

LAW & POLICY GROUP**GRIST****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

- 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.