

TAXATION

ATO decision impact statement: Addy

ATO has issued a decision impact statement on the High Court's decision in the Addy case concerning the backpacker tax.

2021-22 MYEFO

Treasurer has updated the economic and fiscal outlook in the 2021-22 MYEFO including details of new policy measures.

SME loan guarantee scheme extended

Treasurer has announced that the SME loan guarantee scheme will be extended to 30 June 2022.

STP reporting exemption for WPN holders

ATO has registered a legislative instrument that exempts certain entities from reporting under STP for the 2021-22 and 2022-23 financial years.

Government home equity access scheme: interest rate reduction

Government has announced that its pension loans scheme will be rebranded and that the interest rate has been reduced.

ATO's corporate tax transparency report 2019-20

ATO has published its corporate tax transparency report for 2019-20 which covers around 2,370 corporate entities.

Corporate insolvency reforms: more regs

Treasury has registered more regulations which will make consequential amendments to support the insolvency reforms that commenced on 1 January 2021.

Remake of sunseting Tax Agent Services Regulations 2009

Treasury has released an exposure draft of the Tax Agent Services Regulations which will remake the regulations due to sunset.

Business registry fees: discussion paper

Government has released a discussion paper on proposed reforms to registry fees and how fee settings can be best tailored to reduce cost and complexity.

ATO guidance on temporary full expensing

ATO has finalised its guidance on the operation of the temporary full expensing measure in the 2020-21 and 2021-22 income years.

New guidelines on allocation of professional firm profits

ATO has released its long awaited replacement guidelines for allocation of professional firm profits.

AAT power to modify ATO debt recovery actions: draft legislation

Government has released draft legislation proposing to extend the power of the AAT to pause or modify ATO debt recovery actions re disputed tax assessments.

GST and retirement villages: draft addendum

ATO has released a draft addendum intended to clarify the GST treatment of the provision of daily meals and heavy laundry services to residents in retirement villages.

Victorian Commercial Tenancy Relief Scheme (CTRS) which was to cease today will be extended until 15 March 2022

Minister Pulford [announced](#) on 15 January 2022 that the Victorian Commercial Tenancy Relief Scheme (CTRS) which was to cease on 15 January 2022 will be extended until 15 March 2022. There will be some changes to the scheme and **its operation will be retrospective commencing 16 January 2022.**

FINANCIAL SERVICES

Important deadlines for financial advisers in 2022: ASIC

To facilitate its takeover of the administration of the financial adviser exam, ASIC has issued a release highlighting some important obligations and deadlines.

Regulation of financial advisers: better advice regulations

Government has registered regulations to support amendments in the financial sector reform as a part of the Hayne Royal Commission.

Quality of financial advice review: draft terms of reference

Government has released its draft terms of reference to consider whether measures that have been implemented have improved the quality of financial advice.

The IPA welcomes member comments to be included in the IPA submission. Please send your comments to Vicki Stylianou at vicki.stylianou@publicaccountants.org.au.

Financial adviser education standards: policy paper

Treasury has released a policy paper on proposed amendments to the education standards for financial advisers.

The IPA welcomes member comments to be included in the IPA submission. Please send your comments to Vicki Stylianou at vicki.stylianou@publicaccountants.org.au.

Financial adviser exam fees

Regulations have been registered to make amendments to set the fees for functions to be administered by ASIC.

ASIC legal proceedings for no service misconduct

ASIC has commenced civil penalty proceedings in the Federal Court against a super trustee for allegedly charging fees for no service.

SUPERANNUATION

ASIC concerns about super income protection insurance

ASIC has urged super trustees to examine their default income protection insurance arrangements and consider member outcomes.

Proposed amendments to APRA auditing standard for super reporting

APRA has released proposed amendments to Prudential Standard SPS 310 to align it with recent changes to APRA's reporting standards for super.

APRA heatmaps for MySuper and Choice products

APRA has published its first Heatmap for Choice super products alongside the annual MySuper Heatmap.

APRA annual super fund statistics released

APRA has released its annual fund-level super statistics and annual MySuper statistics for 2021.

Super fund disclosures of share voting: proxy advice regs

Regulations have been registered to improve the disclosure of super funds' voting records on company resolutions and make proxy advice services more accountable.

APRA notes from Super CEO roundtable

APRA has published its notes from the Superannuation CEO Roundtable held on 1 December 2021.

REGULATOR NEWS

IGTO newsletter

Inspector-General of Taxation and Taxation Ombudsman has released the latest edition of the newsletter.

Board of Taxation CEO update

CEO of Board of Taxation has issued its December 2021 CEO update confirming that two reports have been handed to the government.

TPB Q&As on engagement letters

Tax Practitioners Board has released a Question and Answer on engagement letters and responses to questions it received during a webinar on the topic.

TAXATION

ATO decision impact statement: Addy

The ATO has issued a [decision impact statement](#) on the High Court's decision in *Addy v FCT* [2021] HCA 34.

The High Court unanimously held that the backpacker tax discriminated against Ms Addy on grounds of her nationality and therefore it contravened a non-discrimination clause (Art 25(1)) in the Double Tax Agreement (DTA) with the UK. As a result, she should be taxed at the standard resident rates.

According to the DIS, the decision only affects nationals from one of 7 countries who was the holder of a working holiday visa (Subclasses 417 or 462, or associated bridging visa) and was a resident of Australia. The countries are Chile, Finland, Germany (from 1 July 2017), Israel (from 1 July 2020), Japan, Norway, Turkey and the UK.

The DIS states that most holders of working holiday visas will not be residents of Australia. In its view, that is because persons who come to Australia for the purposes of a holiday – even if they work while here – generally do not become residents of Australia.

However, in what the DIS terms the "far less common situation" where a taxpayer held a working holiday visa but subsequently remained in Australia, that taxpayer may be a resident. This means that, if the taxpayer is also a national of one of the above countries, the High Court's finding may be applicable. For example, this may apply if a taxpayer held a working holiday visa and subsequently obtained a different visa for a purpose other than having a holiday. The DIS considers that other cases where a taxpayer holds a working holiday visa and is a resident are "theoretically possible" – but "will be rarely found in practice".

Comments are due by 11 February 2022.

2021-22 MYEFO

In the recently released [2021-22 Mid-Year Economic and Fiscal Outlook \(MYEFO\)](#), the Treasurer has updated the economic and fiscal outlook from the May 2021 Federal Budget.

The Treasurer said the underlying cash balance in 2021-22 is expected to be a deficit of \$99.2 billion, equivalent to 4.5% of GDP, and a \$7.4bn improvement since the 2021-22 Budget. Mr Frydenberg said this improvement in the underlying cash balance occurs at the same time that tax receipts as a share of GDP are forecast to fall from 22.9% in 2020-21 to 22.1% in 2024-25.

The 2020-21 MYEFO includes new policy measures, including:

- ATO compliance programs - \$111m will be provided to continue the ATO's personal income taxation and shadow economy compliance programs, and an independent review of the ATO's resourcing;
- cyclone Seroja - qualifying grants will be income tax exempt for Tropical Cyclone Seroja;
- FIFA 2023 Women's World Cup - income tax exemptions will be provided from 1 July 2020 to 31 December 2028 for FIFA and an Australian subsidiary for the FIFA 2023 Women's World Cup to be held in Australia and New Zealand in 2023;
- diplomatic and consular concessions – access to refunds of indirect tax under the Indirect Tax Concession Scheme (ITCS) have been granted to Albania and Lithuania, and extended for Sri Lanka and Bosnia and Herzegovina;
- DGR category for pastoral care in schools - a DGR general category will be established for funds that support pastoral care and analogous wellbeing services delivered to students in primary and secondary schools;
- specifically listed DGRs - the tax law will be amended to specifically list a range of organisations as DGRs.

SME loan guarantee scheme extended

The Treasurer has [announced](#) that the SME Loan Guarantee Scheme will be extended by six months. It was otherwise due to finish on 31 December 2021, ie it will now operate to 30 June 2022.

The scheme has been operating since 23 March 2020 and has been "rolled over" a number of times. This extension keeps the same terms and conditions as currently

operate, with the exception that the Government will reduce its loan guarantee from 80% to 50%.

STP reporting exemption for WPN holders

The ATO has registered legislative instrument [Taxation Administration - Single Touch Payroll - 2021-22 and 2022-23 years Withholding Payer Number Exemption 2021](#). This instrument exempts certain entities that do not have an Australian business number (ABN) but instead have a withholding payer number (WPN) from reporting under Single Touch Payroll (STP) for the 2021-22 and 2022-23 financial years.

Any entity covered by this exemption may still choose to report under STP in accordance with Division 389 of Schedule 1 to the TAA notwithstanding the exemption provided by this instrument.

The instrument commences on 1 July 2021 and applies retrospectively. It will be automatically repealed on 1 October 2023.

Government home equity access scheme: interest rate reduction

The Government has [announced](#) that its Pension Loans Scheme will be rebranded as the Home Equity Access Scheme, and the interest rate for the Scheme has been reduced from 4.50% to 3.95% pa from 1 January 2022.

The Minister for Families and Social Services, Anne Ruston, said the new name seeks to make retirees aware that not just those on a pension can access the Scheme to unlock their home equity. Under the Scheme, older Australians can get a voluntary non-taxable fortnightly loan from the Government up to a maximum value of 150% of the rate of the Age Pension. To be eligible, retirees must have reached Age Pension age, own real estate in Australia and meet residency and other requirements, but do not need to be receiving a pension payment.

ATO's corporate tax transparency report 2019-20

The ATO has published the [corporate tax transparency report 2019-20](#). The tax transparency report covers 2,370 corporate entities (up by 59 entities from the prior year), of which:

- 1,378 are foreign-owned companies with an income of \$100 million or more;
- 513 are Australian public entities with an income of \$100 million or more; and
- 479 are Australian-owned resident private companies with an income of \$200 million or more.

Some highlights from the report.

- Total income increased to \$2,184.5 billion (2.6% from prior year); taxable income increased to \$208.4 billion (0.1% from prior year); and tax payable increased to \$57.2 billion (2.0% from prior year - largely driven by the mining sector, which accounted for around 44% of tax payable).
- Entities with income of more than \$5 billion represent around 2.7% of the corporate transparency population and account for around 57.0% of tax payable (around \$32.6 billion).
- Entities with income of between \$250 million and \$5 billion represent the largest portion 55.7% of the corporate transparency population, and also account for 37.9% of the tax payable (around \$21.7 billion).
- Smaller entities – those with income of less than \$250 million – account for 41.6% of the population but only 5.0% of the tax payable (around \$2.9 billion).
- The proportion of companies that have paid no income tax remains steady at 33% in 2019-20 (782 entities), a decline from 36% since the first report in 2013-14.
- The companies in the report paid a combined total of \$57.2 billion, or around 65% of all corporate income tax in 2019-20.
- In relation to petroleum resource rent tax (PRRT) payable, 12 corporate entities paid \$881 million in 2019-20, a slight decrease from the \$1.06 billion paid by 11 corporate entities in the previous year. The decline in PRRT is primarily due to a fall in oil prices.

Corporate insolvency reforms: more regs

Treasury has registered the [Treasury Laws Amendment \(Corporate Insolvency Reforms Consequential Amendments\) Regulations 2021](#), which make consequential amendments to support the insolvency reforms that commenced on 1 January 2021.

The amendments are largely machinery in nature. However, it is worth noting that the amendments made to the Corporations (Aboriginal and Torres Strait Islander) Regulations 2017 modify the Corporations Act 2001 restructuring provisions so that they are tailored to the special risks and requirements of the Indigenous corporate sector, and enable an eligible company to adopt the simplified liquidation process.

Date of effect: the day after the final regulations are registered, ie 21 December 2021 (as the regs were registered on 20 December).

Remake of sunseting Tax Agent Services Regulations 2009

Treasury has released an exposure draft of the [Tax Agent Services Regulations 2022](#). These will repeal and remake the Tax Agent Services Regulations 2009 (the "2009 Regulations"), which are due to sunset on 1 April 2022.

The draft regulations do not alter the substantive meaning or operation of the 2009 Regulations, with the explanatory statement stating that they will mostly "improve" the 2009 Regulations by repealing redundant provisions, simplifying language, restructuring and renumbering provisions for ease of navigation etc.

The draft regulations incorporate the changes implemented by the Financial Sector Reform Amendment (Hayne Royal Commission Response - Better Advice) Regulations 2021 (ie that themselves repealed a number of redundant provisions etc in the 2009 Regulations).

Date of effect: 1 April 2022.

Submissions are due by 24 January 2022.

Business registry fees: discussion paper

The Government has released a discussion paper entitled [Modernising Registry Fees Exploring opportunities to improve fee structures for the Australian Business Registry Services](#).

This is part of the Modernising Business Registers (MBR) program. The MBR program is aiming to modernise and unite ASIC's 31 business registers and the ABR on to a new system at the ATO. This consultation is to seek feedback on proposed

reforms to registry fees and how fee settings can be best tailored to reduce cost and complexity.

Reform options have been developed for registration, review, and renewal fees, search fees, infrastructure fees, late fees and lifecycle fees.

ASIC regulatory fees and charges, including those under Industry Funding Model, are outside of scope. Possible fees for Director Identification Numbers, Australian Business Numbers or for sub-funds attached to a Corporate Collective Investment Vehicle are also out of scope of this paper.

Comments are due by 28 January 2022.

ATO guidance on temporary full expensing

[Law Companion Ruling LCR 2021/3](#) explains the operation of the temporary full expensing measure in the 2020-21 and 2021-22 income years, including:

- who qualifies as an eligible entity;
- what qualifies as an eligible asset;
- how to calculate the deduction, including how the second element of cost is dealt with;
- the effect of choosing not to apply temporary full expensing. The ATO confirms that small business entities cannot opt out of temporary full expensing on an asset-by-asset basis if they use the simplified depreciation rules; and
- interactions with other depreciation measures, the consolidation rules and the R&D tax offset.

The ATO also flags the potential application of Pt IVA if an arrangement is "driven by tax, rather than commercial, outcomes".

Date of effect: retrospective. The Ruling finalises Draft LCR 2021/D1 and includes expanded commentary in response to feedback on the Draft.

New guidelines on allocation of professional firm profits

Four years after suspending the application of its guidelines *Assessing the Risk: Allocation of profits within professional firms*, the ATO has released its long-awaited replacement guidelines. [Practical Compliance Guideline PCG 2021/4](#) sets out the

ATO's revised compliance approach to the allocation of professional firm profits and also provides a risk assessment framework to assist individual professional practitioners to self-assess their risk.

The new guidelines are confined to arrangements that have a ***genuine commercial basis*** ("Gateway 1") and do not include any ***high-risk features*** ("Gateway 2"). Taxpayers who pass through both gateways can self-assess their compliance risk. Those who do not are encouraged to engage with the ATO.

The ATO's risk assessment methodology comprises three risk zones - low (green), moderate (amber) and high (red) - for assessing a profit allocation arrangement. Practitioners who return 100% of the profit entitlement in their personal tax return are automatically within the green zone and do not need to consider the other risk assessment factors. The ATO treats as high risk (and may make a Pt IVA determination in relation to) schemes designed to ensure a practitioner is not directly rewarded for services provided to the firm, or receives a reward which is substantially less than the value of those services.

Date of effect: 1 July 2022. Taxpayers with pre-existing arrangements can continue to rely on the suspended guidelines until **30 June 2022**, provided their arrangement complies with those guidelines, is commercially driven and does not exhibit any high-risk features. There is also a grace period for arrangements that were considered low risk under the suspended guidelines but now have a higher risk rating under PCG 2021/4. These taxpayers can continue to apply the suspended guidelines until **30 June 2024**.

AAT power to modify ATO debt recovery actions: draft legislation

The Government has released exposure draft legislation proposing to extend the power of the Administrative Appeals Tribunal (AAT) to pause or modify ATO debt recovery actions in relation to disputed tax assessments under review by the Small Business Taxation Division (SBTD) of the AAT. Announced as part of the 2021-22 Budget, the draft legislation - [Treasury Laws Amendment \(Measures for Consultation\) Bill 2022: Increased Tribunal powers for small business taxation decisions](#) - proposes to amend the Taxation Administration Act 1953 to:

- allow the AAT to make orders that stay or modify the ATO's debt recovery actions in relation to tax assessments under dispute in the Small Business Tax Division of the AAT;
- enable small businesses (ie businesses with an aggregated annual turnover of less than \$10 million) to seek AAT orders that prevent the Commissioner

- from taking debt recovery actions, like commencing winding up proceedings or issuing garnishee notices, until the underlying dispute is resolved; and
- empower the AAT to order the Commissioner to offer instalment arrangements including 50/50 payment arrangements and to accept security in lieu of immediate recovery.

Date of effect: The amendments will apply to applications for review made from the day after the Bill receives Royal Assent.

Submissions are due by 19 January 2022.

GST and retirement villages: draft addendum

The ATO has released a [draft addendum](#) to GSTR 2012/3, which is intended to clarify the GST treatment of the provision of daily meals and heavy laundry services to residents in a serviced apartment within a retirement village.

A supply of services to an aged or disabled person can only be a GST-free supply of residential care under s 38-25(3) of the GST Act if they are provided in a residential setting (as defined). Services provided to a resident of a serviced apartment in a retirement village will be treated as provided in a residential setting only if there is a written agreement in force under which the operator of the retirement village provides daily meals and heavy laundry services to all residents of the apartment: s 38-25(3A).

The Draft states that an operator will only meet the requirements in s 38-25(3A) when it satisfies the following three principles: (i) the resident must have a continuing need for the provision of daily meals and heavy laundry services; (ii) the operator must have an obligation to provide daily meals and heavy laundry services; and (iii) the operator must make available daily meals and heavy laundry services.

Comments are due by 25 February 2022.

Victorian Commercial Tenancy Relief Scheme (CTRS) which was to cease today will be extended until 15 March 2022

Some key features of the extended scheme to note:

- **The eligible turnover threshold has been reduced to \$10M or less per annum**
- **It will be retrospective, commencing on 16 January 2022 and continuing until 15 March 2022**

The policy intent of this is that for tenants who are entitled to and accessing rent relief under the current CTRS regulations, *and who remain eligible under the new CTRS regulations*, there will be no gap in coverage of the scheme between when the current regulations end, and the new regulations are in place. The practical impact of this would be that their entitlement to rent relief continues unbroken and the eviction and rent increase prohibitions remain in place.

- **The Victorian Small Business Commission (VSBC) will continue to provide information and free dispute resolution to tenants and landlords**
- **Landlords will not be able to lock out or evict tenants without undertaking mediation through the VSBC**
- **Eligible commercial landlords will continue to be eligible to access the Commercial Landlord Hardship Fund**

FINANCIAL SERVICES

Important deadlines for financial advisers in 2022: ASIC

Starting 1 January 2022, ASIC will take over the administration of the financial adviser exam from the Financial Adviser Standards and Ethics Authority (FASEA). During the transition, ASIC has issued a [release](#) highlighting the following important obligations and deadlines financial advisers must consider going into 2022.

- Extension for financial advisers to pass the exam by 1 October 2022 – financial advisers who practised before 1 January 2019, known as "existing providers", who have sat the exam at least twice before 1 January 2022 will have until 1 October 2022 to pass the exam. ASIC makes clear that enrolment alone will not count towards the requirement to "sit the exam at least twice".

- Status of financial advisers who have not passed the exam by 1 January 2022 – if a financial adviser is not eligible for the extension and has not passed the exam before 1 January 2022, their Australian financial services (AFS) licensee is required to have revoked their authorisation to provide personal advice to retail clients on relevant financial products on or before 31 December 2021 in order for the adviser to retain their status as an existing provider. Financial advisers who lose their status as an existing provider will be treated as a new financial adviser. This applies to financial advisers who have applied for a re-mark of the November 2021 exam. New financial advisers must meet additional education requirements.
- Financial advisers who are awaiting the results of a re-mark – financial advisers who have applied for a re-mark of the November 2021 exam will not receive their result until sometime in January 2022. This means that financial advisers who have failed the November 2021 exam and are waiting for the results of a re-mark, and are also not eligible for the extension to 1 October 2022, will lose their status as a relevant provider on 1 January 2022. They will also lose their status as an existing provider (and be treated as a new financial adviser) unless their AFS licensee takes steps to ensure they are no longer a financial adviser on or before 31 December 2021.

Regulation of financial advisers: better advice regulations

The Government has registered the [Financial Sector Reform Amendment \(Hayne Royal Commission Response – Better Advice\) Regulations 2021](#) (the "Regulations"). The purpose of the Regulations is to support the amendments in the Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Act 2021 (the "Better Advice Act").

The Regulations amend the Australian Securities and Investments Commission Regulations 2001, the Corporations Regulations 2001 and the Tax Agent Services Regulations 2009 to:

- prescribe criteria for when ASIC must convene the FSCP;
- set allowances for witnesses summoned to appear at a hearing of an FSCP;
- provide that specified civil penalty provisions are not taken to be significant (and therefore may not be reportable) under the breach reporting regime;
- prescribe sanctions that must be included on the Register of Relevant Providers;
- provide for the Minister to be able to delegate the functions and powers to approve foreign qualifications to officers in the Department of Treasury;

- extend the deadline for certain existing providers to pass the financial adviser exam;
- set requirements (including eligibility criteria, fees and transitional provisions) for non-relevant providers (individuals, companies and partnerships) who provide tax (financial) advice services to be registered as tax agents under the TAS Act; and
- make consequential amendments to the *Tax Agent Services Regulations 2009* to remove references to tax (financial) advisers and recognised tax (financial) adviser associations.

Date of effect: 1 January 2022.

Quality of financial advice review: draft terms of reference

The Government has released its draft [terms of reference](#) (TOR) to consider whether measures that have been implemented by government, regulators and financial services entities have improved the quality of financial advice, whether further reforms or other changes are needed, and whether any measures are redundant. The Advice Review will also consider the regulatory settings to support access to affordable financial advice.

Submissions are due by 4 February 2022.

Financial adviser education standards: policy paper

Treasury has released a [policy paper](#) on proposed amendments to the education standards for financial advisers. The Minister for Superannuation, Financial Services and the Digital Economy, who will assume responsibility for setting the minimum education and training standards for financial advisers from 1 January 2022, is [seeking feedback](#) on the education standard and whether it remains fit-for-purpose and whether it adequately recognises the on-the-job experience of financial advisers. The existing standards made by FASEA will continue to apply to financial advisers unless they are amended or replaced by the Minister.

Submissions are due by 1 February 2022.

Financial adviser exam fees

The [Corporations \(Fees\) Amendment \(Relevant Providers\) Regulations 2021](#), has been registered, make amendments to set the following fees for functions to be administered by ASIC: (i) financial adviser exam - fee \$973; (ii) requests for ASIC to review exam answers – fee \$218; (iii) applications to register relevant providers – fee \$50.

Date of effect: 1 January 2022.

ASIC legal proceedings for no service misconduct

ASIC has commenced civil penalty proceedings in the Federal Court against superannuation trustee OnePath Custodians Pty Ltd for allegedly charging fees for no service and making false and misleading representations to fund members.

ASIC's [concise statement](#) alleges that OnePath charged financial advice service fees totalling \$3,787,966 to 16,210 members who had been de-linked from their employer-sponsored super plans. ASIC alleges that OnePath sent these members letters and annual statements which failed to inform them of their rights regarding adviser service fees, including their right to terminate the fees.

SUPERANNUATION

ASIC concerns about super income protection insurance

ASIC has [urged](#) superannuation trustees to examine their default income protection (IP) insurance arrangements and consider member outcomes. This follows an ASIC review of five large funds that found that trustees were not giving their members clear explanations about when insurance benefits would not be paid as a result of "offsets" which can reduce the insurance benefit if the individual receives other kinds of income support (eg sick leave, workers' compensation, social security etc).

ASIC's concern is not that offset clauses exist, but the potential to erode super balances if offset clauses mean that particular groups of members get very little value from their default insurance if they need to claim. ASIC has called on trustees

to obtain data from their insurer to assess whether some groups of members are receiving low or no value and improve their disclosures.

Proposed amendments to APRA auditing standard for super reporting

APRA has released [proposed amendments](#) to Prudential Standard SPS 310 (Audit and Related Matters) to align it with recent changes to APRA's reporting standards for superannuation. The specified data items that APRA proposes to subject to review include those that will be used for APRA's administration of the investment performance test and data published in APRA's Heatmap.

Submissions are due by 11 March 2022.

APRA heatmaps for MySuper and Choice products

APRA has published its first [Heatmap for Choice super products](#), alongside the annual MySuper Heatmap. The Choice Heatmap captures products and options in which members have made an active decision to invest. Meanwhile, the MySuper Heatmap (first published in 2019), has been expanded to include each product's assessment result under the annual investment performance test.

According to APRA, the Choice Heatmap shows that 60% of investment options in the Choice Heatmap delivered returns below APRA's heatmap benchmarks over seven years; and fees and costs of choice products are considerably higher than MySuper.

APRA annual super fund statistics released

APRA has released its [Annual fund-level superannuation statistics](#) and [Annual MySuper statistics](#) for 2021. The annual fund-level superannuation statistics report contains detailed profile and structure, financial performance and financial position, conditions of release, fees and membership information.

Super fund disclosures of share voting: proxy advice regs

The [Treasury Laws Amendment \(Greater Transparency of Proxy Advice\) Regulations 2021](#) has been registered to improve the disclosure of superannuation

funds' voting records on company resolutions and make proxy advice services more accountable.

The Treasurer [said](#) the Regulations extend the AFSL licensing regime to cover a greater range of proxy adviser activities, and require proxy advisers to be independent of their institutional clients. Amendments to reg 2.38 of the SIS Regs will require APRA regulated super funds exercising voting rights on behalf of their members to disclose more detailed information on their voting records and the use of proxy advice.

Date of effect: The licensing extension and requirement to provide copies of proxy advice to companies will commence from 7 February 2022, with the new independence and superannuation voting disclosure requirements in the SIS Regs commencing 1 July 2022.

APRA notes from Super CEO roundtable

APRA has published its [notes](#) from the recent Superannuation CEO Roundtable which focused on financial resilience in superannuation and data quality. The roundtable, co-hosted with ASIC, was attended by 11 superannuation trustee CEOs representing all sectors of the industry.

REGULATOR NEWS

IGTO newsletter

The Inspector-General of Taxation and Taxation Ombudsman (IGTO), Karen Payne, has released [edition 18](#) of the IGTO's newsletter - "IGoT News".

This edition provides:

- a summary of the IGTO report, *Effectiveness of ATO communications of Taxpayers' Rights to Complain, Review and Appeal*, which was released in October 2021;
- a reminder of IGTO's thought leadership paper, *A Brief History of the Taxpayers' Charter*, for the purpose of encouraging feedback from stakeholders in the ATO's review of the Charter slated for February 2022;

- key data from the Tax and Super Australia's snap survey about the experience of their members when disputing or having ATO decisions reviewed on behalf of their clients and whether their clients were made sufficiently aware of their rights in the process;
- a summary of the IGTO's three new review investigations: (i) ATO's Administration and Management of Objections; (ii) Exercise of General Powers of Administration; and (iii) Exercise of Commissioner's Remedial Powers;
- a highlight of the Auditor-General's performance audit on ATO engagement with tax agents – due to be tabled in August 2022; and
- an update on the IGTO's tax complaint investigation service.

Board of Taxation CEO update

The CEO of the Board of Taxation, Ms Christina Sahyoun, has issued the [CEO Update – December 2021](#).

The Update confirms that two reports have been handed to the Assistant Treasurer.

- Research & Development Tax Incentive – Review of the dual administration model – this was delivered on 30 November 2021.
- Review of GST on Low Value Imported Goods – this was delivered on 17 December 2021.

The Board will now focus on delivering its final report on CGT roll-overs in April 2022. The purpose of this review is to identify and evaluate opportunities to rationalise the existing CGT roll-overs and associated provisions into a simplified set with the same practical effect.

The next Board meeting is to be held in Sydney on 18 February 2022.

TPB Q&As on engagement letters

The Tax Practitioners Board has [released](#) a Question and Answer on engagement letters, ie its responses to questions it received during a webinar on the topic.

The questions included the following:

- Do you need an engagement letter for simple Individual tax returns?

- Do we need to mention anything regarding duty of care and if so, what does this include?
- If I have dealt with a client for a long time is it necessary to issue an engagement letter now?