APRA funds (SAFs), single-member approved deposit funds and self-managed superannuation funds (SMSFs). SMSFs are regulated by the ATO and have different legislative requirements than APRA regulated funds.*

The FSC members are concerned with the shifting of the "retail funds" category with the basis predominantly being a *'for profit'* RSE licensee regardless of whether or not it is a corporate, industry or general membership basis. This appears to be "back dooring" the change to segmentation of the industry into "For Profit" and "Not for Profit". As noted in the 2014 FSC submission:

- *Some of our "retail" members use to be mutual organisations and they have now demutualised. Their ownership and profit structure does not change the product they are offering, in fact they still support many legacy products and members from the era of "mutuals".*

- *APRA does not segment the banking, life insurance or general insurance sectors in that manner. APRA primarily reports in relation to individual institutions and at an industry level. The FSC also notes that the Private Health Insurance Administration Council (PHIAC) does not segregate 'for profit' from 'not-for-profit' health insurers in their statistical publications.*

- *Segmentation of the industry by 'Not for profit' and 'For profit' misleads consumers because it suggests that consumers can somehow make the decision to experience the outcome of that segment, rather than the specific performance of the investment option(s) in which their superannuation is invested.*

- *Whole of industry reporting should appropriately focus macro-level commentary on the important issue of the stability and health of the system, rather than the comparative performance of different functional sectors of the industry (retail, corporate, industry etc.). This would help build trust and faith that the system is serving its intergenerational policy objective.*

The new reclassification of some funds would also be misleading and controversial:

- Some of the largest corporate funds, closed to outside people who are not employees (or ex-employees), would now be classed as "retail funds"; this is nonsensical especially when you consider that only 13% of corporate funds are 'public offer'.

- Some industry funds would now be classed as "retail funds"; this would be controversial. We note here that 70% of Industry funds are now 'public offer' and compete head-to-head with 'retail funds' for new members so the designation of 'industry fund' and 'retail fund' is mostly meaningless.

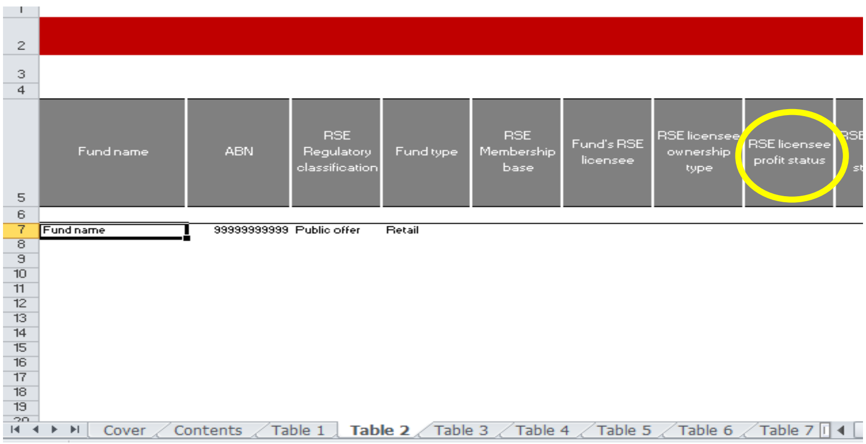
- Some retail funds that operate as mutuals would be classed as "industry funds"; this could become political, particularly where the term 'Industry Fund' and its derivatives are registered trademarks.

Our recommendation continues to be that reporting of industry segments is misleading, political and counterproductive to creating a stable superannuation industry. As the FSC has previously submit, there is a broader basis to conclude that segmentation of any type is misleading and unhelpful to consumer:

- *Retail funds and industry funds are now "public offer" funds, whereas in the past industry funds were for employees in particular industries only;*
- *From 1 January 2014, default contributions can only be accepted into a MySuper product. By July 2016, it is expected that a large percentage of superannuation funds under management will reside in a MySuper product. Irrespective of history, these similar products are all regulated in the same way by APRA;*
- *Retail funds, corporate funds, and industry funds now offer similar styles of investment fund choices often including share trading and term deposits;*
- *Common trustee licensing and prudential standards with consistent regulation across the various RSE and RSE licensees;*
- *The potential common governance arrangements for all APRA regulated funds, under the SIS Act, should the proposed governance reforms be enacted; and*

  As balances grow and superannuation / taxation gets more complex, more members seek advice on how to handle the complexities. Therefore, some industry funds now offer advice (to varying levels). Similarly, corporate funds are offering limited advice. In contrast some retail funds are offering "no advice" or "low advice" models.

The FSC is also concerned that there are 'hidden' or 'collapsed' columns in the proposed reports (e.g. Column D of Table 1, Column H of Table 2 etc of the proposed Annual Fund Level superannuation statistics) that are entitled "RSE licensee profit status" (refer to screen shot below)



Our recommendation continues to be that there should be no “for profit” or “not for profit” classifications in any APRA publications (hidden columns or otherwise).

Recommendation

- Our recommendation is that APRA only reports funds at the individual product level and the ‘whole of industry level’, or ‘fund level’ where this does not relate to measures of consumer experience, such as fees and returns;
- There should be no categorisation of funds based on RSE “for profit” vs “not for profit” status; and
- There should be no “for profit” or “not for profit” classifications in any APRA publications (hidden columns or otherwise).

<u>MySuper Products with Multiple Lifecycle Strategies</u>

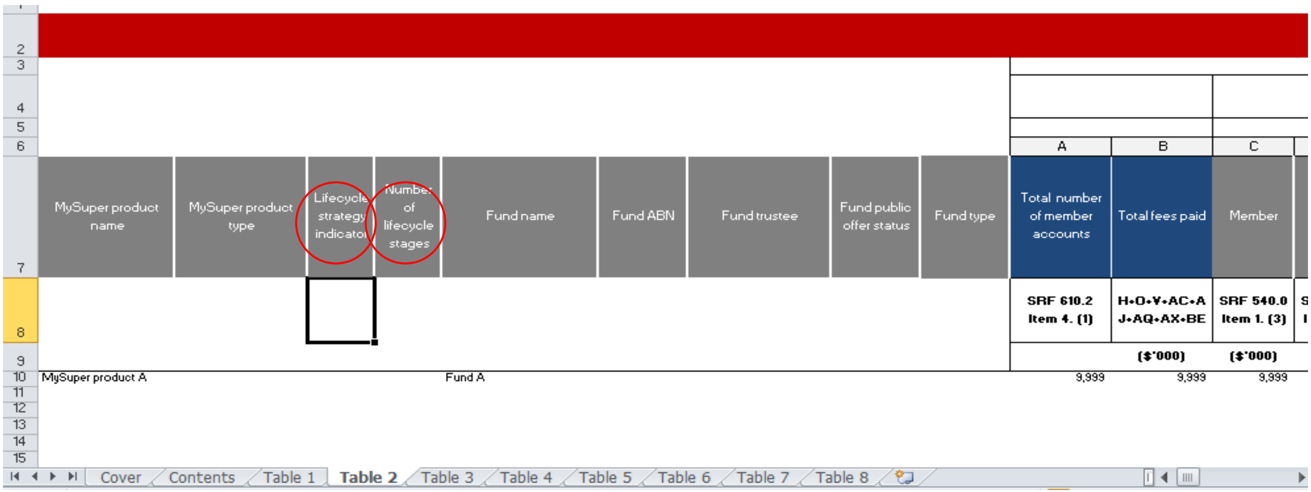
Within the proposed Annual MySuper Supplementary Statistics, it was not initially clear how the interaction of multiple Lifecycle strategies (hence multiple SRF 533.0 forms per MySuper product) would be handled and whether the ultimate data would be meaningful.

In the example below (from table 1), the intention initially seemed to be to use the “Total Assets” from SRS 533.0 and use it in conjunction with the data from SRS 330.2. However, SRF 330.2 is an annual form at the <u>product</u> level while SRF 533.0 is a quarterly form at the <u>option</u> level. We noted that there could be many MySuper Lifecycle options (SRS 533.0 forms) per MySuper product (SRS 330.2 forms).

On querying this issue with APRA, the following response was received:

> *Most [data] will come from 610.2, 540, 330.2 at product level. The whole publication is at [the] product level. Only total assets from 533, investment options will be aggregated out. No life cycle strategy [data will be] detailed in this report. This is just a product table, not life cycle.*

However, despite this response from APRA we note that there are grouped/hidden columns in each worksheet which, when expanded, could be used at a later date to identify the particular lifecycle (Refer to the example below from table 2 which is similar to many of the other tables).



Because the “Lifecycle Strategy Indicator” is in column C (but grouped/hidden) it suggests that it could be used in the future which raises additional questions (e.g. Column D is at odds with Column C - either the report should have different life cycle strategy indicators OR it should have the number of lifecycle stages).

Overall, in light of APRA's answer to our query, these worksheets could be confusing where there are multiple lifecycle strategies in a product. If column C does not change or is not populated, why is it there?

Recommendation:

- Remove the grouped/hidden column "Lifecycle strategy indicator" to ensure the reporting is meaningful when grouped/hidden columns are expanded.

Privacy concerns with the proposed Annual Fund–level Superannuation Statistics Excel report

- Tables 4: Conditions of release – lump sum benefits payments and Table 5: Conditions of Release – paid to pension benefit accounts opened during reporting period propose to publish information on the amount of death benefits paid. This has the potential to breach a beneficiary's privacy if few benefit payments of this nature are paid during period

- Table 12: Fund's membership demographics by gender and age segments proposes to publish information on the amounts held in a members' accounts by age and gender and Table 13: Fund's membership demographics by members' benefit segments. This has the potential to reveal private information particularly for members in the older age cohorts.

The FSC raised the issue of privacy in its 3 February 2014, 30 May 2014 and 30 June 2014 submissions, recommending a 20 members threshold below which information should not be published. The FSC is concerned that APRA's advice is that *"the final version of the report may include fewer segments based on consideration of the useability of the reported data and privacy requirements*". The FSC remains of the view that a 20 member threshold is appropriate.

SRF 540.0 Fees

ASIC Class Order 14/509 has deferred until 1 July 2016 the start date for publishing on a fund's website certain information relating to standard employer-sponsored sub-plans to enable further time for consideration of the commercial sensitivity issues that arise in the context of these types of sub-plan.

Certain data items in SRF 540.0 collect information on fees paid by employer sponsors which may be subject to the ASIC Class Order. It would be appropriate to defer deciding on the confidentiality of these items until the consultation on the commercial sensitivity issues involving standard employer-sponsored sub-plans has concluded.

Disclosure of fee rebates

APRA has interpreted section 348A of the SIS Act as a basis to disclose commercially sensitive MySuper fee rebates for employees of large employers. The FSC disagrees with this interpretation of section 348A of the SIS Act, but notes that APRA has decided to proceed and release this commercially sensitive information to the market when it relates to MySuper products.

The FSC submits that APRA should not make publicly available commercially sensitive fee data, particularly fee rebates, where it does not relate to a MySuper product.

FSC members are comfortable reporting this data to APRA for prudential reasons but we maintain that no mandate exists for APRA to publicly publish the data. Publication of this information exposes commercially sensitive data for no public benefit, and indeed may result in consumers being worse off.

A member of the general public cannot simply choose to join a discounted plan unless they have an arrangement with the particular employer. Making this information publicly available would allow competitors to extract information on competitive tenders for employer mandates that were provided by rival funds to assist them in future tenders. This is inconsistent with the basic principles of competition.

Making this data public would undermine the competitiveness of the marketplace and reduce member outcomes by eliminating a fund's incentive to create tailored employer products, knowing that the details of that product will be made public and become replicable.

<u>Whole of Fund Reporting</u>

We note that in the FSC submission dated 2 March 2014 on Confidentiality that the FSC pointed out flaws in 'whole of fund level' reporting:

> *The FSC has long been concerned that APRA publishes 'whole of fund level' data, which purports to represent outcomes across multiple investment options, which misleads the public by promoting information as indicative of fund performance that cannot have any meaningful relationship to their individual experience in an investment option or type of fund.*
>
> *It is a feature of the industry that most funds are increasingly offering an array of investment options as a result of increasing scale and in attempts to attract and retain members.*
>
> *It is not tenable that APRA continue to publish whole of fund data with the following disclaimer, fully cognisant that the information it releases with APRA's branding will be widely misreported by the media and interpreted by the public as a basis on which to make investment decisions:*
>
> > ***Information on rate of return (ROR)***
> > *Many trustees provide individual members with the choice of a wide range of investment options and superannuation products, with different investment goals. APRA's statistics are not designed to provide individual members with information to compare the investment options offered. The Australian Securities and Investment Commission's FIDO website (www.moneysmart.gov.au) provides guidance on how to compare superannuation investment options and links to other sources of information for this purpose.*

It is not clear that this issue has been addressed in the proposed reports. The attached screen shot shows a "rate of return" for a fund, when in fact rates of return are generally considered to be member investment level outcomes not whole of fund level outcomes.

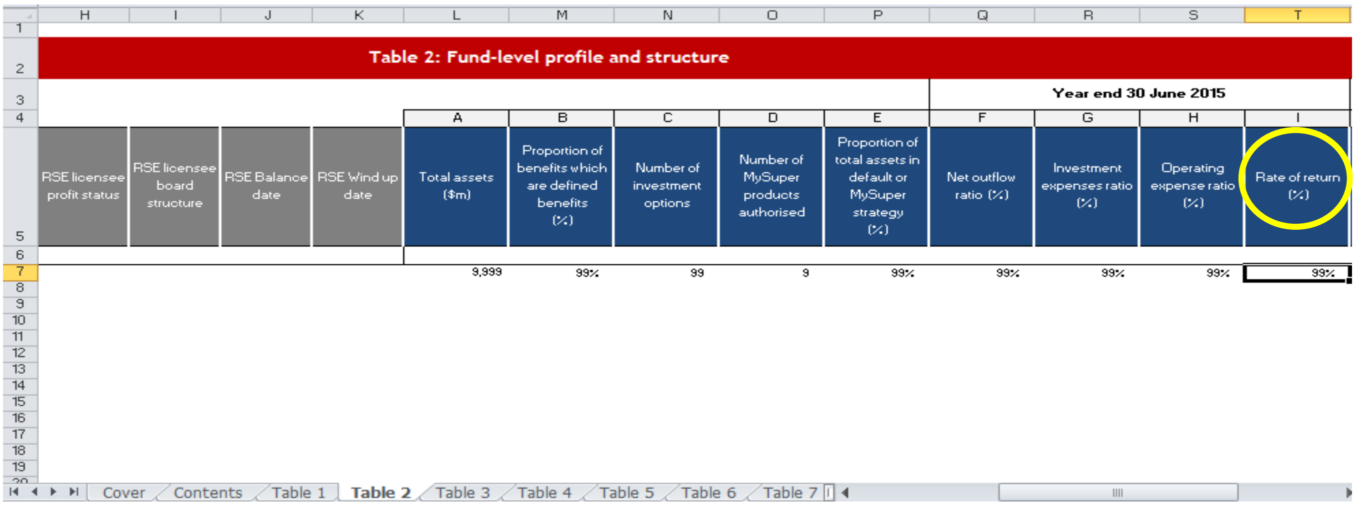
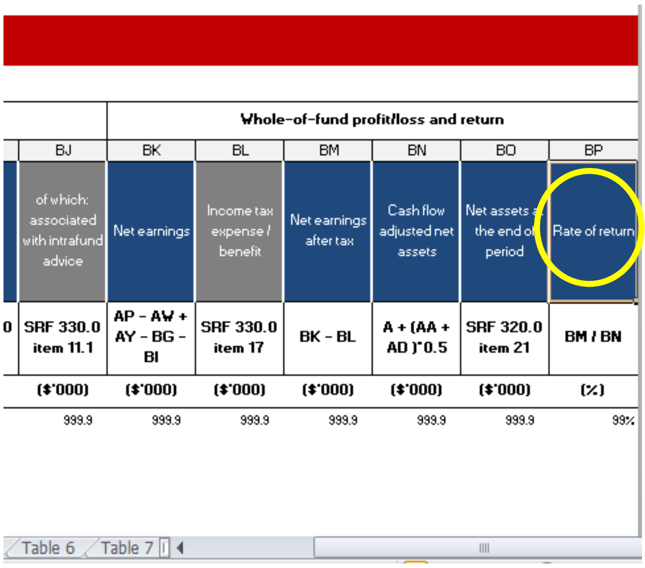


Table 2: Fund-level profile and structure

RSE licensee profit status	RSE licensee board structure	RSE Balance date	RSE Wind up date	A: Total assets ($m)	B: Proportion of benefits which are defined benefits (%)	C: Number of investment options	D: Number of MySuper products authorised	E: Proportion of total assets in default or MySuper strategy (%)	F: Net outflow ratio (%)	G: Investment expenses ratio (%)	H: Operating expense ratio (%)	I: Rate of return (%)
				9,999	99%	99	9	99%	99%	99%	99%	99%

Year end 30 June 2015 (columns F–I)

Similarly, within Table 3 (screen shot below) there is another "Rate of Return" displayed which is a derived field based on columns BM and BN and is not indicative of member experience in any particular investment option.



	Whole-of-fund profit/loss and return					
BJ	BK	BL	BM	BN	BO	BP
of which: associated with intrafund advice	Net earnings	Income tax expense / benefit	Net earnings after tax	Cash flow adjusted net assets	Net assets at the end of period	Rate of return
SRF 330.0 item 11.1	AP – AW + AY – BG – BI	SRF 330.0 item 17	BK – BL	A + (AA + AD)*0.5	SRF 320.0 item 21	BM / BN
($'000)	($'000)	($'000)	($'000)	($'000)	($'000)	(%)
999.9	999.9	999.9	999.9	999.9	999.9	99%

Table 6 / Table 7

When the FSC queried APRA on this issue, the response was as follows:

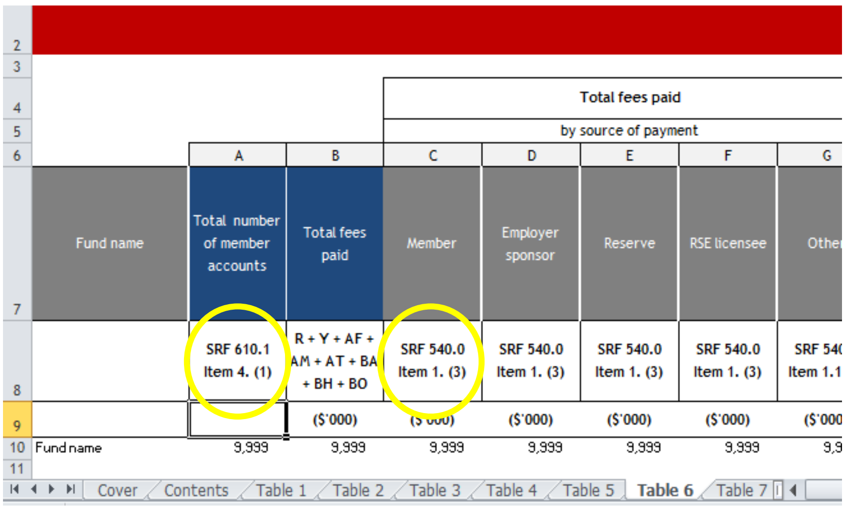
> *Table 2 is a fund level profile, so a summary of structure. So the number of MySuper products authorised, and proportion of assets in MySuper or default. RoR is not based on information in this table, the RoR is calculated in table three and then transposed across. It is a fund level RoR.*

The FSC believes the fields in these two worksheets are not clear and could be easily confused or, even worse, misused by users of the statistical report because any APRA derived theoretical fund level outcome of Rate of Return is not representative of the consumer's own selected investment level outcome (investment return) which can vary widely between cash and other low risk options to high risk/high return options.

Recommendation:
- The FSC recommends that the "Rate of Return" should not be a fund level reporting item

<u>Other issues – Table 6</u>

Within table 6, there is a mixing of data from SRF 610.1 and SRF 540.0 (see screen shot below). However, SRF 610.1 must be completed for each RSE, defined benefit RSE and eligible rollover fund (ERF), whereas SRF 540.0 must be completed for each RSE, defined benefit RSE, pooled superannuation trust (PST), eligible rollover fund (ERF) <u>and MySuper product</u>. It is not clear how the data that is submitted for each MySuper Product will be handled in the compilation of the form.



			Total fees paid				
			by source of payment				
	A	B	C	D	E	F	G
Fund name	Total number of member accounts	Total fees paid	Member	Employer sponsor	Reserve	RSE licensee	Other
	SRF 610.1 Item 4. (1)	R + Y + AF + AM + AT + BA + BH + BO	SRF 540.0 Item 1. (3)	SRF 540.0 Item 1. (3)	SRF 540.0 Item 1. (3)	SRF 540.0 Item 1. (3)	SRF 540 Item 1.1
		($'000)	($'000)	($'000)	($'000)	($'000)	($'000)
Fund name	9,999	9,999	9,999	9,999	9,999	9,999	9,9

Cover / Contents / Table 1 / Table 2 / Table 3 / Table 4 / Table 5 / Table 6 / Table 7

With the new reporting regime, APRA has the ability to restructure the publication to correct such issues.

Recommendation:
- The FSC recommends that APRA consider the case, in table 6, where there are multiple SRS 540.0 forms per RSE (where there is a single SRF 610.1 submission).