AUSTRALIA: MEMBER OUTCOMES LAW PUTS SPOTLIGHT ON ‘SUPER’ TRUSTEES

By Mercer’s Paul Shallue and Fiona Webster
18 Apr 2019

The trustees of superannuation funds in Australia face increased scrutiny and penalties under a law that aims to modernize and increase confidence in the superannuation system — Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Bill 2019.

HIGHLIGHTS OF THE LAW
Under the law, most of which took effect on 6 Apr 2019:

- Trustees of superannuation funds and directors of corporate trustees face new civil and criminal penalties for failing to execute their responsibilities and act in the interests of beneficiaries

- An annual “outcomes assessment” for MySuper and choice products, measured against a series of prescribed benchmarks, replaces the “scale test.”

- Trustees must organize an annual meeting – either in-person or online – to enable members to ask questions about all areas of their fund’s performance and operation.

- The Australian Prudential Regulation Authority (APRA) has stronger enforcement and supervision powers. APRA now:
  - Can intervene early to address prudential concerns
  - Can refuse authority for a change in ownership or control of a registrable superannuation entity (RSE) licensee, issue a direction to an RSE licensee where APRA has prudential concern and remove or suspend an RSE licensee where it is subject to the control of its owner.
  - Can refuse or cancel a MySuper authorization
  - Can gather information on a “look through” basis on the operational and managerial expenses of a fund
AUSTRALIA: MEMBER OUTCOMES LAW PUTS SPOTLIGHT ON ‘SUPER’ TRUSTEES

- Trustees or their associates can’t urge employers to nominate the superannuation fund as the default fund or influence employers to encourage their employees to choose a particular fund. The scope of the ban is unclear, and the Australian Securities and Investments Commission (ASIC) is expected to issue guidance.

- Portfolio holdings disclosure requirements will require publicly accessible fund websites to show detailed asset holding information updated on a semi-annual basis from 31 Dec 2019. Funds will have three months after each reporting date to publish the information on their website.

RELATED RESOURCES

- Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Bill 2019 (Parliament of Australia, 5 Apr 2019)

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.