



# DISCUSSION PAPER

## Post-implementation review of APRA's superannuation prudential framework

23 May 2018

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# Executive Summary

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The Australian Prudential Regulation Authority (APRA) is undertaking a comprehensive post-implementation review of the superannuation prudential framework introduced in 2013, following the review into the governance, efficiency, structure and operation of Australia's superannuation system, referred to as Stronger Super.<sup>1</sup>

The prudential and reporting standards, together with supporting guidance material, introduced by APRA as part of the Stronger Super reforms sought to facilitate improvements in the operation of the superannuation system. APRA's objectives for the prudential framework were to provide increased clarity and certainty for trustees and increase alignment with the prudential framework that applied to other parts of the prudentially regulated financial sector where appropriate. APRA also sought to enhance the data collected and published on the superannuation industry, to provide increased transparency and insights on its operations.

It is now timely to conduct a review of the prudential framework introduced in 2013. The purpose of this comprehensive post-implementation review is to determine whether the prudential and reporting standards (and related guidance material) have achieved their objectives and remain fit for purpose. The review is not intended to revisit the original policy intent or objectives of the reforms, and is not seeking to either weaken or strengthen the prudential framework. Rather, APRA wishes to assess whether the prudential framework is operating effectively and efficiently, and to identify and seek to address any unintended consequences or areas for improvement in the framework.

Consultation with stakeholders is a key part of the post-implementation review. Given that the review will cover a significant proportion<sup>2</sup> of the superannuation prudential framework, APRA proposes an extended consultation period over the period to September 2018. To facilitate consultation, APRA will release this discussion paper and six short papers that focus on key topic areas that cover all the elements of the prudential framework that form part of the review.

The post-implementation review is not seeking detailed feedback on every aspect of, or requirement in, the prudential framework. Through its stakeholder engagement during the review, APRA is seeking to elicit stakeholder views on:

- the effectiveness of the current prudential and reporting standards and supporting guidance material;

<sup>1</sup> The Stronger Super reforms were introduced to implement recommendations of the *Review into the governance, efficiency, structure and operation of Australia's superannuation system* (2010) chaired by Jeremy Cooper (the Cooper Review).

<sup>2</sup> Elements of the prudential framework implemented after 2013, such as *Prudential Standard CPS 226 Margining and risk mitigation for non-centrally cleared derivatives* and *Prudential Practice Guide SPG 227 Successor Fund Transfers and Wind-ups*, are not subject to review.

- the practical impact of the framework for stakeholders;
- areas within the framework that could be reviewed to either enhance outcomes or reduce compliance costs; and
- the merits of potential changes to the framework to achieve this.

Further, to provide flexibility for stakeholders and enhance opportunities for participation in the review process, the consultation material will be released in three tranches with a four week targeted public consultation period for each tranche. During the consultation period for each tranche, stakeholders will have the opportunity to lodge written submissions, attend roundtable discussions and engage in formal and informal bilateral meetings. Submissions will be able to be lodged in response to any of the material in the three consultation tranches at any time before 26 September 2018.

APRA will then review the information obtained during the consultation, and consider possible changes to the prudential and reporting standards and related guidance material, in the fourth quarter of 2018. APRA expects to release the outcomes of the post-implementation review by early 2019.

# Chapter 1 – Introduction

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## 1.1 Background

On 29 May 2009, the Government commissioned a review into the governance, efficiency, structure and operation of Australia's superannuation system (the Cooper Review). The Cooper Review was tasked with the responsibility of establishing recommendations to ensure Australia's superannuation system had a sharper focus on operating in members' best interests.

In its final report, which was presented to the Government on 30 June 2010, the Cooper Review made 177 recommendations across 10 chapters covering topics such as investment governance, outcomes transparency, integrity of the system and regulatory settings.

### Regulatory settings recommendations

The Cooper Review made 19 recommendations with respect to the superannuation regulatory settings, three of which were focused on APRA's prudential framework and the somewhat piecemeal approach taken to regulatory reform prior to 2010, which had resulted in gaps within APRA's mandate. These recommendations were:

- APRA's mandate should be broadened to include the task of overseeing and promoting the efficiency of the funds it regulates and the system in which they operate (Recommendation 10.1);
- APRA should be given a general standards-making power in relation to superannuation, similar to those which it has in relation to banks and in the insurance sector and the standards-making power should not just encompass, but go beyond, prudential matters (Recommendation 10.2); and
- APRA should be charged with the responsibility of providing more in-depth data and analysis on the superannuation sector (Recommendation 10.3).

### Government response

On 16 December 2010, the Government announced its response to the Cooper Review recommendations and indicated that it would seek to implement its recommendations over the following years, in the form of what became known as the Stronger Super reforms. Core to this response was support for standards-making powers in superannuation and improved data collection.<sup>3</sup>

Stronger Super progressed through Parliament between 2011 and 2012 in three tranches of legislation. Amendments to give effect to Recommendations 10.2 and 10.3, were contained in the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012 (SLA No.2 Bill) and the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012 (SLA No.3 Bill) respectively. After extensive

<sup>3</sup> Note that the Government did not support tasking APRA to oversee or promote efficiency within the superannuation industry consistent with Recommendation 10.1.

consultation with industry, APRA introduced a suite of prudential and reporting standards to facilitate improvements in the operation of registrable superannuation entity licensees, with an emphasis on protecting the interests of superannuation fund members.<sup>4</sup>

When implementing the changes to the prudential framework, APRA committed to undertake a point in time review of the new prudential and reporting frameworks after they had been in operation for three to four years. This post-implementation review fulfils that commitment.

## **1.2 Structure of this paper**

**Chapter 2** - sets out the purpose and structure of the review.

**Chapter 3** - contains an overview of the objectives of the prudential and reporting standards and poses questions about the overall prudential framework.

**Chapter 4** - provides information on the consultation process for this discussion paper and the first two short topic papers (relating to governance and risk management).

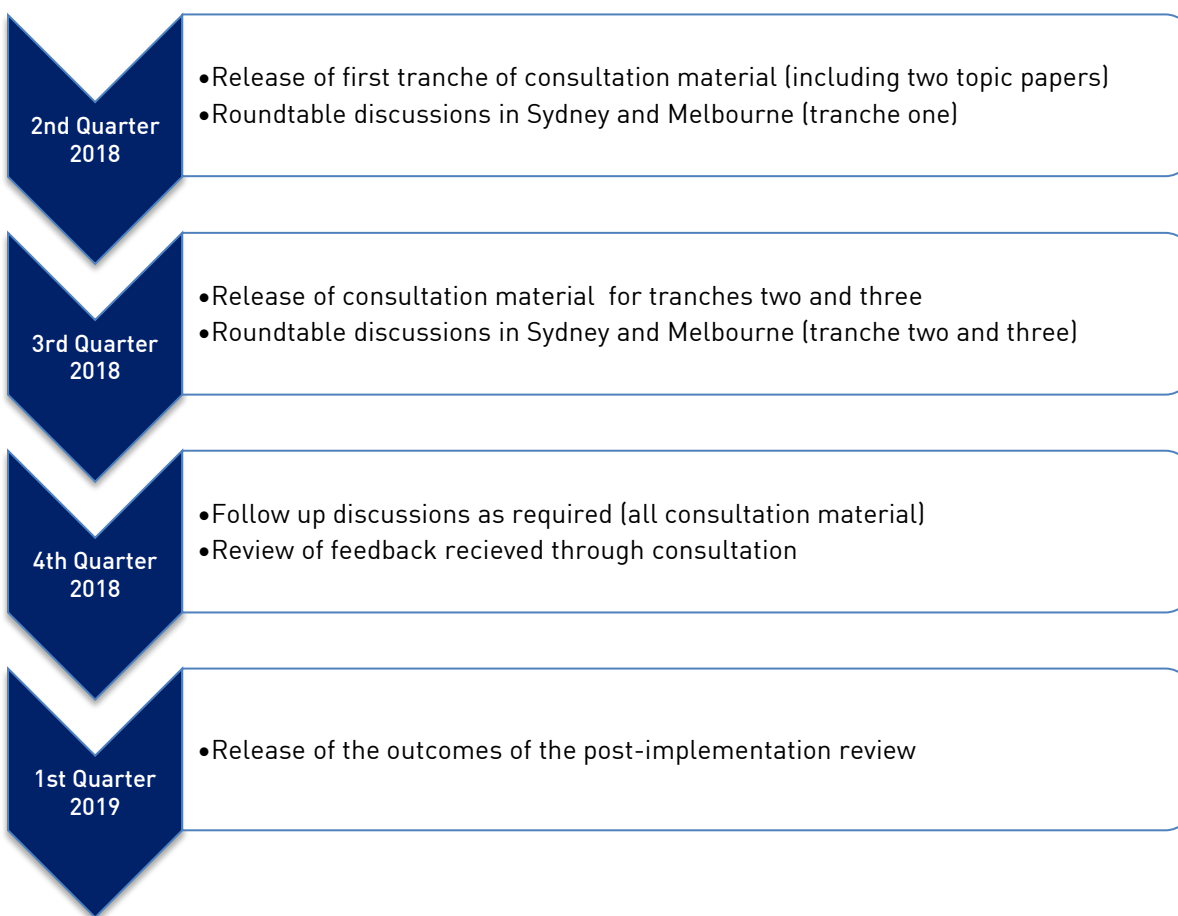
## **1.3 Timeline**

APRA plans to engage with interested stakeholders on the review between June and September 2018. This will include formal and informal consultation on each of the key topic areas.

Subject to the feedback received during the period of consultation, APRA anticipates that the outcomes of the review will be released by early 2019.

<sup>4</sup> Attachment A provides an overview of the stages of development of the prudential and reporting standards.

## Indicative timetable





# Chapter 2 – Post-implementation review

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## 2.1 Purpose of the review

The prudential framework was introduced to facilitate improvements in the operation of the superannuation system. The objectives of the prudential and reporting standards were to provide increased clarity and certainty for trustees, increased alignment with the prudential framework that applied to other parts of the prudentially regulated financial sector where appropriate, and enhanced data collection and publication to promote increased transparency on the industry.

The purpose of this post-implementation review is to consider the effectiveness of the prudential and reporting standards and guidance material, and assess whether they have achieved their objectives and remain fit for purpose. This review is not seeking to revisit the original policy intent or objectives behind the introduction of the prudential framework, or to either weaken or strengthen it; rather it is focused on whether the framework is operating effectively and efficiently, and to identify and seek to address any unintended consequences or areas for improvement.

The review seeks to examine whether the objectives underlying the framework have been implemented effectively, embedded by industry and are supported by a robust reporting and compliance framework. Where the original objectives have not been met, or feedback indicates that amendments could enhance efficiency for APRA and industry in meeting the original objectives, APRA will consider possible changes to the framework to address this, or any gaps or issues identified during the review process.

APRA recognises that the superannuation prudential framework needs to evolve over time in response to changes in the industry and operating environment and to respond to emerging risks. Hence APRA considers it good practice to review the prudential framework periodically.

## 2.2 Scope of the post-implementation review

The post-implementation review covers all prudential and reporting standards (including guidance material) introduced or refined as a result of Stronger Super. Subsequent changes to the prudential framework, such as, *Prudential Standard CPS 226 Margining and risk mitigation for non-centrally cleared derivatives* and *Prudential Practice Guide SPG 227 Successor Funds Transfers and Wind-ups* are not subject to review at this time.

In total, the review will cover over 100 separate elements of the prudential framework including 13 prudential standards, 37 reporting standards and up to 58 guidance documents (practice guides, letters and information statements). However APRA is not proposing that stakeholders provide detailed views or feedback on every requirement or component of the framework, or necessarily undertake a review and assessment of the specific wording or elements of each prudential standard, prudential practice guide, reporting standard or instructions. Rather, as outlined above, we are seeking feedback that identifies aspects of the framework and its requirements that may not be meeting the original policy intent or objectives.

To facilitate consideration of the various elements of the prudential framework, the review will be conducted under six broad topic areas with a series of questions for each topic on which feedback is sought<sup>5</sup>:

- Governance;
- Risk management;
- Financial requirements, operational risk and outsourcing;
- Investments;
- Insurance; and
- Member flows and products.

## 2.3 External engagement

APRA is seeking to undertake ongoing engagement through the entirety of the review, both formally and informally, to understand and consider stakeholder feedback on:

- the effectiveness of the current prudential framework;
- the impact of the framework on stakeholders;
- areas within the framework that could be amended to reduce compliance costs or enhance outcomes; and
- the merits of any potential changes that may achieve that.

### *Formal consultation*

Given the review will cover a significant proportion of the prudential framework, the formal consultation process will be undertaken in three tranches, with each tranche covering two of the six topic areas.

- The first tranche includes:
  - this overarching discussion paper, which provides a general overview of the review and summarises the overall purpose and policy intent of the prudential framework; and
  - two short topic papers covering governance and risk management (the first two topic papers).
- The second tranche will comprise two short topic papers covering financial requirements, operational risk and outsourcing, and investments.
- The final tranche will comprise the final two short topic papers covering insurance and member flows and products.

<sup>5</sup> Attachment B provides a detailed breakdown of the six key topic areas including the prudential standards, prudential practice guides and reporting standards.

APRA will undertake a targeted public consultation on each tranche over a four week period, involving industry roundtables/workshops, bilateral meetings and calls for submissions. This approach is designed to give stakeholders the opportunity to select the specific topic areas on which they seek to engage and share their views. Submissions on all three tranches are requested by 26 September 2018.

To facilitate stakeholder engagement, feedback is welcome on any aspect of the review at any time throughout the review, whether verbal, written, formal or informal.

### ***Compliance costs associated with the prudential and reporting standards***

Understanding the impact of the introduction of the prudential and reporting standards, through cost-benefit analysis, is an important factor in determining whether the framework has achieved its objectives and continues to remain fit for purpose.

Stakeholders are invited to, wherever possible, provide compliance impact information. In particular, APRA is seeking information on the:

- compliance costs associated with the introduction of the prudential and reporting standards both at the time of implementation and on an ongoing basis ;and
- benefits that have been obtained as a result of the introduction of the prudential and reporting standards.

Consistent with the Government's approach to estimate compliance costs, the methodology behind the Commonwealth Regulatory Burden Measure will be used to estimate any compliance costs that may be required during the review.<sup>6</sup>

Respondents are requested to use the Commonwealth Regulatory Burden Measure methodology to estimate the costs associated with the prudential and reporting frameworks, to ensure the data supplied can be aggregated and used in any industry-wide assessments. When submitting cost assessments, any assumptions made and, where relevant, any limitations inherent in the assessment should be included.

<sup>6</sup> The tool is available at <https://rbm.obpr.gov.au/home.aspx>.

# Chapter 3 –The prudential and reporting standards

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## 3.1 Background

### The Cooper Review recommendations and subsequent legislation

As outlined in the background section in Chapter 1, the prudential and reporting standards were implemented to give effect to Recommendations 10.2 and 10.3 of the Cooper Review.

The overarching intent of the recommendations was to provide APRA with the ability to provide increased clarity and certainty for trustees, increased alignment with the prudential framework that applied to other parts of the prudentially regulated financial sector where appropriate, and enhanced data collection and publication to promote increased transparency on the industry.

This is reflected, for example, in the commentary on the prudential standards-making power in the explanatory memorandum:

Prudential standards, determined and drafted by APRA, are designed to improve the clarity and certainty of prudential regulation by providing additional detail on the prudential matters set out in the enabling legislation.<sup>7</sup>

## 3.2 The objectives of the prudential and reporting standards

Consistent with the Government's policy intent, APRA indicated that the objectives of the

- prudential standards were to<sup>8</sup>:
  - apply standards to all trustees that are aligned appropriately with existing good standards of governance in the superannuation industry regulated by APRA; and
  - improve the alignment of requirements across the industries APRA regulates (noting the careful consideration which was given to the structure of the superannuation industry, which resulted in some exceptions to this objective);
- reporting standards were to<sup>9</sup>:
  - strengthen prudential supervision of the superannuation industry in accordance with APRA's mission;
  - meet the requirements of end users of data collected by APRA, in fulfilment of its role as a national statistical collection agency;

<sup>7</sup> Explanatory Memorandum, Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012 (SLA No.2 Bill) para 2.5.

<sup>8</sup> APRA 2012, *Regulation Impact Statement: Superannuation Prudential Standards*.

<sup>9</sup> APRA 2013, *Regulation Impact Statement: Superannuation Reporting Standards*.

- support the Standard Business Reporting initiative (which was aimed at streamlining reporting frameworks across federal government agencies, promoting consistency and reducing reporting burdens); and
- promote transparency and comparability within the superannuation industry.

### **Prudential practice guides**

In addition to the introduction of the prudential and reporting standards, APRA introduced prudential practice guides (PPGs). The objective of the PPGs was to provide guidance on APRA's view of sound practice in particular areas. PPGs frequently discuss legal requirements from legislation, regulations or APRA's prudential standards, but do not themselves create enforceable requirements.<sup>10</sup>

<sup>10</sup> The discussion paper: *Prudential guidance for superannuation* (December 2012) is available on the APRA website.

### 3.3 Questions for consideration

<b>General questions</b>	<ol style="list-style-type: none"><li>1) Have the prudential standards:<ol style="list-style-type: none"><li>a) provided increased clarity and certainty for trustees in relation to their obligations as trustees of superannuation entities? If not, how could they be improved/amended?</li><li>b) been embedded in the decision-making processes and practices of trustees, and used in practice to support sound decision-making? If not, why not and how could they be improved/amended to achieve this?</li></ol></li><li>2) Do the prudential standards continue to reflect current practices in the broader financial sector? If not, how could they be improved/amended?</li><li>3) Are there any material gaps in the areas covered by the prudential standards that need to be remedied to achieve the original intent and objectives of the prudential framework?</li><li>4) When implemented, did the prudential standards:<ol style="list-style-type: none"><li>a) lead to positive changes to practices, structures, etc. across the superannuation industry?</li><li>b) give rise to unintended/adverse impacts?</li></ol></li><li>5) Is there sufficient flexibility in the prudential standards to accommodate business operations of trustees? If not, how could they be improved/amended?</li><li>6) Do the reporting standards provide policymakers, regulators, trustees and the community with sufficient information to assess the overall performance of the superannuation system? If not, how could they be improved/amended?</li><li>7) What is your view on the quality of the data captured through the reporting standards and any areas where improvement in data quality would be desirable to achieve the original intent and objectives of the prudential framework?</li></ol>
<b>Questions on costs and benefits</b>	<ol style="list-style-type: none"><li>8) What costs were incurred, and continue to be incurred, in complying with the prudential standards? To what extent have these costs delivered benefits such as increased clarity and certainty, or improved outcomes? How have you assessed these cost-benefit trade-offs?</li><li>9) What costs were incurred, and continue to be incurred, in complying with the reporting standards? To what extent have these costs delivered benefits to members and other stakeholders through enhanced transparency and comparability? How have you assessed these cost-benefit trade-offs?</li></ol>

## Chapter 4 – Consultation

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APRA invites written submissions to the consultation questions on the prudential and reporting standards in Chapter 3 of this discussion paper and the consultation questions in the short discussion papers on Governance and Risk Management.

This discussion paper and the first two short topic specific discussion papers are available on APRA's website at: <http://www.apra.gov.au>.

Written submissions should be sent to [superannuation.policy@apra.gov.au](mailto:superannuation.policy@apra.gov.au) by 26 September 2018 (or earlier) and addressed to:

General Manager, Policy Development  
Policy and Advice Division  
Australian Prudential Regulation Authority

APRA intends to convene roundtable discussions on this tranche of consultation material with interested parties during the consultation period. To express your interest in discussing the consultation material or broader issues pertaining to the post-implementation review, please contact [superannuation.policy@apra.gov.au](mailto:superannuation.policy@apra.gov.au).

### Important disclosure notice – publication of submissions

All information in submissions will be made available to the public on the APRA website unless a respondent expressly requests that all or part of the submission is to remain in confidence.

Automatically generated confidentiality statements in emails do not suffice for this purpose.

Respondents who would like part of their submission to remain in confidence should provide this information marked as confidential in a separate attachment.

Submissions may be the subject of a request for access made under the *Freedom of Information Act 1982* (FOIA).

APRA will determine such requests, if any, in accordance with the provisions of the FOIA. Information in the submission about any APRA-regulated entity that is not in the public domain and that is identified as confidential will be protected by section 56 of the *Australian Prudential Regulation Authority Act 1998* and will therefore be exempt from production under the FOIA.

# Attachment A – Development of the prudential and reporting standards

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On 28 September 2011, APRA issued a discussion paper, *Prudential standards for superannuation*, outlining APRA's proposed approach to introducing prudential standards for the superannuation industry. To facilitate an effective consultation process, the discussion paper separated the proposed prudential standards into the following key areas/topics:

- Governance-related prudential standards – covering minimum requirements for the processes and policies that superannuation trustees are expected to have in place and to improve the robustness of governance arrangements.
- Risk management-related prudential standards – outlining a shift in the emphasis from documenting risk management strategies and plans to implementation of a holistic risk management framework.
- Investment governance prudential standard – requiring superannuation trustees to document clear investment objectives for all investment options, the processes and criteria used when formulating an investment strategy, including the selection of investment managers, and the processes for monitoring investments in each investment option.
- Other prudential standards – covering defined benefit schemes and insurance.

On 27 April 2012, APRA released draft prudential standards for comment with an accompanying paper setting out APRA's response to submissions received on the 2011 discussion paper.

On 19 September 2012, APRA issued a discussion paper, *Reporting standards for superannuation*, outlining APRA's proposals for revising the reporting requirements for superannuation entities. The discussion paper outlined a number of important factors that had been taken into consideration when developing the proposed revised reporting requirements. These included look-through reporting, changes to accounting standards, confidentiality of data, required levels of data collection and the timing of the data collection.

Stronger Super also introduced a new default superannuation product called MySuper. On 3 October 2012, APRA released a proposed final version of *Prudential Standard SPS 410 MySuper Transition* (SPS 410), an application form to seek authority to offer a MySuper product and a supporting instruction guide.

On 15 November 2012, APRA issued eleven final prudential standards.<sup>11</sup>

On 1 July 2013, APRA released superannuation reporting standards for product dashboards, investment performance and fees to be disclosed. The reporting standard for investment performance commenced on 30 September 2013, while the other two reporting standards commenced on 31 December 2013.

<sup>11</sup> Media Release, *APRA releases final prudential standards for superannuation*, 15 March 2012.



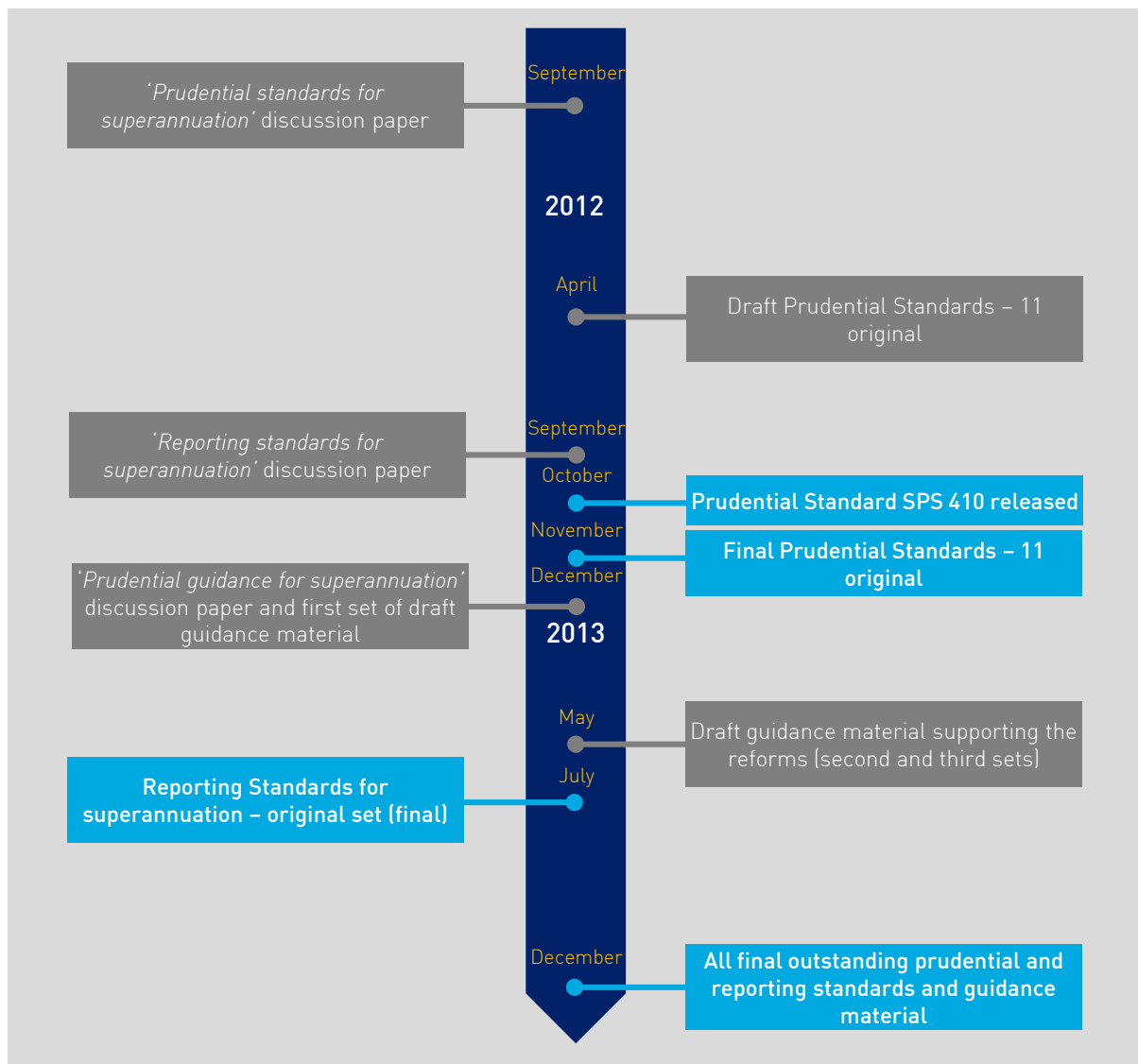
## **Prudential practice guidance and other guidance material**

On 11 December 2012, APRA issued a discussion paper, *Prudential guidance for superannuation*, containing draft guidance material to support implementation of the prudential standards. The initial set of guidance focused on areas that APRA considered to be most important for MySuper authorisation, namely governance, fit and proper, conflicts of interest, investment strategy, risk management insurance, operational risk financial requirement, outsourcing and business continuity management.

On 9 May 2013, APRA issued for consultation its second set of draft guidance material to support implementation of the prudential standards for superannuation. The second set of guidance material covered the following areas: defined benefit matters; management of reserves; remuneration; investment risk management; valuation; adequacy of resources; contribution and benefit accrual standards; and payment standards

On 20 September 2013, draft guidance material covering audit and related matters was released for consultation. In December 2013, APRA released the final audit and related matters prudential guide.

## Policy development timeline



## Attachment B – Prudential Framework Topic Areas

Topic	Prudential standard(s)	Prudential guidance	Reporting standard(s)
Governance	SPS 510, SPS 520 and SPS 521	SPG 510, SPG 511, SPG 520 and SPG 521	SRS 520.0, SRS 600.0 and SRS 601.0
Risk Management	SPS 220 and SPS 310	SPG 220, SPG 221, SPG 223 and SPG 310	N/A
Financial Requirements, Operational Risk and Outsourcing	SPS 114, SPS 231 and SPS 232	SPG 114, SPG 222, , SPG 231, SPG 232 and SPG 233	SRS 001.0, SRS 114.0, SRS114.1, SRS 320, SRS 320.1 SRS 330, SRS 330.1, SRS 330.2, SRS 331.0 SRS 540.0, SRS 602.0, SRS 703.0, SRS 711.0 and SRS 800.0
Investments	SPS 530	SPG 530 and SPG 531	SRS 530.0, SRS 531.0, SRS 532.0, SRS 533.0, SRS 534.0, SRS 535.0, SRS 702.0 and SRS 801.0
Insurance	SPS 250	SPG 250	SRS 161.0, SRS 250.0
Member Flows and Products	SPS 160, SPS 410 and SPS 450	SPG 160, SPG 270, SPG 280 and SPG 410	SRS 160.0, SRS 160.1, SRS 410.0, SRS 533.1, SRS 610.0, SRS 610.1, SRS 610.2, SRS 700.0, SRS 710.0 and SRS 802.0



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