



TAXATION

Sharing of myGovID credentials a serious breach of Code: TPB case study released

The TPB has release a case study where a tax agent was found to have breached the Code when they allowed an employee to use their personal myGovID without supervision.

Country-by-Country reporting exemption: ATO guidance released

The ATO has published a guide on Country-by-Country reporting exemption requests received from 1 January 2025.

Instant asset write-off measures deleted from Bill

Amendments proposing an extension to the instant asset write-off measures were deleted from the Responsible Buy Now Pay Later and Other Measures Bill before it was passed.

Tax treaty between Australia and Portugal: draft legislation issued

Treasury has released exposure draft legislation to amend the International Tax Agreements Act 1953 to give the tax treaty force of law in Australia.

Charity transitional reporting arrangement extension: draft instrument

The Government has issued a draft legislative instrument which proposes to extend the transitional reporting arrangement up to and including the 2028-29 financial year.

Tax Incentives and Integrity Bill introduced into Parliament

Amendments include updating the definition of fuel-efficient car in LCT 1999; and to the ITAA 1997 to deny deductions for amounts of GIC and SIC incurred from 1 Jul 2025.

Raising capital to fund franked distributions: ATO's proposed compliance approach (PCG 2024/D4)

PCG 2024/D4 contains a proposed framework for assessing the risk of s 207-159 ITAA 1997 applying to deny franking credits attached to a distribution.

Thin capitalisation: third party debt test (TR 2024/D3, PCG 2024/D3)

TR 2024/D3 examines aspects of the third party debt test in Subdiv 820-EAB ITAA 1997 while PCG 2024/D3 has been updated to incorporate two new schedules.



Philanthropy reforms announced

The Government has announced measures to reform the charity sector to encourage greater participation in philanthropy.

Refunds of PAYG withholding amounts, RBA surpluses and credits (PS LA 2011/11 and PS LA 2011/22)

The ATO has released updated versions of both PS LA 2011/11 (refunds of certain PAYG withholding amounts and PS LA 2011/22 (RBA surpluses and credits).

Latest issue of ATO's interpretationNOW! released

The ATO has released Episode 114 of its series on statutory interpretation entitled interpretationNOW!

Better Targeted Super Bill split: ITC attribution, reverse charge GST carved out

Schedule 6 of the Bill to be carved out - proposed amendments include attribution of input tax credits to tax periods and income tax deduction for reverse charge GST.

GST and fuel tax: time limits for claiming input or fuel tax credits (MT 2024/1)

MT 2024/1 sets out the ATO's revised views on the time limit for claiming fuel or input tax credits.

Supply of burial right in public cemetery not subject to GST (GSTD 2024/2)

GSTD 2024/2 explains why supply of burial rights in public cemeteries are not subject to GST.

GST: ATO warns against fraud from related party structuring arrangements

The ATO has issued a media release warning businesses not to get involved in related party structuring arrangements or schemes.

ATO - Family trusts – what you need to know

The ATO have advised that 'in response to the high level of interest for the ATO's Family Trust Elections webinar, the event recording has been made available.'



FINANCIAL SERVICES

Public registry of beneficial ownership: draft legislation

The Government has released an exposure draft to the Treasury Laws Amendment Bill 2024: Enhanced disclosure of ownership of listed entities.

ASIC consults on further guidance for crypto and digital assets

ASIC has released a consultation paper setting out its proposals to update INFO 225 to provide further guidance on crypto and digital assets.

Delivering Better Financial Outcomes: Tranche 2 Fact Sheet released

The Government has released a 2-page fact sheet titled on Tranche 2 of the Delivering Better Financial Outcomes package.

ASIC's reportable situations regime: deficiencies in licensee practices

ASIC has released insights, key questions and a set of best practice examples to assist licensees to better meet obligations under the reportable situations regime.

Minor updates to APRA prudential framework finalised

APRA has released minor updates to the prudential framework for ADIs, insurers and registrable superannuation entity licensees.

SUPERANNUATION

ASIC inaugural IDR report - 220,860 superannuation complaints

ASIC has released its first publication of industry-wide data reported under the IDR framework covering July 2023-June 2024.

ATO DIS released: Came and FCT [2023] AATA 3951

The ATO has issued a DIS outlining its response to the Tribunal decision in Came and FCT [2023] AATA 3951.

APRA finalises enhancements to super data collections

ASIC has finalised enhancements to super data collections covering trustee licensee profile, trustee profile and investments.



Public beneficial ownership of unlisted companies: updated policy specifications released

The ATO has issued updated policy specifications on beneficial ownership that affect unlisted companies.

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.

TAXATION

Sharing of myGovID credentials a serious breach of Code: TPB case study released

The TPB has issued a [compliance case study](#) where a tax agent was found to have breached the Code of Professional Conduct ("Code") for failing to ensure a tax agent service was provided competently.

The Board Conduct Committee ("BCC") found the tax agent failed to adequately supervise an employee under their control when they allowed their personal myGovID credentials to be used by an employee without supervision. This resulted in the employee misappropriating client refunds in excess of \$319,000 from 109 clients, through the unauthorised access of the tax agent's myGovID.

The BCC noted that while the principal tax agent had no involvement in the misappropriation of the client funds, the act of allowing employees to access their own myGovID credentials was a serious privacy breach. It was also noted that the tax agent had reported the incident to the ATO, the TPB and the police as soon as they became aware of the conduct. The tax agent also took steps to ensure all funds were repaid to the clients. The tax agent was issued a written caution in light of the remedial actions taken.

Country-by-Country reporting exemption: ATO guidance released

The ATO has published a [guide](#) on Country-by-Country ("CBC") reporting exemption requests that it receives from 1 January 2025. An entity may be eligible for an exemption from lodging one or more of their CBC reporting statements under specific circumstances.

Apart from exceptional cases, the ATO has 3 defined circumstances where the ATO may grant



an exemption from lodging one or more of CBC reporting statements:

1. The entity is an Australian CBC reporting parent, or a member of a group consolidated for accounting purposes with an Australian CBC reporting parent, where the group has no foreign operations. No foreign operations means no constituent entity or permanent establishment ("PE") outside Australia. Exemption available: CBC report.
2. The annual global income of a foreign CBC reporting parent is A\$1 billion or more but falls below the CBC reporting foreign currency threshold in the jurisdiction of the foreign CBC reporting parent. Exemption available: CBC report.
3. An entity is a CBC reporting entity in the preceding year due to its membership of a group of entities but left that group during the CBC reporting year due to a demerger or sale to a third party and will not be a CBC reporting entity under the new structure for the foreseeable future. Exemption available: CBC report and master file.

Other exemptions for the CBC report, master file and local file may be available in exceptional circumstances after a review of the facts, circumstances and consideration of the evidence. In principle, such circumstances would be outside the 3 exemption categories above and in ensuring conformity with the OECD Action 13 recommendations. The ATO expects these exemptions will be granted in very limited circumstances and the overarching expectation is that the master file and local file will be lodged.

The ATO guide also covers in detail other CBC reporting "reliefs" that might be available such as:

- Administrative relief for CBC report or local file
- Tax exempt entities under Div 50
- National Tax Equivalent Regime
- Ceasing operations or winding up
- Difficulties in accessing information

Instant asset write-off measures deleted from Bill

In the rush of legislation passed during Federal Parliament's last sitting week, the [Treasury Laws Amendment \(Responsible Buy Now Pay Later and Other Measures\) Bill 2024](#) was passed with 18 Government amendments on 29 November 2024. It now awaits assent.

Of the amendments made, 17 concerned the Build-to-Rent measures and the 18th amendment deleted Sch 7 containing the instant asset write-off measures. Those measures had proposed to allow small businesses (with an aggregated annual turnover of less than \$10 million) to immediately deduct the full cost of eligible depreciating assets costing less than \$20,000 that are first used or installed ready for use on or before 30 June 2025. The Government said, "Schedule 7 will be reintroduced as a Schedule to another Treasury Laws

Amendment Bill for debate at a later time".

Note that the measures that extended the same concession to 2023-24 (ie the last financial year) were contained in the [Treasury Laws Amendment \(Support for Small Business and Charities and Other Measures\) Act 2024](#), which passed in June 2024.



Tax treaty between Australia and Portugal: draft legislation issued

Treasury has issued the exposure draft to the [Treasury Laws Amendment Bill 2024: Portuguese tax convention](#). This follows the signing of a comprehensive DTA (the "Convention") on 30 November 2023, the first tax treaty between Australia and Portugal.

The Bill proposes to amend the International Tax Agreements Act 1953 to give the Convention force of law in Australia, ie the Convention will have priority over provisions of the ITAA 1936, ITAA 1997, FBT Act and any Act imposing income tax to the extent of any inconsistency - other than certain provisions of those laws.

Key features of the Convention include:

- reduced withholding tax rates to create a more favourable bilateral investment environment while making it cheaper for Australian business to access foreign capital and technology;
- rules to reduce potential double taxation, which can deter investment; and
- providing greater tax certainty to taxpayers in both jurisdictions.

Submissions are due by 22 December 2024.

Charity transitional reporting arrangement extension: draft instrument

The Government has issued the draft legislative instrument, the [Australian Charities and Not-for-profits Commission \(Consequential and Transitional\) Regulations 2025](#).

The Instrument extends the financial years in which the Commissioner of the Australian Charities and Not-for-profits Commission ("ACNC") may treat statements, reports or other documents given under an Australian law to another Australian government agency by a registered entity as being annual information statements or financial reports for the purposes of the Australian Charities and Not-for-profits Commission Act 2012 ("ACNC Act"). The Regulations extend the exemption up to and including the 2028-29 financial year.

The measure preserves the operation of the 2016 Regulations which only covers for the financial years up to and including 2023-24. It allows existing administrative processes the ACNC has established with other government agencies to share financial reporting information for the purposes of the ACNC Act to continue to apply.

Submissions are due by 14 January 2025.

Tax Incentives and Integrity Bill introduced into Parliament

On 28 November 2024, the [Treasury Laws Amendment \(Tax Incentives and Integrity\) Bill 2024](#) was introduced into the House of Reps.

As part of various measures announced earlier, such as the 2023-24 Mid-Year Economic and Fiscal Outlook and the "Strengthening Tax Compliance - ATO Counter Fraud Strategy"

measure in the 2024-25 Budget, the Bill proposes to:

- amend s 25-1 of the Luxury Car Tax Act 1999 by (i) updating the definition of a fuel-efficient car by reducing the maximum fuel consumption for a car to be considered fuel-efficient for the luxury car tax ("LCT") to 3.5 litres per 100 kilometres from the current 7 litres per 100 kilometres; and (ii) amend the index number used to index the LCT threshold from All Groups CPI to the motor vehicle purchase sub-group of the CPI. The amendments apply to taxable supplies and taxable importations of luxury cars on or after 1 July 2025. Transitional arrangements where current fuel-efficient definition of 7 litres per 100 kilometres continue to apply to a supply or importation of a car on or after 1 July 2025;
- amend s 25-5 and 26-5 of the ITAA 1997 to deny the income tax deductions for amounts of GIC and SIC incurred by a taxpayer in income years starting on or after 1 July 2025; and
- amend the TAA 1953 to extend from 14 to 30 days the period within which the Commissioner must notify a taxpayer of their decision to retain a refund amount arising from a BAS or another notification under the BAS provisions for verification of information. The amendments apply to amounts due to be refunded on or after the first 1 July following Assent.

Raising capital to fund franked distributions: ATO's proposed compliance approach (PCG 2024/D4)

Draft Practical Compliance Guideline [PCG 2024/D4](#) contains a proposed framework for assessing the risk of s 207-159 ITAA 1997 applying to deny franking credits attached to a distribution. Section 207-159 is an integrity measure, introduced in 2023 to prevent certain distributions from being frankable if they are funded by capital raising.

Draft PCG 2024/D4 sets of 3 risk zones - white, green and red. A low risk (green zone) arrangement is one where any of the following apply:

- the distribution is consistent with the past practice over the previous 3 years of distributions paid in relation to the relevant class of shares;
- the distribution is made under an arrangement which involves a dividend reinvestment plan, undertaken for normal commercial purposes, and is not artificial or contrived;
- the issue of equity interests funded is under 5% of the entire franked distribution paid to all eligible shareholders;
- the issue of equity interests by APRA-regulated entities is to meet minimum regulatory requirements, or to maintain a reasonable buffer beyond those minimum requirements; or
- in the case of private companies, the distribution is made under an arrangement where the capital raising and distribution are initiated to facilitate the departure of shareholder(s) (eg succession planning).

PROPOSED DATE OF EFFECT: applicable to distributions made from 28 November 2023 (when s 207-159 took effect).

COMMENTS are due by 31 January 2025.



Thin capitalisation: third party debt test (TR 2024/D3, PCG 2024/D3)

[Draft Ruling TR 2024/D3](#) examines aspects of the recently enacted third party debt test in Subdiv 820-EAB ITAA 1997 of the thin capitalisation rules. The draft focuses on the third party debt conditions, which are relevant in working out an entity's third party earnings limit, and therefore the amount of debt deductions (if any) disallowed under this test.

PROPOSED DATE OF EFFECT: retrospective.

The ATO has also released an [updated version](#) of Draft Practical Compliance Guideline PCG 2024/D3 (Restructures and the thin capitalisation and debt deduction creation rules) to incorporate two new schedules. Schedule 3 sets out the ATO's proposed targeted compliance approaches in relation to certain matters arising under the third party debt test. Schedule 4 deals with the compliance risks arising from restructures in response to the 2024 amendments.

PROPOSED DATE OF EFFECT: 22 June 2023 (when the thin capitalisation changes were introduced into Parliament).

COMMENTS on both drafts are due by 7 February 2025.

Philanthropy reforms announced

The Government has [announced](#) measures to reform the charity sector to encourage greater participation in philanthropy.

In response to recommendations by the Productivity Commission in its [Future foundations for giving final report](#) and the Blueprint Expert Reference Group in its [Not-for-profit Sector Development Blueprint](#), the Government said it will:

- remove the requirement that a gift must be at least \$2 before a donor can claim a tax deduction;
- rename ancillary funds to "giving funds" to reflect their role in facilitating giving;
- consult on an increase to giving funds' annual distribution rate;
- allow giving funds to smooth their annual distributions over three years to provide greater flexibility to fund capital works or large projects for charities.

Refunds of PAYG withholding amounts, RBA surpluses and credits (PS LA 2011/11 and PS LA 2011/22)

The ATO has released updated versions of the following practice statements:

- [PS LA 2011/11](#) (Refunds of certain pay as you go withholding amounts). The update adds guidance in relation to foreign resident capital gains withholding; and
- [PS LA 2011/22](#) (Commissioner's discretion to retain a refund). The update merges PS LA 2011/22 with [PS LA 2012/6](#) (now withdrawn). The ATO says that the Commissioner's policy is unchanged.



Latest issue of ATO's interpretationNOW! released

The ATO has released [Episode 114](#) of its series on statutory interpretation entitled interpretationNOW!.

Better Targeted Super Bill split: ITC attribution, reverse charge GST carved out

On 28 November 2024, the Senate agreed to carve out Sch 6 of the [Treasury Laws Amendment \(Better Targeted Superannuation Concessions and Other Measures\) Bill 2023](#) into a separate Bill. The new Bill was not introduced into Parliament at that time and, at the time of writing, had not been published on the Parliamentary website. Parliament is next due to sit in February 2025.

Schedule 6 of the Bill proposes a number of miscellaneous and technical amendments to Treasury portfolio legislation, namely:

- **Effective date of resignation of directors of registered charities** - The measures will amend s 111N of the Corporations Act to ensure that when a director of a company registered with the Australian Charities and Not-for-profits Commission ("ACNC") notifies the Commissioner of the ACNC that they have ceased to be a responsible entity, that notification will also be taken to have been lodged with ASIC as notification that they have resigned as a director.
- **Bill Attribution of input tax credits** - The measures will amend the GST Act and the Fuel Tax Act 2006 relating to the attribution of input tax credits and fuel tax credits to tax periods (and fuel tax return periods), respectively. The amendments will ensure the provisions operate as intended and that credits can be attributable to appropriate tax periods. The amendments apply in relation to input tax credits and fuel tax credits that are ordinarily attributable to tax periods or fuel tax periods that start on or after 1 July 2012, being the date on which the previous attribution rules came into effect.
- **Income tax deduction for reverse charge GST** - The measures will amend the ITAA 1997 to ensure that a taxpayer is able to deduct the amount of GST payable by way of reverse charge, to the extent that (i) the GST amount is greater than any input tax credits or reduced input tax credits they are entitled to; and (ii) the requirements for income tax deductions in the ITAA 1997 are satisfied. The amendments will apply in relation to assessed net amounts that are payable in the income that includes 1 July 2023 and later income year.

GST and fuel tax: time limits for claiming input or fuel tax credits (MT 2024/1)

[Miscellaneous Tax Ruling MT 2024/1](#) sets out the ATO's revised views on the time limit for claiming fuel or input tax credits, in light of the Federal Court's decision in *Coles Supermarkets Australia Pty Ltd v FCT* [2019] FCA 1582.

In accordance with s 93-5(1) GST Act, an entity ceases to be entitled to an input tax credit that is not taken into account in a GST assessment within 4 years of the due date of lodgment of the BAS for the tax period to which the credit is attributable. A similar rule applies in relation to



fuel tax credits.

Previously, the ATO's view (in withdrawn Draft MT 2018/D1) was that where an objection or amendment request is made within the 4-year entitlement period, the tax credit cannot be taken into account in the assessment.

The ATO's revised approach is that these provisions do not apply to the extent that an entitlement to a tax credit is specified in the grounds of a valid objection lodged within the 4-year entitlement period. This means that the entitlement will not cease to the extent that the objection decision or any subsequent review or appeal process finds that the entity was entitled to the tax credit and it is attributable to the period in dispute.

DATE OF EFFECT: retrospective.

MT 2024/1 finalises MT 2024/D1 and takes the same approach as the draft, although there have been some wording changes. Further examples have also been added (on invalid objections and the exception for supplies incorrectly treated as input taxed).

Supply of burial right in public cemetery not subject to GST (GSTD 2024/2)

[GST Determination GSTD 2024/2](#) explains why supplies of the following are not subject to GST:

- the supply by an Australian government agency of a burial right (or its renewal) in a public cemetery; and
- the supply of any permission that needs to be obtained under state or territory law to exercise a burial right (by burying human remains or creating a memorial at the site covered by the right).

The supply of other goods or services such as gravedigging, stonemasonry and plaques are, however, subject to GST. The ATO notes that apportionment is necessary if an undissected amount is charged for both the burial right and for taxable goods and services.

DATE OF EFFECT: 4 December 2024.

GSTD 2024/2 finalises Draft GSTD 2021/D2 and there are some changes to the final determination. In addition, the ATO originally planned to apply its views retrospectively.

GST: ATO warns against fraud from related party structuring arrangements

The ATO has issued a [media release](#) stating that the Serious Financial Crimes Taskforce

("SFCT") has identified an increase in fraudulent claims for large GST refunds across a number of industries.

Through intelligence and information sharing with partner agencies, the SFCT has identified multiple specific groups who are involved in commercial arrangements which seek to exploit

the GST rules. The arrangements observed involve sophisticated structuring arrangements between inter-related parties undertaken to obscure transactions and disguise artificial or fraudulent arrangements, resulting in purported high value GST refunds.

The ATO warns businesses not to get involved in related-party structuring arrangements or schemes and that it is equipped with the resources, sophisticated data matching, analytics capability, and intelligence sharing relationships to uncover even the most elaborate financial crime.

More information on how the SFCT is targeting GST refund fraud is available [here](#).

ATO - Family trusts – what you need to know

The ATO have said that ‘it covers key information for taxpayers who’ve made, or are thinking about making, a family trust election or interposed entity election. It also highlights the importance of understanding the tax consequences that can arise from distributing outside the family group.

The webinar outlines:

- what entities need to know before making an election
- what electing entities need to be aware of if they have an election
- what they should do to ensure they don’t have a Family Trust Distributions Tax or related GIC liability
- the ATOs four key takeaways for taxpayers and their advisers.

You can view the webinar recording at the following link: [Family trust elections - What you need to know - ATOtv](#)

More information about family trust elections can be found here: [Family trusts concessions | Australian Taxation Office](#)

FINANCIAL SERVICES

Public registry of beneficial ownership: draft legislation

The Government has issued the exposure draft to the [Treasury Laws Amendment Bill 2024: Enhanced disclosure of ownership of listed entities](#). This follows the Government's 2022 election commitment to introduce reforms in relation to beneficial ownership.

The Bill proposes to amend Chapters 6 and 6C of the Corporations Act to enhance the substantial holding and tracing notice regimes, which, amongst other things, govern the disclosure of beneficial ownership for listed entities.

The Bill includes amendments intended to:

- bring equity derivatives into fuller view of the Chapter 6C disclosure regime and ensure they are captured by other requirements in the Corporations Act that target "relevant interests";
- expand the definition of "relevant interest" to capture a greater array of instruments and



arrangements that may give a person and their associates material influence over securities, and potentially in turn, over an entity's future direction;

- clarify when disclosure requirements crystallise;
- require foreign-registered entities listed on Australia's financial markets and their shareholders to disclose interests in securities to the same standard as Australian-registered listed entities and their shareholders;
- improve access to, and usability of, existing registers of information about relevant interests in listed entities collected via tracing notices; and
- confer on ASIC appropriate powers to incentivise and enforce compliance with the amended disclosure regime and to protect market participants.

DATE OF EFFECT: If passed by Parliament, the Bill would commence 6 months after Assent. Application provisions are included to ensure that a person will not breach the Corporations Act because of certain actions taken prior to the commencement of the Bill, and to manage other aspects of the changes.

For the most part, the new derivative-based holding disclosure requirements will apply only to situations that arise after the commencement of the Bill. However, pre-commencement actual or required disclosures of derivative based holding percentages that are not mandated by the amended regime are preserved by being taken to be made under the amended regime upon commencement. This creates a baseline for the making of future disclosures, ensuring that subsequent disclosable movements in holdings will trigger disclosure obligations.

SUBMISSIONS are due by 13 December 2024.

ASIC consults on further guidance for crypto and digital assets

ASIC has released Consultation paper 381 Updates to INFO 225: Digital Assets: Financial Products and Services ([CP 381](#)). It sets out:

ASIC's proposals to update Information Sheet 225 Crypto Assets ([INFO 225](#)) to provide further guidance about ASIC's interpretation of how the Corporations Act 2001 applies to crypto and digital assets; and

ASIC's proposals for licensing entities that provide financial services in relation to crypto and digital assets that are financial products.

ASIC has proposed a range of updates to INFO 225, including adding 13 practical examples of how the current financial product definitions apply to digital assets and related products.

SUBMISSIONS DUE: 5pm 28 February 2025.

Delivering Better Financial Outcomes: Tranche 2 Fact Sheet released

The Government has released a 2-page fact sheet on Tranche 2 of the Delivering Better Financial Outcomes package: [Ensuring access to quality and affordable financial advice](#).

The next tranche will:

- create a new class of employed adviser to provide simple advice such as choosing an insurance policy or basic questions about retirement. These advisers will be: employed by licensees; prevented from providing advice on more complex and high-risk areas; and will be required to complete an Australian Qualification Framework (AQF) level 5 diploma;
- modernise the best interests duty by providing legal clarity that will allow advice on single or limited scope issues if this meets the client's needs;
- remove the safe harbour steps so advisers can focus on their client's needs;
- replace statements of advice with a principles-based record that is in plain English and addresses the client's needs;
- clarify the rules on what advice topics can be paid for through superannuation, including through collectively charged arrangements;
- allow superannuation funds to provide helpful "nudges" to drive greater member engagement at key life stages;
- review and update the Financial Planners and Advisers Code of Ethics; and
- review the education pathway for professional advisers.

The Government has not yet released exposure draft legislation for public consultation.

ASIC's reportable situations regime: deficiencies in licensee practices

ASIC has [released](#) insights, key questions and a set of best practice examples to assist licensees to better meet their obligations under the reportable situations regime (s 912DAA of the Corporations Act 2001 and/or s 50B of the National Credit Consumer Protection Act 2009). The regulator encourages all licensees to review their current arrangements for complying with reportable situations against the review findings and make the necessary improvements.

The review investigated the arrangements of 14 licensees who had reported nil or few reportable situations. It looked at reportable situations submitted between October 2021 and June 2024; incident registers over a 3-month period in 2023; and measures in place for complying with the regime.

ASIC observed the following poor licensee practices:

- slow reporting to ASIC;
- deficiencies in incident management, particularly identification, escalation and recording of incidents;
- gaps in licensees self-monitoring of their compliance with the regime; and
- slow rectification of breaches and remediation of customers.

ASIC is seeking compliance outcomes to address these deficiencies from the licensees in the review and will take enforcement action where appropriate.

Minor updates to APRA prudential framework finalised

APRA has released a response to consultation on proposed minor updates to the prudential

framework for authorised deposit taking institutions, insurers and registrable superannuation entity licensees. These minor updates are technical clarifications and corrections as opposed to changes in policy settings.

The letter to industry, finalised prudential standards, prudential practice guides, and non-confidential submission are available on APRA's [website](#).

Impacted standards and guidance:

- APS 110 Capital Adequacy;
- APS 112 Capital Adequacy: Standardised Approach to Credit Risk;
- APS 116 Capital Adequacy: Market Risk;
- HPS 110 Capital Adequacy;
- HPS 112 Capital Adequacy: Measurement of Capital;
- CPS 511 Remuneration;
- GPG 240 Insurance Risk; and
- LPG 240 Life Insurance Risk and Life Reinsurance Management.

Public beneficial ownership of unlisted companies: updated policy specifications released

Treasury has issued [updated policy specifications](#) on beneficial ownership that affect unlisted companies.

By way of background, Treasury released the Multinational tax integrity: Public Beneficial Ownership Register in 2022, to seek public views on a suggested design and operation of a public registry of beneficial ownership, which will show who ultimately owns, controls, or receives profits from a company or legal vehicle operating in Australia.

While the Government is currently consulting on reforms to the beneficial ownership disclosure obligations that already apply to listed entities under the Corporations Act 2001, this Paper outlines updated policy specifications that affect unlisted companies.

Following the initial consultation in 2022, the definition of a beneficial owner has been updated to cover the ownership either directly or indirectly of 25 per cent (previously proposed at 20 per cent) of the shares or voting rights in the regulated entity and require the disclosure of any party that has the right to exercise, or actually exercise, significant influence or control over the regulated entity. "Regulated entities" refer to unlisted proprietary companies, unlisted public companies (including companies limited by guarantee and no liability companies), and unlimited liability companies.

The revised parameters clarify when an entity or individual needs to be included on a register, or when the regulated entity needs to continue to "trace-through" entities to find the next beneficial owner in an ownership chain. To limit duplication of resources for entities in complex ownership chains, registers will only have to include a subset of beneficial owners described as "registrable beneficial owners". Where a regulated entity has a registrable beneficial owner in its ownership chain, it does not need to continue to trace-through its ownership structure.

The policy parameters in this Paper will underpin exposure draft legislation which the Government will consult on formally through the usual process for legislative reforms.

SUPERANNUATION

ASIC inaugural IDR report - 220,860 superannuation complaints

ASIC has [released](#) its first publication of industry-wide data reported under the internal dispute resolution (IDR) data reporting framework: [Report 801](#) Insights from internal dispute resolution data reporting: July 2023 to June 2024 (REP 801).

Over 4.7m complaints were reported in 2023-24 by financial firms of all types (banking and finance; general insurance; life insurance; investments and advice; and superannuation).

ASIC is concerned that some firms are not reporting IDR data accurately. The regulator will be assessing compliance with the reporting requirements by reviewing firms that indicate zero complaints in any dataset, as well as cross-checking data from the Australian Financial Complaints Authority (AFCA).

Superannuation complaints (2023-24):

- 220,860 self-reported complaints related to superannuation;
- 54% of these complaints were resolved on the same day; and
- more than \$15m in total monetary remedy was provided.

In 2025, ASIC will publish firm-level IDR data. This will enable the public to compare the IDR data reported by individual firms.

ATO DIS released: Came and FCT [2023] AATA 3951

The ATO has issued the [decision impact statement](#) outlining its response to the Tribunal decision in Came and FCT [2023] AATA 3951. In the case, the taxpayer who transferred his super from various South African funds to an Australian complying fund via another (non-super) South African account was entitled to choose to have the South African funds' earnings included in the Australian fund's assessable income.

Two issues before the Tribunal were the:

- taxpayer's eligibility to make a choice under subsection 305-80(2) of the ITAA 1997, and
- proper foreign currency translation to be used to calculate the applicable fund earnings ("AFE") reflected in the taxpayer's Amended Notice of Assessment.

The Tribunal decided the first issue in favour of the taxpayer - that the taxpayer was eligible to make a choice under subsection 305-80(2). In regard to the second issue, the Tribunal decided that it did not need to consider it because no amount of AFE in respect of the lump sum amounts should be included in the taxpayer's assessable income for the 2019-20 income year.



The ATO considers the Tribunal's conclusions drawn were "reasonably available" based on the facts of the case.

However, the ATO states that further considerations arise where the requirements in subsection 305-80(1) are satisfied but there has been a time delay between when an individual received the superannuation lump sum from their foreign superannuation fund and its subsequent payment into the complying superannuation fund in Australia. The ATO considers that the choice under subsection 305-80(2) is only available in these circumstances if the payment of the superannuation lump sum from the foreign fund is received by the taxpayer and paid into their complying superannuation fund in Australia in the same income year.

The ATO also noted that as the Tribunal did not determine the second issue, the ATO considers that when calculating AFE, all amounts denoted in foreign currency are translated at the exchange rate applicable at the time of receipt of the relevant superannuation lump sum which is broadly outlined in ATO Interpretative Decision ATO ID 2015/7 Foreign currency translation rules in working out 'applicable fund earnings' under section 305-75 of the ITAA 1997.

APRA finalises enhancements to super data collections

APRA has [finalised enhancements](#) to superannuation data collections covering trustee licensee profile, trustee profile and investments.

Aim of enhanced data collection:

- **RSE licensee profile:** to enhance current reporting on the business model and structure of the RSE licensee board and board committees to gain a comprehensive understanding of the governance practices and effectiveness of superannuation trustees.
- **RSE profile:** to complete the data model for RSE's business operations, including reporting on specific product distribution arrangements between RSEs and intermediaries such as employer sponsors and promoters, and to enable the establishment of concepts to support future reporting (for example, on defined benefit sub-funds).
- **Investments:** to address a key gap in APRA's current collections to inform assessments of the governance of, and exposures to, liquidity and valuation risk; and to rationalise Australian Bureau of Statistics (ABS) reporting standards on investments to meet the needs of both APRA and ABS.

APRA intends to register the 10 finalised reporting standards (currently available on the APRA website) on the Federal Register of Legislation (FRLI) in early 2025 and release the accompanying APRA Connect taxonomy artefacts by early 2025.

Date of effect: The first reporting period will be 30 June 2025 for annual reporting and September 2025 for quarterly reporting, with the first submissions in respect of all new reporting due December 2025.



REGULATOR NEWS

ASIC News

ASIC has released the following updates in its Newsroom section:

- [6 December 2024 – MEDIA RELEASE – ASIC bans South Australian adviser from being involved in financial services for seven years](#) – Bruce Stuart Davis, sole director, responsible manager, and financial adviser of AFS Licensee, Wise Investment Advisers Pty Ltd, has been banned from involvement in the financial services sector for seven years. Mr Davis provided unlicensed advice on derivatives, failed to act in his clients' interests, misled his clients about the returns they stood to receive and caused losses for them. ASIC considered that he also failed to take responsibility for his contraventions and the losses that followed.
- [6 December 2024 – SPEECH – Fair's fair: The case for prohibiting unfair trading practices in financial services](#) – ASIC Commissioner Alan Kirkland gave the keynote address to the Australasian Consumer Law Roundtable in Melbourne. He advocated for the extension of the proposed prohibition on unfair trading practices with respect to consumer law, which is part of a consultation at present to financial services.
- [6 December 2024 – NEWS ITEM – ASIC releases November 2024 financial adviser exam results](#) – ASIC has released the results of the 27th Financial Advisers Exam cycle from November 2024. Of the 289 people that sat the exam, 77% passed. Since its inception, over 20,000 people have passed the exam to demonstrate their skills and knowledge to gain entry to the profession. The next exam will be held on 6 March 2025.
- [6 December 2024 – NEWS ITEM – ASIC updates guidance to help directors prevent insolvent trading](#) – ASIC has updated and released Regulatory Guide 217 *Duty to prevent insolvency trading: Guide for directors* following its consultation on proposed changes. The new version includes additional practical examples, guidance on obtaining professional advice and guidance on the safe harbour following industry feedback to simplify the guide overall and provide specific guidance to directors of small-to-medium enterprises and on the safe harbour defence. An accompanying report provides information about submissions received by ASIC and its responses.
- [5 December 2024 – MEDIA RELEASE – ASIC puts insurers on notice for blind spots in complaints handling](#) – An ASIC review has revealed that insurers are often failing to identify and respond to customer complaints. Customers should have access to an internal dispute resolution scheme but are not being effectively served by them. ASIC reviewed the dispute resolution practices of 11 general insurers and found that many of them are not identifying and recording all complaints, had inadequate systems for complaint handling and reporting and failed to communicate effectively with policy holders.
- [4 December 2024 – NEWS ITEM – ASIC signals ongoing work to maximise benefits of the reportable situations regime](#) – ASIC Commissioner Kate O'Rourke has said that ASIC will consult with stakeholders about how the reportable situations framework can be improved to improve compliance and provide more useful data while also not overloading industry participants. ASIC's report on compliance with the reportable situations regime revealed much room for improvement. Commissioner O'Rourke called on licensees to consider their reporting arrangements and assess areas for improvement.
- [4 December 2024 – NEWS ITEM – Reportable situations: Findings of ASIC's review and how licensees can improve compliance with the regime](#) – Section 912DAA of the

Corporations Act 2001 (Cth) requires licensees to promptly identify, fix and report to ASIC their own problems. ASIC has released the results of its surveillance of the compliance arrangements of 14 licensees which had reported no or very few reportable situations in the time between the start of the regime in 2021 and 30 June 2024. The review indicted that some licensees had a number of deficiencies among their practices including slow reporting to ASIC, shortcomings in incident management, and compliance monitoring which all flowed through to unsatisfactory outcomes for consumers.

- [4 December 2024 – MEDIA RELEASE – ASIC invites feedback on proposed updates to digital asset guidance](#) – ASIC has issued a Consultation paper setting out its proposed revisions to Information Sheet 225 *Crypto Assets*. The proposed updates include 13 practical examples of the application of the definition of financial products to digital assets. Interested parties may make submissions until 28 February 2025.
- [3 December 2024 – NEWS ITEM – Suspected scam alert: ASIC warns consumers about unlicensed stock tip promoters through private chat apps – Juhbz and Ptounx](#) – ASIC warns consumers about a suspected scam involving social media advertising for investment tips and opportunities with consumers then added to WhatsApp groups. Juhbz and Ptounx are two unlicensed promoters. ASIC recommends that consumers use caution when investing, beware of opportunities that offer high returns and counsels against sharing identity documents.
- [3 December 2024 – MEDIA RELEASE – Update for investors in the Shield Master Fund](#) – At the second creditors' meeting of Keystone Asset Management Ltd (Receivers and Managers Appointed) (Administrators Appointed), creditors resolved to wind up the company and appoint liquidators. KAM is the responsible entity for the Shield Master Fund. ASIC is investigating KAM, its officers and directors, superannuation trustees and financial advisers with regard to the possible dissipation of investors' funds.
- [3 December 2024 – MEDIA RELEASE – ASIC flags key observations from inaugural IDR data publication](#) – ASIC has released its first publication of data reported under the internal dispute resolution data reporting framework. Since 5 October 2021 financial firms have been required to record all complaints received through their IDR processes. The report covers the 2023-24 financial year and includes observations from 4.7 million complaints. ASIC notes that the data were self-reported and not verified by ASIC. Over 5,000 firms reported no complaints at all which was higher than ASIC expected.
- [3 December 2024 – SPEECH – Better retirement outcomes: a whole-of-sector responsibility](#) – ASIC Commissioner Alan Kirkland spoke at the Conexus Financial Professional Planner Researcher Forum in the Blue Mountains. He noted that supporting "better retirement outcomes" requires the combined contributions of disparate entities and individuals. ASIC promotes informed choices by investors and consumers and its Report 779 *Superannuation and choice products: What focus is there on performance?* Provides insight into how underperforming funds, advisers and licensees operate.
- [29 November 2024 – MEDIA RELEASE – ASIC orders stop to Centrepay credit arrangements offered by Northern Territory business](#) – ASIC has issued a final stop order against Indy-C-Fashion Accessories Pty Ltd from offering Centrepay credit arrangements to consumers in its store in Katherine, NT. ASIC considered that Indy-C did not make a target market determination to ensure that financial products are provided to consumers in line with their needs and objectives. Although Indy-C produced draft TMDs to address ASIC's concerns, none of them complied with the law.



APRA news

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

- [6 December 2024 – MEDIA RELEASES – APRA finalises enhancements to superannuation data collections](#) – APRA will require superannuation trustees to submit more detailed data from December 2025 as follow up to a consultation on investments, and the profiles of trustees and trustee licensees. The aim is to improve outcomes for fund members by enabling better regulatory oversight and enhancing transparency of governance. Greater detail will be available on liquidity and valuation risk, board reporting and product distribution arrangements.
- [6 December 2024 – MEDIA RELEASES - APRA seeks feedback on consequential reporting changes to ARS 110.0 – Capital Adequacy](#) – APRA has published a letter to authorised deposit-taking institutions seeking feedback on proposed consequential amendments to Reporting Standard ARS 110.0 – *Capital Adequacy*. APRA proposes that the risk-weighted assets equivalent amount of the Interest Rate Risk in the Banking Book capital requirement in ARS 110 will be validated against the corresponding Capital Charge in ARS 117.1 to ensure consistency between the values reported in each collection. ARS 117.1 applies from the reporting period ending 31 December 2025; the changes to ARS 110 are proposed to apply to periods ending on or after 30 September 2025. Interested parties may make submissions until 14 February 2025.
- [5 December 2024 – MEDIA RELEASES – APRA releases details on insurance Climate Vulnerability Assessment](#) – APRA has issued an information paper about the insurance Climate Vulnerability Assessment being run in conjunction with the Insurance Council of Australia, government departments and authorities, the five biggest general insurers in Australia. The assessment is aimed at understanding the effects on affordability of insurance under potential climate change scenarios, contribute to the understanding of the impact on the general insurance industry and inform stakeholders about future challenges arising from climate change.
- [5 December 2024 – MEDIA RELEASES – APRA releases response to consultation on minor amendments to prudential framework for ADIs, insurers and RSE licensees](#) – APRA has released its response to a consultation it proposed in September 2024 on amendments to a number of standards and guides. The updated prudential standards and prudential practice guides are now available along with the submission it received that was not confidential.
- [29 November 2024 – MEDIA RELEASES – APRA statement on Cbus independent review](#) – APRA has received the final report of the independent expert that was engaged to review its performance against Prudential Standard SPS 520 *Fit and Proper* and the trustees' compliance with the duty to act in the beneficiaries' best interests in making expenditure decisions. Cbus must now release the report to the public. Both the report and its publication were additional conditions that were attached to its licence.