

TAXATION

Review of the MBR program: final report

The final report on the Modernising Business Registers Program review has been released recommending the scrapping of the program.

Employer activity statement lodgement reminder pilot

The ATO have advised they 'will be commencing a pilot to provide employers with a new activity statement lodgement reminder. The pilot will involve 3,000 randomly selected employers in the 2023–24 financial year'

ATO warns against GST fraud activities

ATO has reminded taxpayers that under Operation Protego, it has taken action against more than 56,000 alleged offenders related to GST fraud activities.

FINANCIAL SERVICES

2023 super performance test results released

APRA has released the results of the 2023 superannuation performance test which assesses the long-term performance of products against tailored benchmarks.

SUPERANNUATION

ATO highlights increase in compliance actions against SMSF trustees

The ATO has issued a reminder to SMSF trustees on the importance of complying with super laws.

Super objective: draft bills

Treasury has released two draft Bills in its proposal to enshrine the objective of super in legislation.

REGULATOR NEWS

ASIC News

Updates from ASIC in the past week including media releases, news, articles and speeches.

Release of the ASIC Corporate Plan 2023-27

ASIC's Corporate Plan 2023-27 was released on 28 August 2023. The strategic priorities are product design and distribution; sustainable finance; retirement outcomes; and technology risks. ASIC states that it will take further enforcement action to protect Australian consumers and small businesses in an environment where scams, digitally-enabled misconduct and predatory lending practices are increasingly prevalent

TAXATION

Review of the MBR program: final report

The final report to the [Modernising Business Registers Program review](#) (the "Review") has been published. The Review was tasked with delivering a comprehensive understanding of the current state of the Modernising Business Registers Program ("MBR Program") and providing recommendations for changes, improvements and strategies to best position it to achieve its intended objectives.

Initially projected to complete by the 2023-24 financial year at a cost of under \$500m, the MBR Program was initiated in 2019 aimed at improving the user experience of registry interactions, strengthen the integrity of registry data and remediate technology risks. The MBR Program was also tasked with establishing the new Director Identification Number ("DirectorID") scheme to reduce illegal phoenixing and other shadow economy behaviours in Australia.

The Review concludes that the Government should stop the MBR Program on the basis that the considerable additional investment is not justified (ie requires a further investment in the order of \$2 billion and remains a high-risk undertaking) when measured against the benefits. The Review makes 19 recommendations that looks to reduce the level of investment and improve the effectiveness of the MBR Program including the return of registry functions from the ATO to a new division in ASIC.

Following the report, the Government [announced](#) that it will stop the MBR Program based off the conclusion of the Review. The Government said that business as usual registry operations will continue under ASIC and that the DirectorID scheme will be "unaffected". However, it will consider options to uplift registries following "further analysis".

Employer activity statement lodgement reminder pilot

'If selected for the pilot, employers will receive a reminder letter if they:

- reported pay as you go (PAYG) withholding through Single Touch Payroll (STP), and
- have not lodged their activity statement within at least 7 days of the due date'.

'The reminder will include a summary of amounts' that the ATO 'have on record for them, such as:

- PAYG withholding amounts reported through STP
- any pre-filled PAYG instalment or GST instalment amounts.

The reminder will provide a timeframe to lodge to correct any amounts (if required) and complete any other activity statement labels that apply. If the employer does not lodge within this timeframe', the ATO:

- 'will consider the amounts' they 'have on record are correct and complete
 - will add amounts' they 'have on record to the employer's integrated client account, as they are due and payable
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- may also finalise the activity statement in ATO systems and consider it lodged, or it may remain outstanding. This will depend on whether the employer must report any other amounts in their activity statement, such as GST.

Guidance on the pilot was developed in consultation with the Communications Content Working Group (CCWG) and is now available on' the [ATO website](#) 'Registered agents will be provided with a client list if' the ATO 'select their clients for the pilot, which will also include a link to this guidance'.

GST

ATO warns against GST fraud activities

A man from Perth was sentenced to two years imprisonment for fraudulently obtaining almost \$110,000 of GST refunds. To be released after 12 months, the man will be released on a recognisance in the sum of \$1,000 to be of good behaviour for a period of 18 months. He was also ordered to repay the amounts fraudulently obtained.

The latest conviction was the result of efforts under Operation Protego, initiated in response to widespread GST fraud activity and includes compliance and debt recovery actions, and criminal investigations, leading to jail sentences for serious offenders.

The ATO [said](#) that under Operation Protego, it has taken action against more than 56,000 alleged offenders, and those involved in this fraud have already been handed in the order of \$300 million in penalties and interest which continues to accrue. The ATO also warns that those who did receive fraudulent payments, the debt (of fraudulent payments) will remain against their account and interest will continue to apply.

FINANCIAL SERVICES

2023 super performance test results released

APRA has released the results of the [2023 superannuation performance test](#). The annual test assesses the long-term performance of superannuation products against tailored benchmarks, with consequences for those that fail. MySuper products were tested for the third year in a row, with 64 MySuper products assessed.

Some highlights to the 2023 performance test results:

- 96 trustee directed products failed to meet the test benchmarks;
- 75% of failed trustee directed products are concentrated in products offered by just four trustees;
- one MySuper product failed to meet the test benchmarks, compared with five failed products in 2022 and 13 in 2021; and
- the median administration fees and costs for platform trustee directed products were the highest at 0.54% assets, compared to 0.27% for non-platform trustee directed products and 0.26% for MySuper products.

Trustees of products that failed to pass the benchmarks must notify their members of the test outcomes by 28 September 2023 and cannot accept new members into products that have failed for two consecutive years.

SUPERANNUATION

ATO highlights increase in compliance actions against SMSF trustees

The ATO has issued a [reminder](#) to SMSF trustees the importance of: (i) preserving their superannuation benefits until they meet a condition of release; (ii) ensuring their fund gets audited; and (iii) lodging their annual return each year.

According to the ATO, 2023 saw an increase in sanctions due to non-compliance which included:

- an additional \$29 million in income tax liabilities, administrative and tax shortfall penalties, and interest on SMSF trustees and/or members; and
- disqualification of 753 trustees who have been added to the ATO's public register.

The ATO said that "by far" the most common reason for applying these sanctions was to deal with SMSF members identified as having illegally accessed their superannuation benefits before meeting a condition of release.

The ATO also recommends SMSF trustees to voluntarily disclose contraventions (through the [SMSF early engagement and voluntary disclosure service](#)) before the ATO commences an audit, so that this can be taken into account before sanctions are imposed.

Super objective: draft bills

Treasury has [released](#) two draft Bills in its proposal to "enshrine" the objective of superannuation in legislation, requiring policy-makers to demonstrate how any future changes

to superannuation law are consistent with the legislated objective of superannuation (including a statement of compatibility with the objective of superannuation that must be prepared for a Bill or regulation that relates to superannuation (unless specifically exempt)).

The exposure drafts are:

- Superannuation (Objective) Bill 2023 (the "Objective Bill") - enshrines the objective of superannuation in legislation, which is "to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way";
- Superannuation (Objective) (Consequential and Transitional Provisions) Bill 2023 - includes consequential amendments and transitional arrangements to support the Objective Bill.

The proposed change does not impact regulatory supervision activities. It is aligned with but separate from trustees' fiduciary duties and so is not intended to guide the regulation of trustees' conduct or change existing trustee obligations.

Both exposure drafts are proposed to commence 28 days following Royal Assent.

Submissions are due by 29 September 2023.

REGULATOR NEWS

ASIC news

ASIC has released the following updates in its Newsroom section:

- [01 September 2023 - MEDIA RELEASE 23-240MR ASIC disqualifies VIC director for three and a half years](#)
- [01 September 2023 - MEDIA RELEASE 23-239MR Restaurateur banned for four years](#)
- [01 September 2023 - MEDIA RELEASE 23-238MR NSW director charged with five counts of falsifying company books](#)
- [31 August 2023 - MEDIA RELEASE 23-237MR ASIC launches proceedings against five Youpla Group directors](#)
- [30 August 2023 - MEDIA RELEASE 23-236MR ASIC – RBA issue joint letter of expectations to ASX](#)
- [30 August 2023 - MEDIA RELEASE 23-235MR As cost of living pressures persist ASIC calls on lenders to support customers in financial hardship](#)
- [29 August 2023 - MEDIA RELEASE 23-234MR Court finds former Quintis director did not breach duties](#)
- [29 August 2023 - MEDIA RELEASE 23-233MR Banning of Queensland director for failing to meet fit and proper person requirements stayed pending appeal](#)
- [29 August 2023 - MEDIA RELEASE 23-232MR ASIC suspends AFS licence of Australasian Capital Pty Ltd](#)

- [28 August 2023 – MEDIA RELEASE 23-231MR ASIC suspends AFS licence of Navigate Global Payments](#)
- [28 August 2023 – MEDIA RELEASE 23-230MR ASIC focuses on protecting vulnerable consumers and small businesses in 23-24](#)

Release of the ASIC Corporate Plan 2023-27

ASIC have said that they have ‘made strong progress since we released our strategic priorities last year, and we still have more work to do.’

That they ‘are responding to key trends and emerging issues in the regulatory landscape, where there are major shifts across sustainable finance, the digital and data economy, and an ageing population.’

Additional information can be found on the [ASIC website](#)