

IPA NEWS

AML Consultation

IPA is seeking experienced members in public practice with an interest in assisting IPA's advocacy and policy team with AUSTRAC industry consultation on the development of rules and guidance relating to the expected reform of the AML/CTF regime.

TAXATION

Draft policy guidance for enhanced Code of Professional Conduct released

The TPB has released draft policy guidance for public consultation seeking to assist tax practitioners in understanding the new obligations in the Code of Professional Conduct.

Full-time Second Commissioner of Taxation appointment announced

The Government has announced the appointment of Mr David Allen as a full-time Second Commissioner of the ATO for a 7-year period commencing 1 November 2024.

Senate committee recommends passage of 2024 No 1 Bill

The Senate Economics Legislation Committee has recommended that the Treasury Laws Amendment (2024 Tax and Other Measures No. 1) Bill 2024 be passed.

ATO Online security

The ATO has published information on What you can do to stay safe online and how we protect your information to avoid a data breach.

The ATO is changing their approach to collecting unpaid tax and super

The ATO have said that they are 'making it fairer for businesses that do the right thing, by changing their approach to collecting unpaid tax and super. They are now focusing on businesses who refuse to engage with them and continue to ignore their SMS and letter reminders'.

SUPERANNUATION

APRA strengthens oversight of super fund spending

APRA has published a letter to all RSE licensees outlining its approach for intensifying supervision of fund-level expenditure.

ASIC annual report released - super and financial advice highlights

ASIC has released its 2023-24 annual report, highlighting a range of key regulatory and enforcement outcomes in the superannuation and financial advice sectors.

APRA amends operational risk financial requirements for super trustees

APRA has amended the prudential requirements for superannuation trustees as set out in Prudential Standard SPS 114.

FINANCIAL SERVICES

ASIC applications for relief and no-action letters

ASIC has released consultation CS 11 which proposes to update both RG 51 and RG 108 to ensure currency.

ASIC to host webinar on assessing financial adviser qualifications

ASIC will host a webinar in November for AFS licensees and financial advisers to assist industry with the application of the qualifications standard.

ASIC instrument allows website disclosure in place of FSG

ASIC has registered an instrument amending the ASIC Corporations (Financial Services Guides) Instrument 2015/541 to allow website disclosure in place of giving an FSG.

ASIC update - guidance for auditors on financial reporting and audit obligations

ASIC has released updated RG 26 providing guidance for the resignation, removal and replacement of auditors.

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.

IPA NEWS

AML Consultation

If you have an interest, please send an email to ipaadvocacy@publicaccountants.org.au by COB 8 November 2024.

You can read more on the consultation on the development of rules and guidance relating to the expected reform of the AML/CTF regime [here](#)

TAXATION

Draft policy guidance for enhanced Code of Professional Conduct released

The TPB has issued [6 draft policy guidance](#) to assist tax practitioners understand the new obligations in the Tax Agent Services (Code of Professional Conduct) Determination 2024.

The draft guidance are as follows:

- [Upholding and promoting the ethical standards of the tax profession \(TPB\(I\) D56/2024\)](#);
- [False or misleading statements \(TPB\(I\) D57/2024\)](#);
- [Managing conflicts of interest when undertaking activities for government and maintaining confidentiality in dealings with government \(TPB\(I\) D58/2024\)](#);
- [Obligation to keep proper client records of tax agent services provided \(TPB\(I\) D59/2024\)](#);
- [Supervision, competency and quality management under the Tax Agent Services Act 2009 \(TPB\(I\) D60/2024\)](#); and
- [Keeping your clients informed \(TPB\(I\) D61/2024\)](#).

The TPB expects to finalise the guidance in December 2024 alongside complementary material, such as factsheets and website content, to assist tax practitioners understand the new requirements.

SUBMISSIONS for all 6 draft policy guidance are due by 21 November 2024.

Members are encouraged to send any feedback to ipaadvocacy@publicaccountants.org.au by **14 November 2024**.

Full-time Second Commissioner of Taxation appointment announced

The Government has [announced](#) the appointment of Mr David Allen as a full-time Second Commissioner of Taxation to the ATO for a 7-year period beginning on 1 November 2024.

Mr Allen joined the ATO in 2010 as the Assistant Commissioner of Large Business Risk and was the ATO's delegate to the OECD, based in Paris. He is currently acting as the Second Commissioner and has been in this role since May 2024.

Senate committee recommends passage of 2024 No 1 Bill

The Senate Economics Legislation Committee has recommended that the [Treasury Laws Amendment \(2024 Tax and Other Measures No. 1\) Bill 2024](#) be passed. No recommendations were made. The Report can be found [here](#). Parliament is due to resume sitting on 4 November 2024.

ATO Online security

The ATO has published information on:

- Online access strength
- How we protect you
- Data breach guidance
- Security for digital service providers

You can read more [here](#)

The ATO is changing their approach to collecting unpaid tax and super

The ATO have said that 'not paying tax affects everyone, and it's important The Australian Taxation Office (ATO) takes action to help prevent businesses from putting other small businesses and employees at risk. Businesses that act early are often better placed to get back on track and sustainably manage their finances.

This means you may see the ATO taking different steps to those you have seen in the past. This is a deliberate and targeted approach, taking into account compliance history:

- For businesses big and small, who don't engage with the ATO or set up a payment plan for unpaid GST, pay as you go (PAYG) withholding or employee super, the ATO will move more quickly to firmer actions such as Director Penalty Notices (DPNs) and garnishees.
- Directors of multiple companies who allow amounts of GST, PAYG withholding and employee super to go unpaid, and do not engage with the ATO, can expect the ATO to look at their debts more holistically. These directors can expect to receive DPNs capturing the total value of these amounts across all related entities. If these directors don't take action, the ATO can recover these amounts directly from them, putting their assets at risk.

As the ATO change their approach to collecting unpaid tax and super, they're making it fairer for compliant businesses that do the right thing and fulfil their tax obligations. This approach may impact some of your business clients who have not responded to the ATO's past engagement attempts.

To prevent these firmer actions, businesses should take action now to pay in full or set up a payment plan.

What can tax professionals do to assist the ATO in their approach?

For taxpayers who are able to pay on time, please encourage your clients to prioritise their tax and super obligations to prevent interest or firmer collection action by the ATO.

For taxpayers unable to pay in full and on time, the ATO is encouraging tax professionals to continue to highlight the options available for their business clients, including payment plans. As you are aware, tax professionals may even be able to set up a payment plan online through ATO online services for agents if their client's debt is less than \$200,000, or your clients can also do this directly through online services for business.

If your clients are experiencing genuine financial hardship, ensure they are aware of the options available, including deferring payment due dates, interest remissions and access to compassionate release of their super.

The key message the ATO would like to ask tax professionals to pass onto their clients is, if they can pay, please do and if they need more time to pay, don't ignore it - act now to check if you can put in place a payment plan online or reach out to the ATO early for help.

Tax professionals and their clients can find out more about what happens [if they don't pay](#) on the ATO website'.

SUPERANNUATION**APRA strengthens oversight of super fund spending**

APRA has published a [letter](#) to all registrable superannuation entity ("RSE") licensees outlining its approach for intensifying supervision of fund-level expenditure. APRA has observed deficient practices and questionable expenditure in some areas.

APRA will initially focus its supervisory efforts on:

- discretionary expenditure categories such as travel, entertainment and conferences;
- relative and absolute size outliers, including consideration of impact to members; and
- particular types of payees and payments where benefit to members is not immediately apparent.

On 30 October, APRA will publish the expenditure data for the 2022-23 financial year, presenting it at both the fund level and in aggregate form. Moving forward, APRA will release annual expenditure data on a regular basis, with the 2023-24 financial year data expected to be published in early 2025.

ASIC annual report released - super and financial advice highlights

ASIC's [2023-24 annual report](#) has been released which, among other things, highlights a range of key regulatory and enforcement outcomes in the superannuation and financial advice sectors.

The report highlights the regulator's 4 strategic priorities over the past year:

- Product design and distribution;
- Sustainable finance;
- Retirement decision making; and
- Technology risks.

The following topics are also briefly addressed:

- the implementation of the Financial Accountability Regime (FAR) - scheduled to commence on 15 March 2025 for the superannuation and insurance industries;
- regulation of the use of AI - ASIC is working to inform regulated entities about existing obligations when using AI, improve awareness of the key risks AI poses to consumers and markets, and build understanding in how industry is using AI;
- three superannuation case studies - retirement outcomes, member services review, and enforcement activity on superannuation member services;
- the review of the roles of advisers and advice licensees in relation to Choice superannuation products; and
- ASIC's enforcement action in the financial advice sector which led to a number of significant court outcomes and penalties.

APRA amends operational risk financial requirements for super trustees

APRA has [amended](#) the prudential requirements for superannuation trustees relating to operational risk financial requirements (ORFR) as set out in [Prudential Standard SPS 114 Operational Risk Financial Requirement](#) (SPS 114) [registered 17.10.2024] and related guidance.

EFFECTIVE DATE: The amended SPS 114 will take effect from 1 July 2025.

FINANCIAL SERVICES

ASIC applications for relief and no-action letters

ASIC has released consultation [CS 11](#), which proposes to update the following guides to ensure their currency:

- Regulatory Guide 51 Applications for relief ([RG 51](#)); and
- Regulatory Guide 108 No-action letters ([RG 108](#)).

DUE DATE FOR COMMENTS: 18 NOVEMBER 2024

ASIC to host webinar on assessing financial adviser qualifications

ASIC will host a [webinar](#) in November to provide practical guidance to Australian financial services (AFS) licensees and financial advisers (relevant providers) to assist industry with the application of the qualifications standard, particularly to existing providers. Enrolment is on ASIC's website.

WEBINAR DATE: 13 November 2024; 12:30PM to 1:30PM AEST.

ASIC instrument allows website disclosure in place of FSG

[ASIC Corporations \(Amendment\) Instrument 2024/809](#) ("Amendment Instrument") has been registered and amends the [ASIC Corporations \(Financial Services Guides\) Instrument 2015/541](#) ("Principal Instrument"). The Amendment Instrument allows financial services licensees and authorised representatives ("providing entities") to, in place of giving a Financial Services Guide (FSG) to a client, make available website disclosure information for dealing in a financial product for the purpose of implementing financial product advice that the providing entity provided to that client.

The Amendment Instrument is intended to be an interim measure to provide certainty for providing entities ahead of consideration of potential future legislative changes by the Government to implement the relief in the primary law or regulations.

The amendments made by the Amendment Instrument will have effect until the Principal Instrument is repealed on 1 October 2025.

ASIC update - guidance for auditors on financial reporting and audit obligations

ASIC has [released](#) updated regulatory guidance for the resignation, removal and replacement of auditors.

The updates to [Regulatory Guide 26 Resignation, removal and replacement of auditors](#) (RG 26) reflect expanded obligations applying in relation to registrable superannuation entities (RSEs) and retail corporate collective investment vehicles (retail CCIVs).

REGULATOR NEWS

ASIC News

ASIC has released the following updates in its Newsroom section:

- [24 October 2024 – NEWS ITEM – ASIC updates guidance for auditors following extension to financial reporting and audit obligations](#) – ASIC issued an updated version of Regulatory Guide 26 *Resignation, removal and replacement of auditors*. Since 1 July 2023, auditors' obligations have extended to registrable superannuation entities and retail corporate collective investment vehicles. The companion information sheets have also been revised.
- [24 October 2024 – MEDIA RELEASE – ASIC cancels AFS licence of Next Generation Advice](#) – ASIC has cancelled the Australian financial services licence of Next Generation Advice Pty Ltd (in liq) following an order from the Supreme Court of Queensland that it be wound up. Next Generation had held a financial services licence since 2006. ASIC has directed that it remain a member of the Australian Financial Complaints Authority until 17 October 2025.
- [24 October 2024 – SPEECH – ASIC 2024 Update](#) – ASIC Commissioner Kate O'Rourke provided the keynote address at the 34th Annual Credit Law Conference on

the Gold Coast. She emphasised ASIC's continued focus on consumer protection in credit and banking. ASIC considers that regulatory settings are not restricting the availability of credit. Improving data resilience and safety is a strategic priority for ASIC.

- [23 October 2024 – NEWS ITEM – Save the date: ASIC to host webinar on assessing financial adviser qualifications](#) – On 13 November 2024, ASIC will conduct a webinar to assist Australian financial services licensees and relevant providers understand the qualifications standard and how to include information in the Financial Advisers Register. The transition period for existing providers to comply with the new standard will conclude on 31 December 2025.
- [23 October 2024 – MEDIA RELEASE – ASIC alleges QBE misled customers over pricing discounts](#) – ASIC has instituted proceedings in the Federal Court against QBE, alleging that it had misled customers about discounts between 2017 and 2022. Some customers were promised loyalty discounts for renewing policies which were not received. The discounts were also offered in product disclosure statements on the QBE website. ASIC seeks civil penalties, declarations and adverse publicity orders.
- [22 October 2024 – MEDIA RELEASE – ASIC cancels the Australian financial services and credit licences of Ultiqa Lifestyle Promotions Limited](#) – On 28 June 2024, AFCA made a determination against Ultiqa Lifestyle Promotions Ltd which it failed to pay. The Compensation Scheme of Last Resort, which has been in operation since April, paid compensation on 2 October 2024. Where AFCA makes a determination against a licence-holder and the CSLR compensates a complainant, ASIC must cancel the licence. ASIC cancelled Ultiqa's credit and Australian financial services licences on 16 October 2024.
- [22 October 2024 – MEDIA RELEASE – ASIC annual report underscores transformation](#) – The 2023-24 ASIC annual report has been released. The report includes progress on ASIC's continuing transformation, a summary of compliance and enforcement results and consumer protection outcomes. The highlights for the financial year include ASIC's first success in a greenwashing civil penalty matter, the first stop order for a life insurance product and the first infringement notice for a market operator.
- [22 October 2024 – NEWS ITEM – ASIC warns small businesses to be on high alert for scams](#) – ASIC urges small businesses to be wary of increasingly sophisticated scams which exploit time-poor operators. The most common scam methods include false billing, unsound investment offers, remote access, payment redirection, phishing and impersonation of known brands or persons or of ASIC itself.
- [22 October 2024 – MEDIA RELEASE – Ex CEO of crypto exchange Mine Digital charged with fraud](#) – The former CEO of ACCE Australia Pty Ltd, Grant Colthup, has been charged with fraud contrary to the *Criminal Code 1899* (Qld) following an investigation by ASIC. ASIC alleges that a customer of Mine Digital, ACCE's digital exchange platform, bought Bitcoin from ACCE but never received any cryptocurrency in exchange. ACCE has been in administration since 2022.
- [21 October 2024 – MEDIA RELEASE – ASIC cancels Australian credit licence of Emmanuel Katsoulis and suspends Australian credit licence of Peter Wormington](#) – A Melbourne-based credit licensee has had his licence suspended for four months and another has had his cancelled. Each one follows the licence-holder's failure to pay industry funding levies owed to ASIC. These actions are part of ASIC's continuing efforts to raise the levels of compliance among participants in the credit sector.
- [21 October 2024 – NEWS ITEM – ASIC proposes updates to RG 51 Applications for relief and RG 108 No-action letters](#) – ASIC is inviting feedback from interested parties in relation to the clarity of its proposed amendments to two Regulatory Guides. The proposed alterations to the guides are aimed at incorporating additional guidance and

updating superseded references. Submissions are open until 18 November 2024.

- [21 October 2024 – NEWS ITEM – Changes to OTC derivative transaction reporting are now in effect](#) – The *ASIC Derivative Transaction Rules (Reporting) 2024* have now taken effect to replace the *ASIC Derivative Transaction Rules (Reporting) 2022*. The new Rules bring Australia into line with international reporting standards, consolidate transitional provisions and exemptions and ensure reporting requirements are appropriate. ASIC undertook two rounds of consultation before finalising the amendments to transactions reporting rules.
- [18 October 2024 – MEDIA RELEASE – ASIC acts to protect small business – Q1 FY25 update](#) – Between 1 July and 30 September 2024, ASIC took action against 68 individuals who failed to assist liquidators following the collapse of their companies and disqualified three company directors. The Commonwealth Director of Public Prosecutions is also pursuing to directors for dishonest conduct relating to company money after ASIC investigations. Many creditors (including small businesses, employees and the Australian Taxation Office) were affected by the failure of these directors to meet their obligations.

APRA news

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

- [25 October 2024 – OPENING STATEMENTS – Opening Statement to the House of Representatives Standing Committee on Economics – October 2024](#) – APRA Chair John Lonsdale presented to the Committee to discuss the recently tabled APRA Annual Report. He spoke of APRA's enforcement actions regarding three superannuation funds which demonstrated APRA's preparedness to act where it sees activities that are not in members' interests. APRA also restructured its supervisory groups, executive team and governance to improve decision-making and capitalise on efficiencies.
- [24 October 2024 – OPENING STATEMENTS – Opening Statement: Financial regulatory framework and home ownership](#) – Ms Therese McCarthy Hockey, Executive Board Member appeared along with APRA senior management before the Senate Economics References Committee inquiry in Canberra on the financial regulatory framework and home ownership. Recent APRA data shows that Australians' housing loan commitments are growing and that Australia has one of the highest ratios of household debt to income in the world. APRA balances a range of factors in applying prudential regulation and will continue to work with other members of the council of financial Regulators.
- [24 October 2024 – MEDIA RELEASE – APRA amends operational risk financial requirements for superannuation trustees](#) – APRA has issued a revised version of *Prudential Standard SPS 114 Operational Risk Financial Requirement* (SPS 114) to help superannuation trustees boost their operational resilience. The purpose of operational risk financial requirements has been clarified and their allowance range of uses expanded. The amended standard will apply from 1 July 2025.
- [22 October 2024 – NEWS ITEM – APRA releases letter to RSE licensees on intensified supervision approach](#) – APRA has published its advice to licensees of registrable superannuation entities that it is raising the intensity of its supervision of fund-level expenditure in the coming year.