

ADVOCACY UPDATE

Tax Agent Services (Code of Professional Conduct) Determination 2024 Meeting

The IPA will have the opportunity to engage with the Commonwealth Government again on 6 September 2024 to further advocate our position relating to sections 45 and 15(2)(c) of the Tax Agent Services (Code of Professional Conduct) Determination 2024, and we are very hopeful of a positive outcome.

TAXATION

Multiple data-matching programs registered: ATO

The ATO has registered data-matching notices for compliance related purposes for lifestyle assets, property management and officeholders.

Scams awareness week highlight: TPB

The TPB has issued an article highlighting Scams Awareness week, which runs from 26-30 August 2024, with the theme "Share a story, stop a scam".

Personal services businesses and Pt IVA (PCG 2024/D2)

The ATO has issued draft PCG 2024/D2: Personal services businesses and Part IVA of the Income Tax Assessment Act 1936.

ATO updates

The ATO have provided updates on Personal services business (PSB) webinars and Rental property – repairs or capital expenses.

SUPERANNUATION

APRA releases quarterly performance and MySuper statistics

APRA has released its quarterly performance statistics and quarterly MySuper statistics for the June 2024 quarter.

APRA releases 2024 superannuation performance test results

APRA has released the results of the 2024 superannuation performance test. This year's test evaluated the performance of 57 MySuper and 590 trustee directed products.

FINANCIAL SERVICES

2024-25 corporate plan and reorganisation announcement: APRA

APRA has released its 2024-25 corporate plan, and also announced changes to its internal structure to support the strategic priorities set out in the corporate plan.

REGULATOR NEWS

ASIC News

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

APRA news

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

Legislative amendments and proposals, government announcements and consultations

Updates from the Government including legislation.

ADVOCACY UPDATE

Tax Agent Services (Code of Professional Conduct) Determination 2024 Meeting

In December 2023, Assistant Treasurer Stephen Jones released an exposure draft that contained eight new obligations meant to supplement the Tax Agent Services (Code of Professional Conduct) Determination 2024.

Since then, the Institute of Public Accountants has worked extensively with other professional bodies to provide constructive feedback to the Commonwealth Government about the negative impacts these changes will have on tax agents. See joint submission by Accounting Bodies [here](#).

From the very beginning, the IPA has advocated for the disallowance of the new obligations. Unfortunately, the government has been slow to react to our serious concerns about the design of the legislation.

The cumulative impact of all the joint body advocacy has put the government on notice that the tax practitioner community has deep reservations around the determination.

To date the minister has only agreed to provide a deferral, and after further feedback then agreed to make the deferral unconditional.

The IPA fully supports improving the accountability of our profession, but not at the expense of the welfare of our members. See more information about this [here](#).

The collective advocacy from the joint professional bodies has put the government on notice about the need for more clarity around the language used in the legislation to prevent serious unintended consequences. Learn more about this [here](#).

The IPA will have the opportunity to engage with the Commonwealth Government again on **6 September 2024** to further advocate our position relating to sections 45 and 15(2)(c), and we are very hopeful of a positive outcome. See letter from Assistant Treasurer Stephen Jones [here](#).

We understand your frustrations, and please rest assured that we will continue to advocate on your behalf until this matter is resolved.

For more information, please contact media@publicaccountants.com.au.

TAXATION

Multiple data-matching programs registered: ATO

The ATO has registered 3 data-matching notices for compliance related purposes:

Notice of a lifestyle assets data-matching program 26 August 2024

The ATO will [acquire lifestyle assets data from insurance providers](#) for 2023-24 through to 2025-26. Insurance policy data will be collected for specified classes of assets, where the relevant asset value is equal to or exceeds the nominated thresholds.

The data items include client identification details (names, contact details, dates of birth, etc) and policy details (policy number, relevant policy date, asset details, etc).

The ATO estimates that the total number of policy records obtained will be approximately 650,000 to 800,000 each financial year.

Notice of a Property management data-matching program 26 August 2024

The ATO will [acquire property management data from property management software companies](#) for 2018-19 through to 2025-26.

The data items include property owner identification details (name, contact details, date of birth, etc), property details (property address, property manager details, relevant bank details, etc) and property transaction details (period start and end dates, rental property account balance, etc).

The ATO estimates that records relating to approximately 2.3 million individuals will be obtained each financial year.

Notice of an Officeholder data-matching program 26 August 2024

The ATO will [acquire officeholder data](#) from the Australian Securities and Investments Commission ("ASIC"), the Office of the Registrar of Indigenous Corporations ("ORIC"), the Australian Charities and Not-for-profits Commission ("ACNC"), and the Australian Business Registry Service ("ABRS") for 2023-24 through to 2026-27.

The data items include name, contact details, date of birth, ABN, organization details, state of incorporation, officeholder type, etc including officeholder role start and end dates as recorded on the publicly available ASIC Companies register, the ORIC register of Aboriginal and Torres Strait Islander corporations, and the ACNC Charity Register.

The ATO estimates that records relating to more than 11 million individuals will be obtained.

Scams awareness week highlight: TPB

The Tax Practitioners Board ("TPB") has issued an [article](#) highlighting this year's Scams Awareness Week which runs from 26 - 30 August 2024. In accordance with the Week's theme "Share a story, stop a scam", the TPB is reminding tax practitioners to talk to their clients about scams which may help prevent them from having their money or personal information stolen by a scammer.

The article also includes some tips on how to identify and avoid scams, reporting them and getting help.

Personal services businesses and Pt IVA (PCG 2024/D2)

The ATO has issued draft guidance on the potential application of Pt IVA to arrangements where personal services income (PSI) is derived via a personal services entity that conducts a personal services business, ie where the specific anti-avoidance provisions in the PSI rules do not apply. [Draft PCG 2024/D2](#) lists a range of low-risk and higher-risk indicators, to help taxpayers determine the likelihood of the ATO reviewing their alienation arrangements.

The ATO will treat an alienation arrangement as low risk where the net PSI received via the personal services entity is assessed in the form of assessable income to the individual and tax is not deferred. A higher-risk arrangement is one that includes an income splitting and/or retention of profit arrangement, which diverts PSI away from the individual or facilitates the deferral of tax.

Draft PCG 2024/D2 includes 13 examples and also lists the records that should be created and retained.

Proposed date of effect: retrospective.

Comments on PCG 2024/D2 are due by 11 October 2024.

ATO updates

PSB – personal services business webinars

'The ATO has set out to address common misconceptions about how to treat personal services income (PSI) when qualifying as a personal services business (PSB). They've released two webinars that cover:

- a refresher of the PSI rules and the PSB tests
- what it means when a personal services entity (PSE) does or doesn't qualify as a PSB
- the taxation rulings to consider and how Part IVA might apply when operating a PSB
- what's likely to attract the ATO's scrutiny.

Watch the recorded webinars online at:

- [Personal Services Business and what you need to know \(part 1\)](#)
- [Personal Services Business and what you need to know \(part 2\)](#).

Rental property – repairs or capital expenses?

This year the ATO is focusing on [rental properties](#).

With 86% of rental property owners using a tax agent it's time to start asking your clients more questions, rather than just relying on documents provided.

Your clients may want to claim everything immediately, but it's not always correct. Use the ATO's tips to identify the difference between [repairs and improvements](#) and claim deductions over the correct period of time.'

SUPERANNUATION

APRA releases quarterly performance and MySuper statistics

APRA has released for the June 2024 quarter:

- quarterly superannuation performance statistics; and
- quarterly MySuper statistics.

Copies of the publication are available on APRA's website at: [Quarterly superannuation statistics](#).

Key statistics for the superannuation industry as at 30 June 2024 were:

- Total superannuation assets ("TSA"): \$3.9 trillion (up 0.4% over the quarter);
- APRA-regulated assets: \$2.7 trillion (69% of TSA);
- SMSF assets: \$990.4 billion (25.3% of TSA);
- Exempt public sector scheme assets: \$167.7 billion (4.3% of TSA);
- Life office statutory fund assets: \$57.2 billion (1.5% of TSA);

- Total contributions: \$183.9 billion in the year ending June 2024;
- Benefit payments: \$117.7 billion in the year ending June 2024.

Five year annualised rate of return

- Industry funds: 6.0%
- Public sector funds: 5.8%
- Retail funds: 5.1%

APRA releases 2024 superannuation performance test results

APRA has released the results of the 2024 superannuation performance test. This year's test evaluated the performance of 57 MySuper products and 590 trustee directed products.

Details of the test results are available on APRA's website at: [Annual superannuation performance test](#).

MySuper products

MySuper products have been mandatory for default employer superannuation contributions since 1 January 2014 where employees do not choose their own super fund. The annual performance test was introduced for MySuper products from 2021.

For the first time, all MySuper products passed the annual performance test.

Trustee directed products

Trustee directed products have been included in the performance test since 2023. They are multi-asset products where the trustee or connected entity has control over the investment strategy and/or the management of investments. Trustee directed products are part of the choice segment. Platform products are products offered by trustees via one or more investment menu platforms.

- All 398 non-platform products passed the annual performance test.
- 37 out of 192 platform products failed to meet the test benchmarks.
- 36 of the failed products were offered by N.M. Superannuation Proprietary Limited on the *Wealth Personal Superannuation and Pension Fund* platform. 27 failed for the second time and will now be closed to new members.
- 1 failed product was offered by I.O.O.F. Investment Management Limited on the *IOOF Portfolio Service Superannuation Fund* platform.

FINANCIAL SERVICES

2024-25 corporate plan and reorganisation announcement: APRA

APRA has [released](#) its 2024-25 Corporate Plan. This year's Plan, for the first time, includes APRA's annual policy and supervision priorities, as well as a new inclusion of data priorities. By combining the formerly separate publications, APRA seeks to enhance transparency and

assist regulated entities to plan ahead.

Some highlights to APRA's priorities in the Plan:

- increasing minimum standards for operational resilience through the implementation of new Prudential Standard CPS 230 Operational Risk;
- raising industry standards on cyber risk management;
- developing APRA's first system stress test to model and assess interconnections across the financial system;
- lifting expectations of entities to consider the financial impacts of climate risk in decision-making; and
- working with the Australian Securities and Investments Commission to ensure superannuation trustees meet their requirements under the retirement income covenant.

In a separate [release](#), APRA has also announced some changes to its internal structure that will support its strategic priorities set out in the 2024-25 Corporate Plan.

From 2 September, APRA will have its 5 industry supervision groups being managed in 2 supervision divisions instead of the current 3 frontline supervision divisions. The two frontline supervision divisions will be:

- a General Insurance and Banking division; and
- a Life Insurance, Private Health Insurance and Superannuation division.

APRA will also bring together its existing financial and non-financial risk teams in a Cross-industry Risk division, alongside teams focused on systemic risk work. Seeking to create a centre of excellence for risk specialists, improving knowledge transfer and cross-skilling opportunities, APRA looks to take a cross-industry and system-wide view of risks.

APRA's 3 other divisions - Policy & Advice; Technology & Data, and Chief of Staff & Enterprise Services - remain broadly unchanged.

REGULATOR NEWS

ASIC News

ASIC has released the following updates in its Newsroom section:

- [30 August 2024 – MEDIA RELEASE – ASIC prosecutes 78 individuals for failing to assist registered liquidators](#) – In the first half of 2024, ASIC prosecuted a total of 78 individuals for failing to assist liquidators resulting in fines of over \$430,000 for 146 offences. This included company officers who did not give registered liquidators access to company books and submit a report on company activities and property.
- [29 August 2024 – MEDIA RELEASE – CLSA pays penalty for providing incorrect regulatory data](#) – CLSA Australia Pty Ltd has paid \$144,300 in penalties for failing to comply with an infringement notice from the Markets Disciplinary Panel for supplying inaccurate regulatory data to the market operator. The provision of accurate data is a key obligation for market participants, as are the establishment and maintenance of the

technology systems that enable it. The Panel considered that changes made to CSLA's systems without appreciating the global impact was a "serious oversight".

- [28 August 2024 – NEWS ITEM – ASIC pilots new portal for Australian financial service licence applications](#) – ASIC has launched a new portal to selected users as a trial for Australian financial service licences. The aim is to streamline the process for licence applications and variations and is expected to be in operation generally in the first quarter of 2025. The pilot is an opportunity for ASIC to seek user feedback on the licence program which is part of the broader process of making the organisation more efficient.
- [28 August 2024 – MEDIA RELEASE – AFS licensee to cease providing independent expert reports on corporate transactions](#) – AP Lloyds Pty Ltd has agreed to vary its Australian financial service licence to exclude the firm and its authorised representative from providing advice as an independent expert. This follows ASIC's concerns that some of its expert reports did not comply with ASIC Regulatory Guides RG 111 *Content of expert reports* and RG 112 *Independence of expert reports*. AP Lloyds may still provide financial, valuation and accounting services.
- [27 August 2024 – MEDIA RELEASE – Former Brisbane financial adviser Ben Jayaweera sentenced to 12 years imprisonment for fraud at retrial](#) – In the Brisbane District Court, Judge Moynihan KC has sentenced Ben Jayaweera, former financial adviser and director of Growth Plus Financial Group Pty Ltd (in liq), to 12 years' imprisonment for 28 counts of fraud. His Honour described the offending as "brazen, gross, and callous" and his victims suffered and continue to suffer personal and financial harm. In some instances, he withdrew client moneys from self-managed superannuation funds without their knowledge or consent and engaged in a breach of trust. The sentence reconfirms the original conviction and sentence of the Brisbane District Court in 2019 which was set aside in 2022 by the Queensland Court of Appeal.
- [23 August 2024 – MEDIA RELEASE – Former Brisbane financial adviser Ben Jayaweera found guilty of fraud following a retrial in the Brisbane District Court](#) – Ben Jayaweera, former financial adviser and director of Growth Plus Financial Group Pty Ltd (in liq), has been found guilty on 28 counts of fraud under the *Criminal Code Act 1899* (Qld). The indictment referred to transactions where 12 clients lost a total of over \$5.9 million.

APRA news

APRA has released the following updates in its News and publications section:

- [30 August 2024 – MEDIA RELEASES – APRA releases superannuation performance test results](#) – The annual superannuation performance test is designed to increase industry transparency and improve member outcomes by assessing the long-term performance of superannuation products against tailored benchmarks. Overall, 57 MySuper products and 590 trustee directed products were tested. All MySuper products passed the test which was an improvement on 2023. However, 37 trustee directed products, mostly from NM Superannuation Pty Ltd and IOOF Investment Management Ltd, failed to meet benchmarks.
- [30 August 2024 – MEDIA RELEASES – APRA releases Monthly Authorised Deposit-taking Institution Statistics for July 2024](#)
- [29 August 2024 – MEDIA RELEASES – APRA releases superannuation statistics for June 2024](#) – APRA has released its Quarterly Superannuation Performance and Quarterly MySuper Statistics for the June 2024 quarter. In the 12 months to 30 June

2024, total superannuation assets in Australia grew by 9.1 per cent and APRA-regulated assets increased by 10.0 per cent.

- [28 August 2024 – MEDIA RELEASES – APRA announces internal reorganisation to better support strategic priorities](#) – APRA has announced structural changes to support its revised strategic priorities. The three current frontline supervision divisions will be merged into two. In addition, its financial and non-financial risk teams will merge into a Cross-industry Risk division. The changes will come into effect on 2 September 2024.
- [28 August 2024 – CORPORATE PUBLICATIONS – APRA outlines new priorities in 2024-25 Corporate Plan](#) – APRA published its Corporate Plan for the coming year, outlining its strategic priorities as well as its policy and supervision priorities and a new set of data priorities. It aims to improve its transparency and help regulate entities to plan.
- [27 August 2024 – NEWS ITEM – APRA releases quarterly private health insurance statistics for June 2024](#) – APRA has released its June 2024 quarterly publication on private health insurance. This edition covers membership, coverage, benefits paid, medical gap, medical devices or human tissue products, and medical services.
- [23 August 2024 – MEDIA RELEASES – BUSSQ seeks judicial review of APRA decision to impose licence conditions](#) – APRA has acknowledged the application of BUSS (Queensland) Pty Ltd to the Federal Court of Australia to seek review of APRA's decision to impose additional licence conditions on the trustee. APRA has also agreed to suspend the commencement of the conditions, pending the court's decision.

Legislative amendments and proposals, government announcements and consultations

- [27 August 2024 – Small and medium-sized banks review](#) – The Treasurer has asked the Council of Financial Regulators and the Australian Competition and Consumer Commission to review the small and medium-sized banking sector. They will conduct consultations with interested parties and report to government by 1 July 2025.