

## INSIDE THIS EDITION:

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- DIGITAL ASSET REGULATION
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## IN BRIEF

*There were several significant developments in October, with the Government releasing a much-anticipated consultation proposing to require employers to pay SG contributions at the same time as their employee's wages.*

*Additionally, the Australian Accounting Standards Board released an Exposure Draft outlining the proposed data collections for climate-related financial disclosures. This will be particularly significant for superannuation trustees as both disclosing entities and consumers of such reporting.*

*Finally, ASIC introduced some minor exemptions for the reportable situations regime, whilst also releasing the second edition of key insights into the regime.*

## COMMONWEALTH PARLIAMENT



## Superannuation Bills

October 2023  
Parliamentary Business

[LINK TO DETAILS](#)

## Status key

- House of Reps.
- Committee
- Senate
- Royal Assent

Commonwealth Parliament sat from 16 October to 19 October, with the Senate also sitting from 23 October to 27 October 2023.

One new superannuation-related bill was introduced:

- [Social Security and Other Legislation Amendment \(Supporting the Transition to Work\) Bill 2023](#)

The following bills remain before the House of Representatives:

- [Housing Australia Future Fund Bill 2023 \[No. 2\]](#)
- [Treasury Laws Amendment \(Support for Small Business and Charities and Other Measures\) Bill 2023](#)
- [Identity Verification Services Bill 2023](#)
- [Identity Verification Services \(Consequential Amendments\) Bill 2023](#)

The following superannuation-related bills remain in the Senate:

- [Statutory Declarations Amendment Bill 2023](#)
- [Treasury Laws Amendment \(Consumer Data Right\) Bill 2022](#)
- [Treasury Laws Amendment \(2023 Measures No. 1\) Bill 2023](#)

The Senate will sit from 6 November to 10 November, with a joint sitting week commencing 13 November and again 27 November 2023.



## MAJOR UPDATES



### Securing Australians' Superannuation (Payday Super)

9 October 2023  
*Consultation Paper*

[LINK TO DETAILS](#)

The Government commenced consultation seeking feedback on several changes to the policy and legislative design of the *Securing Australians' Superannuation* package as announced in the 2023-24 Federal Budget. The *Securing Australians' Superannuation Budget 2023-24 Consultation Paper* proposes the following key changes to the superannuation guarantee (SG) framework:

- a requirement for employers to pay superannuation guarantee (SG) contributions at the same time as paying salary and wages ('payday') from 1 July 2026; and
- introducing a new unified database which matches employer single-touch payroll (STP) data with superannuation fund's Member Account Attribution Service (MATS) data to enable the ATO to better identify instances and patterns of late payment or underpayment of SG.

The Consultation Paper highlights a range of technical challenges to legislating the regime and specifically requests feedback in relation to:

- Several options proposed for defining a 'payday', including every time a payment with an ordinary times earning (OTE) component is paid would constitute a 'payday';
- updating the SG charge from a quarterly model to a more frequent payment schedule to align with 'payday' obligations;
- the risks and benefits of utilising the New Payments Platform (NPP) for Superstream contribution remittance;
- how frequently and how close to 'payday' ATO reconciliations are conducted to identify employer non-compliance;
- additional flexibility for the Commissioner of Taxation to appropriately administer the SG charge with employers;
- potential improvements to the stapling regime, including establishing a new digital ATO service to facilitate stapled fund visibility;
- how maximum contribution base calculations and defined benefit certificates will operate without a quarterly remittance obligation; and
- transitional arrangements for contributions in the first financial year (2026-27) to ensure the earlier payment of SG contributions doesn't constitute a breach of the concessional contributions cap for some individuals with structured contribution arrangements.

The ATO will hold a range of consultation activities on the proposed reforms, including stakeholder roundtables and bilateral meetings with Treasury, commencing in the second half of 2023.

*Superannuation trustees should remain abreast of developments in this space as more frequent contribution remittance may require process or system changes to be implemented.*



## Increased Flexibility for Social Security Eligibility

18 October 2023  
*Bill introduced*

[LINK TO DETAILS](#)

The Government introduced *Social Security and Other Legislation Amendment (Supporting the Transition to Work) Bill 2023* into the House of Representatives. The Bill seeks to provide more choice and flexibility for older Australians who re-enter the Australian workforce or increase their working hours by allowing pensioners to earn more before the pension income test is applied and their payments impacted.

Amendments would be made to the *Social Security Act 1991* and *Veterans' Entitlements Act 1986* to provide for a \$4,000 work bonus concession balance for eligible age pensioners and veteran entitlement recipients upon commencement of benefit entitlement, and a permanent increase to the maximum concessional balance they can accrue.

The work bonus currently allows pension recipients to accrue unused income concessions in an 'income bank' each fortnight to carry forward to future earnings periods of offset against any pension reduction. A temporary increase in the maximum balance that can be accrued in the income bank to \$11,800 (from \$7,800) was due to cease on 31 December 2023. The Bill would make this increase permanent.

Additionally, the Bill would extend the employment income nil rate period from 12 to 24 weeks, enabling greater continued access to supplementary benefits for certain social security recipients when their income exceeds the social security limit before being cancelled.

*Superannuation trustees should ensure preparedness for the changes as this may trigger some enquiries and drawdown changes from current pension members. Fund collateral updates and training will be required to member-facing staff to ensure the increased income bank changes are understood.*



## AFCA Systemic Issues Insights Report

19 October 2023  
*Report*

[LINK TO DETAILS](#)

AFCA released its bi-annual *Systemic Issues Insights Report 22-23 – Edition 3* which publishes recent data, case studies and findings in relation to systemic issues identified by AFCA arising through complaints reported to AFCA. The report looks at the second half of the 2022-23 financial year.

In total, AFCA reported 81 matters to regulators, comprising 55 systemic issues, 7 serious contraventions of the law, 18 refusals by parties to give effect to an AFCA determination and 1 settlement requiring further review.

Relevant to superannuation, AFCA identified 7 systemic issues in the period, and provided further information on two such matters:

- Migration of client data to a new administrator caused delays in contribution processing, due to insufficient system testing; and
- Reserve distribution was incorrectly reported to the ATO as a contribution for members due to an administrative oversight, resulting in incorrect contribution cap calculations and resetting the period of inactivity for otherwise inactive members.

AFCA also observed several systemic issues relating to remediation within other industries that are relevant to superannuation:

- unclear customer communication in a remediation program that resulted in customer uncertainty and resulted in complaints; and
- a system fix that was implemented to correct a calculation was not effective due to the failure to identify a cohort of impacted customers.

*Superannuation trustees should note AFCA's findings and consider their own operations in light of the systemic issues identified by AFCA.*



## Draft Sustainability Standards

23 October 2023  
*Exposure Draft*

[LINK TO DETAILS](#)

The Australian Accounting Standards Board (AASB) released an Exposure Draft setting out proposed climate-related financial disclosure requirements for Australian entities. The *Australian Sustainability Reporting Standards – Disclosure of Climate-related Financial Information* (ED SR1) includes three draft Australian Sustainability Reporting Standards (ASRS):

- [draft] ASRS 1 *General Requirements for Disclosure of Climate-related Financial Information*, developed using IFRS S1 *General Requirements for Disclosure of Sustainability-related Financial Information* as the baseline but limited to climate-related financial disclosure;
- [draft] ASRS 2 *Climate-related Financial Disclosures*, developed using IFRS S2 *Climate-related Disclosures* as the baseline; and
- [draft] ASRS 101 *References in Australian Sustainability Reporting Standards*, developed as a service standard that would be updated periodically to list the relevant versions of any non-legislative documents published in Australia and foreign documents that are referenced in the ASRS.

The AASB has modelled the draft standards on the International Sustainability Standards Board (ISSB) Exposure Draft material but modified as deemed necessary for Australian requirements. The AASB is seeking feedback on a range of provisions within the draft standards, including whether the modifications are appropriate. The draft standards would be a separate suite of standards to the Accounting Standards.

This follows a series of [consultations](#) held by the Government in relation to introducing mandatory climate-related financial disclosures for entities. Before making the ASRS, the AASB would require the [Treasury Laws Amendment \(2023 Measures No. 1\) Bill 2023](#), currently before the Senate, to pass Parliament to give the AASB the power to enact the ASRS.

ED SR1 is available for comment until 1 March 2024.

*Superannuation trustees should carefully review the draft standards and consider the availability of data and other information to enable accurate disclosures. Given the significance of these reforms, early preparation and coordination with relevant service providers would be prudent.*



## Capped Defined Benefit Streams

26 October 2023  
*Media Release*

[LINK TO DETAILS](#)

The Government announced its intention to introduce changes to the transfer balance cap calculations for individuals with a capped defined benefit income stream in specific circumstances.

Currently, where a merger or successor fund transfer (SFT) occurs, an income stream may be treated as ceasing and a new income stream beginning under the successor fund. For some members, this may result in a revaluation of their capped defined benefit income stream. If the revaluation produces a higher value than the original income stream, this may impact the calculation of their transfer balance cap.

The Government intends to amend the legislation to ensure these affected members' income streams continue without an adverse impact to the cap.

The changes would apply retrospectively to the introduction of the transfer balance cap on 1 July 2017. No further details have been released by the Government on the mechanism to amend the legislation.

*Superannuation trustees with defined benefit products or looking to undertake an SFT should note the announcement.*



## Reportable Situation Insights Report

31 October 2023  
Report

[LINK TO DETAILS](#)

ASIC released *Report 775 Insights from the reportable situations regime: July 2022 to June 2023* which provides high-level insights into the trends observed by ASIC in the reports lodged by licensees during the period.

Key insights reported by ASIC include:

- Only 11% of the licensee population has lodged a breach report since the new reportable situation regime was introduced in October 2021, indicating many licensees may not have appropriate systems and processes in place to detect and report breaches;
- Licensees took longer than one year to identify and commence an investigation into a potential reportable situation in 17% of cases; and
- Staff negligence or human error was reported by licensees as the root cause in 66% of cases which is the most commonly reported cause by a significant margin, including in situations where the error is a repeated breach, indicating insufficient investigation into the root cause and potential systemic issues is being undertaken by licensees.

Based on the continued low reporting rates, ASIC has commenced surveillance activities and is targeting licensees who are not reporting the volume of breaches that would otherwise be expected based on the nature, scale and complexity of their organisation. ASIC also emphasised they may take enforcement action where insufficient reporting is observed.

*Superannuation trustees should ensure they comply with the reportable situations regime and undertake accurate and timely reporting to ASIC in accordance with Regulatory Guide 78. Licensees should give particular focus to the root cause reported and the process for identifying systemic issues within the organisation.*



## AFCA Annual Review

23 October 2023  
Report

[LINK TO DETAILS](#)

AFCA also published its *Annual Review 2022-23* which details the work undertaken by AFCA in the financial year to 30 June 2023. In total, AFCA received 96,987 complaints within the period which includes 6,957 superannuation complaints. Key insights include:

- 2,592 superannuation complaints were closed at the Registration and Referral stage, indicating superannuation trustees are attempting to resolve the matter before progressing with AFCA, however suggests there is an opportunity for more complaints to be resolved in IDR;
- many superannuation complaints to AFCA can be traced back to issues with service quality, including the clarity and usefulness of communications, the timeliness and effectiveness of IDR processes, and the responsiveness of the trustee when questions are raised; and
- complaints about TPD and IP claims handling delays in superannuation soared in 2022-23, by 136% over the previous year;
- AFCA is also receiving increasing numbers of complaints about delays with the finalisation and payment of death benefits.

*Superannuation trustees should consider the key findings of AFCA and whether current complaints handling processes are appropriate. Particular attention should be given to claims handling timeframes given the delays observed by AFCA.*



## Reportable Situation Exemptions

19 October 2023  
*Legislative Instrument*

[LINK TO DETAILS](#)

ASIC issued *ASIC Corporations and Credit (Amendment) Instrument 2023/589* modifying the reportable situations regime to relieve licensees from the obligation to report certain minor contraventions of the *Australian Securities and Investments Commission Act 2001 (ASIC Act)* and *Corporations Act 2001*.

The amendments exempt licensees from reporting breaches of misleading and deceptive conduct provisions (subs. 1041H(1) of the *Corporations Act* and subs. 12DA(1), 12DB(1) of the *ASIC Act*):

- that are one reportable situation, impact one consumer or involve a relevant product that is jointly held and impacts product holders;
- cause no financial loss or damage, or likely financial loss or damage;
- and are not otherwise a reportable situation.

The amendments also permit licensees up to 90 days (rather than 30 days) to report a reportable situation that has underlying circumstances that are the same as, or substantially similar to, underlying circumstances of an earlier reportable situation that the licensee has reported to ASIC (a *related reportable situation*).

These changes came into effect on 20 October 2023. ASIC foreshadowed this in its April 2023 RG 78 [Media Release](#).

*Superannuation trustees should ensure risk and compliance teams are aware of the modifications and adjust processes and collateral accordingly.*

## POLICY AND REGULATION



## Increased Transparency of Superannuation Expenditure Data

10 October 2023  
*Consultation Paper*

[LINK TO DETAILS](#)

APRA issued a Consultation Letter to trustees seeking feedback on its proposal for the publication of, and to determine as non-confidential, certain data reported to APRA by RSE Licensees under the new reporting standards.

APRA's starting position is to publish as much data in the collections as possible, however will narrow the scope of data published based on the consultation feedback received. Data determined as non-confidential will not identify individual fund members but will identify individual entities with the aim of increasing transparency for the public.

APRA is proposing to publish the following additional data:

- new industry aggregate and fund level data on fund expenditure;
- new industry aggregate and fund level details on investments by detailed asset class characteristics; and
- new investment option classifications and the number of members under the standard fee arrangements to be included in APRA's Quarterly Superannuation Product Statistics.

Additionally, APRA proposes to amend the definition for executive remuneration in *SRS 101.0 Definitions* for the purpose of reporting under *SRS 332.0 Expenses* to align with new requirements for disclosure of executive remuneration under the *Corporations Act 2001* which came into effect 1 July 2023.

Consultation closes on 29 November 2023.

*Superannuation trustees should note APRA's proposals.*





## SDT Strategic Forum

6 October 2023  
Media Release

[LINK TO DETAILS](#)

APRA released notes from the Superannuation Data Transformation (SDT) Strategic Forum held on 19 September 2023. Key updates from APRA and discussion points include:

- APRA intends to consult on Phase 2 data collections on Investments including indirect investment costs, RSE Licensee and RSE Profile, and RSE Licensee Financial Statements from late November 2023;
- APRA commenced its first review of its data collections roadmap, with consideration given to the pace, sequencing and priorities of the roadmap and intends to release the outcome in early 2024;
- APRA will engage with the SDT forum participants before an updated data collections plan is released, as APRA is cognizant of the impact of the roadmap on the industry and to ensure timeframes are realistic;
- APRA is considering how to simplify and consolidate the SDT FAQs;
- APRA provided an update on APRA Connect, acknowledging delays in the June 2023 submissions given the high volume of reporting resubmissions and quarterly reporting due on the same date; and
- APRA confirmed it is investigating whether it can introduce an API interface to enable entities to submit data to APRA Connect via API.

The next SDT Strategic Forum will be held in early 2024.

*Superannuation trustees should remain abreast of announcements from APRA in relation to the SDT and its planned consultations and activities.*



## APRA Annual Report

16 October 2023  
Report

[LINK TO DETAILS](#)

APRA released its *2022-23 Annual Report* for all industries it regulates, including superannuation. Within the Report, APRA reiterated its continued focus on fulfilling its primary mandate of maintaining the safety and soundness of Australia's financial institutions, and details the activities undertaken within the financial year.

Relevant to superannuation, the following activities and achievements were noted:

- Strengthened SPS 530 Investment Governance which introduced the requirement to have a robust valuation governance framework and to review valuations more frequently;
- Publication of the Heatmaps and Annual Performance Test, including the expansion of the Performance Test to Choice products, and the notable decline in failing MySuper products since 2021;
- Review of the implementation of trustee retirement strategies in conjunction with ASIC, and the identification of gaps and urgency in addressing the requirements Retirement Income Covenant;
- Release of *CPS 190 Recovery and Exit Planning* and guidance;
- Continued assessment of cyber security controls of APRA-regulated institutions and the participation of over 300 entities in an independent tripartite assessment by the end of 2023; and
- Release of Climate Vulnerability Assessment findings.

APRA also noted the findings of the first review of APRA undertaken by the Financial Regulators Assessment Authority (FRAA) in mid-2023 and reconfirmed its support of the 5 recommendations made to further improve superannuation trustees' delivery of member outcomes.

*Superannuation trustees should note the Annual Report.*



## CEO Roundtable

20 October 2023  
Publication

[LINK TO DETAILS](#)

APRA and ASIC ('the Regulators') jointly held a CEO Roundtable on Wednesday 27 September 2023 and published the notes from the meeting. There were two key areas of discussion:

- Sustainable finance disclosures – the Regulators emphasised the importance of early preparation for the introduction of mandatory climate-related financial disclosures, requiring systems and process updates, new governance practices that meet new climate reporting requirements, and new measures to prevent misleading disclosures.
- Retirement Income Covenant – the release of the joint thematic review into trustee implementation of the covenant prompted acknowledgement by CEOs that significant efforts are still required in development of retirement offerings that suit member needs.

The Regulators also confirmed their intention to issue a short survey regarding the Retirement Income Covenant in the coming months. This will enquire on the improvements undertaken or planned across the key priority areas identified in the thematic review to ensure trustees are acting with sufficient urgency in improving retirement outcomes.

*Superannuation trustees should note the discussion as key focus areas for trustees, particularly the forthcoming survey in relation to the Retirement Income Covenant implementation.*



## Digital Asset Regulatory Framework

16 October 2023  
Proposal Paper

[LINK TO DETAILS](#)

The Government released *Regulating Digital Asset Platforms Proposal Paper* and accompanying factsheet which seeks feedback on a proposed regulatory framework that would apply to digital asset service providers. The proposed framework would leverage the Australian Financial Services Licence (AFSL) framework and is intended to address the 'significant risks and potential harms' associated with digital asset platforms.

The Government proposes to, amongst other things:

- Introduce a new type of financial product to the *Corporations Act*, known as a 'digital asset facility', which would cover all digital asset holding arrangements and place digital asset platforms in a position akin to financial service providers and relevant existing law;
- Require platform providers to hold an AFSL authorising them to issue and deal in digital asset facilities;
- Require all arrangements involving digital asset facilities to be structured as non-discretionary arrangements, requiring a written agreement meeting minimum standards for holding assets, intermediating platform entitlements, and transactional functions; and
- Require platform providers to provide a 'facility guide' detailing specific information about the platform and contractual obligations in place, with links to full disclosure on the platform provider's website and comply with Financial Services Guide (FSG) requirements.

Closing date for submissions is 1 December 2023. Exposure Draft legislation is expected to be released in 2024.

*Superannuation trustees should note the proposed amendments to the ASFL regime although limited direct impact is expected.*





## Australia's Payments System

11 October 2023  
*Exposure Draft*

[LINK TO DETAILS](#)

The Government released Exposure Draft legislation for consultation in relation to Australia's payments system. The *Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023: Amendments of the Payment Systems (Regulation) Act 1998* would:

- update the definition of 'payment' and 'payments systems' to capture new payment methods available today and in future;
- enable the Reserve Bank of Australia to regulate new and emerging payments systems, such as digital wallet providers; and
- create a Ministerial designation power to allow particular payment services or platforms that present risks of national significance to be subject to additional oversight by regulators.

This follows the release of the [Strategic Plan for Australia's Payments System](#) released in June 2023 which presented the Government's key priorities and initiatives for Australia's payments system, focusing on the continued transition to digital payment processing. This included the priority to move business and government entities away from the Bulk Exchange Clearing System (BECS) and to the New Payments Platform (NPP), with a specific reference to superannuation entities being impacted.

The phasing out of cheques from the Australian economy by 2030 and the need to manage a transition away from cash were also referenced.

Closing date for submissions is 1 November 2023.

*Superannuation trustees should note the progression of the Government's plans to amend the Payments System and consider engaging with clients to commence discussions about the impact of any changes.*



## Women's Economic Equality Plan

23 October 2023  
*Report*

[LINK TO DETAILS](#)

The Government released *A 10-Year Plan to Unleash the Full Capacity and Contribution of Women to the Australian Economy 23-22* ('Plan'). The Plan was compiled by the Women's Economic Equality Taskforce who was tasked with providing advice to the Australian Government to support the advancement of women's economic equality and achieve gender equality.

Five economic pillars were identified where gendered economic inequality is prevalent, being care, work, education and skills, tax and transfers, and governments.

The Plan sets out 7 recommendations, each with several immediate actions and long-term actions to be undertaken to implement. One such recommendation is for the Government "to invest in policies and programs that recognise the economic importance and value of care work in Australia", and further recommends the Government immediately legislate the payment of superannuation on all forms of paid parental leave.

In response, the Government stated it will consider the recommendations alongside the analysis and policy directions of the [Employment White Paper](#) and develop and release a National Strategy to achieve gender equality in 2024.

*Superannuation trustees should remain abreast of developments in this space.*



## Charitable Giving and Superannuation

24 October 2023  
Report

[LINK TO DETAILS](#)

A new report from Philanthropy Australia has recommended to allow superannuation members to nominate a charity to bequeath their unspent superannuation as part of death benefit distribution.

Currently, a superannuation death benefit is only payable to a charity if directed through the deceased member's estate and the member's will provides instructions regarding the charitable payment. Depending upon the circumstances, superannuation death benefits payable to an estate attract tax which is deducted at the time of payment, reducing the benefit received by the beneficiary.

The report, *Charitable Superannuation Bequests: Making Giving Easy*, recommends simplifying this process and allowing superannuation fund to pay directly to the member's charity of choice without attracting any tax.

The Government recently [announced](#) its intention to work with the philanthropic, charity and business sectors to double giving to charity by 2030. The [Productivity Commission](#) was directed to produce a report to understand trends in philanthropic giving in Australia, the underlying drivers of these trends, and to identify opportunities and obstacles to increasing such giving, with a draft report due in November 2023.

*Superannuation trustees should keep abreast of any developments in this space, and whilst not on the Government's agenda in the short term, consider the potential impacts on administration and death benefit distribution practices should recommendation gain momentum.*

## TECHNICAL UPDATES



## ALRC Regulations

1 November 2023  
Legislative Instrument

[LINK TO DETAILS](#)

The Government made *Treasury Laws Amendment (ALRC Financial Services Interim Report) Regulations 2023*, registered on 31 October 2023.

The Regulations contribute to implementing recommendations from the Australian Law Reform Commission's (ALRC's) Interim Reports A and B from its *Review of the Legislative Framework for Corporations and Financial Services Regulation* (ALRC's Review). The Regulations make consequential amendments required due to the recent passing of the *Treasury Laws Amendment (2023 Law Improvement Package No.1) Act 2023*, and:

- expands section 9 of the *Corporations Act* to create a single glossary;
- removes redundant definitions; and
- makes other improvements to the *Corporations Regulations*, including clarifying the meaning of defined terms, using consistent headings for definitions sections and minor navigation improvements.

The Regulations follow an Exposure Draft released in March 2023 however no changes were made. The ALRC is due to release its Final Report into the ALRC's Review by 30 November.

*Superannuation trustees should ensure legal and compliance teams are aware of the new Regulations.*



## Unclaimed Money

17 October 2023  
*Legislative Instrument*

[LINK TO DETAILS](#)

The *Superannuation (Unclaimed Money and Lost Members) Amendment (No. 1) Regulations 2023* was registered on 17 October 2023 which prescribe additional public sector superannuation schemes in the relevant lists under the [Superannuation \(Unclaimed Money and Lost Members\) Regulations 2019](#) ('Regulations').

The unclaimed money obligations generally do not apply to public sector superannuation schemes unless they are prescribed as such in Part 7 of the Regulations. The amending instrument has added several South Australian schemes to the Regulations at the request of the SA Government.

*Superannuation trustees should note the amendment, however no impact is expected outside of the SA schemes prescribed.*



## Financial Advisor Qualifications

12 October 2023  
*Legislative Instrument*

[LINK TO DETAILS](#)

The Government released *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Amendment (2023 Measures No. 3) Determination 2023* ('the Instrument'). This amends the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021* ('the Determination') which prescribes the approved qualifications for relevant providers, effective 12 October 2023.

The Instrument amends the Determination by:

- Adding new approved degrees;
- Reflecting the new Financial Advice Association of Australia Limited;
- Correcting and updating existing approved qualifications; and
- Correcting various references to transitional provisions.

*Superannuation trustees should note the amended qualifications.*

## ENFORCEMENT ACTIVITY



## ASIC v Diversa Trustees

24 October 2023  
*Judgment*

[LINK TO DETAILS](#)

The Federal Court found Diversa Trustees Limited (Diversa) did not fail to act efficiently, honestly and fairly and did not fail to take reasonable steps to ensure its representatives complied with financial services laws in response to a matter pursued against Diversa by ASIC.

Australian Dealer Group (ADG) operated a website called 'Australian Super Finder' through which a consumer could request a search for lost superannuation. ADG offered to consolidate a consumer's 'found' superannuation into a single fund.

ASIC alleged that allowing Australian Super Finder, the Australian Dealer Group, and a financial advisor to sign up consumers to its YourChoice Super product did not contravene the law. These activities were alleged to have occurred between 13 March 2019 and 18 December 2020.

ASIC alleged Diversa and the OneVue Group (which provided many day-to-day functions for the YourChoice Super fund) knew or should have known that the Australian Super Finder business was engaging in concerning behaviour and was at risk of breaking the law.

ASIC has cancelled ADG's Australian financial services licence, and has permanently banned the relevant financial advisor from providing financial services and engaging in credit activities in March 2021.

ASIC stated it is carefully reviewing the Court's judgment.



## ABOUT QMV LEGAL

QMV Legal is committed to assisting superannuation trustees and their members achieve the best retirement outcomes through good governance, timely regulatory compliance, and pragmatic legal advice.

Being closer to the business operations and technology of running a superannuation fund provides QMV Legal with a unique insight into the legal issues faced by superannuation funds.

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## CONTACT US

If you have any questions or need assistance, you can contact us directly via the details below:



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