



Australian Government

REVIEW INTO THE GOVERNANCE,
EFFICIENCY, STRUCTURE AND OPERATION OF
AUSTRALIA'S SUPERANNUATION SYSTEM

SUPERSTREAM

a proposal to bring the back office of super into the 21st century

22 March 2010
www.SuperSystemReview.gov.au

**SuperStream:
a proposal to bring the back office
of super into the 21st century**

Phase Two – Preliminary Report

22 March 2010

www.SuperSystemReview.gov.au

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SuperStream

1. INTRODUCTION

On 29 May 2009, the Government announced a comprehensive review of Australia's superannuation system: the Super System Review (**Review**).

The Review has broad terms of reference.¹ It has been charged with examining and analysing the governance, efficiency, structure and operation of Australia's superannuation system. The Review is focused on achieving an outcome that is in the best interests of members and which maximises retirement incomes for Australians.

On 16 October 2009, the Review Panel released an Issues Paper titled 'Phase Two: Operations and Efficiency' calling for submissions by 14 December 2009.

This paper, the Review Panel's second 'Preliminary Report', provides the Panel's preliminary conclusions on some of the key issues which can lead to major efficiency gains in the operational aspects of the superannuation industry. It is informed by analysis of the submissions on the Phase Two Issues Paper, stakeholder discussions and research undertaken for the Panel. It focuses on a set of inter-related themes affecting the interactions between employers, members, funds and their agents.

The Panel will address other matters raised in its Phase Two Issues Paper in its subsequent reports.

2. WHAT IS SUPERSTREAM?

2.1 Background

'SuperStream' is the name the Panel has chosen to describe its ideas about enhancing the current 'back office' of superannuation. It includes new standards to improve the quality of data provided by employers, to allow the use of tax file numbers (**TFNs**) and to require the use of technology to improve processing efficiency. SuperStream also includes improvements to the way rollovers are processed and the way contributions are made. The following is a discussion of the ideas behind SuperStream.

The component parts of SuperStream include:

- (a) using industry-wide standards to improve the quality of data when members enter the system;
- (b) electronic Funds Transfer (**EFT**) for all participants;
- (c) better use of technology, including straight-through processing;
- (d) e-commerce solutions to replace paper;

1 http://www.supersystemreview.gov.au/content/terms_of_reference.aspx.

- (e) extending the use of the TFN as an identifier throughout the system; and
- (f) eliminating redundant processes, leading to simpler rollovers and consolidations.

Ernst & Young² and SuperChoice³ both estimate savings of up to \$1 billion a year are achievable from reforms consistent with the SuperStream process. BT Financial Group estimated savings at 25 per cent of administration costs.⁴

2.2 Self-managed super funds

The Panel does not see the need to involve self-managed super funds (SMSFs) in the fund-specific elements of SuperStream, though those receiving employer contributions would share in the benefits of improvements in the ways in which contributions are made. The Panel is continuing to look at technology and efficiency issues concerning SMSFs and will address them in subsequent reports to be issued by the Review.

3. WHAT PROBLEMS WOULD SUPERSTREAM AIM TO SOLVE?

It has been estimated that the Australian superannuation industry processes more than 100 million transactions⁵ annually, which cost over \$3.5 billion⁶ annually to process. These include member support activities (\$1 billion), contribution management (\$1.25 billion), reporting (\$250 million), and benefit payment services (\$1 billion).⁷ The potential gains to the system from improved efficiency in contribution management are demonstrated by the estimate that 'straight-through' electronic processing of correctly provided member and financial data is only 5 cents per transaction.⁸

There seem to be seven key problems with the current back office of super:⁹

- (a) lack of industry data standards;
- (b) multiple technology platforms and proprietary systems;
- (c) manual and disparate processes;
- (d) lack of a robust member identifier;
- (e) high number of employers (nearly 1 million) being required to make contributions to a variety of funds;
- (f) misalignment of the contribution and pay cycle; and
- (g) funds make member requests to switch or consolidate to another fund more difficult than necessary. This is an unnecessary and costly friction in a system that offers choice of fund and inconsistent with recent government initiatives to make it easier for consumers to switch providers in the banking sector.

2 Ernst & Young, *Phase Two – Operation and Efficiency submission*, 10 December 2009.

3 SuperChoice, *Phase Two – Operation and Efficiency submission*, 14 December 2009.

4 BT Financial Group, *Phase Two – Operation and Efficiency submission*, 14 December 2009.

5 Ernst & Young, *The Super Iceberg – What's beneath the surface of choice?*, October 2008.

6 SuperChoice, *Phase Two – Operation and Efficiency submission*, 14 December 2009.

7 SuperChoice, *Phase Two – Operation and Efficiency submission*, 14 December 2009.

8 SuperPartners, *Phase Two – Operation and Efficiency submission*, 14 December 2009.

9 Phase Two submission from Cuscal.

4. SUMMARY OF PHILOSOPHY

The key components of the philosophy behind SuperStream can be summarised as follows:

- (a) First and foremost, the project needs to have some clear policy goals, rather than just a set of operational objectives, otherwise it will lack coherence and be hard to execute.
- (b) There are technological solutions now available which provide the basis for substantial improvements in superannuation back office processes, with substantial savings available to be passed on to members.
- (c) Wherever appropriate, superannuation should use or adapt generic e-commerce solutions and other techniques which have been demonstrated to work in other related sectors, rather than seeking to develop a super-specific solution.
- (d) There should be no 'Big Bang' introduction of a centralised clearing house.
- (e) After consultation, the more detailed design and implementation of SuperStream needs Government supervision in a staged implementation process, with sensible, but short, timeframes and regular re-assessment of progress.
- (f) The solution needs to be sensitive to the large capital expenditures that have already been made on existing systems and hence to look for compatibility with existing components with a view to steady, but often incremental, improvements.
- (g) Certain aspects of SuperStream will need to be mandated, but there should also be flexibility for different platforms to be used, at least in the near-to-medium term.
- (h) The reality is that a world-class system will not be achievable easily or quickly and the cost of implementation will need to be carefully measured against outcomes including residual risk (that is, after mitigating factors) at each stage.

5. GOVERNANCE OF THE ADMINISTRATION PROCESS

While the focus of this paper is on the back office processes which underpin the effective functioning of the superannuation system, the Panel emphasises that the obligation of trustees to act in the best interest of fund members extends to their strategic oversight of the administration function. There is a real problem that some trustees and their staff have insufficient understanding of e-commerce and the opportunity costs of not adopting it. The Panel considers that there is a clear need for trustees to have a more active engagement with the intricacies of administration so that they are better equipped to make strategic decisions about it. A consequence of current arrangements is that many trustees have tended to focus excessively on the costs of administration, without sufficiently recognising the risks to members associated with inadequately resourced administrators. These are issues to be addressed in more detail later in the Review.

6. QUALITY OF DATA

A key to reducing costs in the super industry, without reducing service, is for funds to get the correct contribution allocated to the correct member in a single account without manual processing.

6.1 Improving data quality from employers

Under the SGAA and the *Superannuation Guarantee Charge Act 1992*, employers become liable to pay a non-tax deductible Superannuation Guarantee Charge unless they have made specified superannuation contributions for the benefit of each employee. As well as transmitting contributions, employers are the originators of essential data – the details of their employees for whom they remit contributions. The consensus of submissions was that the data required for efficient administration was not always understood by employers and that the data provided was often inaccurate or incomplete. This is in part because many employers perceive limited incentives to ensure that the transmitted data is accurate or complete – notwithstanding that fund follow-up to try to link member and financial data imposes significant costs on the employer as well as on the fund itself. Whether an employer that remits contributions but provides incomplete or inaccurate data in respect of its employees has satisfied its SGAA obligations has not been tested in the courts.

Data required will depend on the timing of the transaction. A significant amount of data will be required when establishing a fund membership for an employee or when an employer first makes a contribution for a particular employee. Additionally, data requirements will vary between funds with defined benefit funds needing different information from accumulation funds, such as salary details and years of service. However, common data required for contribution processing includes the following:

- (a) full name;
- (b) date of birth;
- (c) current address; and
- (d) TFN.

Interestingly, this is data employers are required to provide to the ATO as part of the Tax File Number Declaration¹⁰ required for each new employee, and is similar to the data provided to the ATO by the superannuation funds as part of the reporting of member contributions. Employers do not need to collect additional data; they simply need to send data they already collect for ATO or their own payroll purposes to the super fund.

For contributions made through a clearing house, for each employee the fund's name and Superannuation Product Identification Number (**SPIN**)¹¹ would be required, with the employee's fund membership number being highly desirable.

Accurate and complete member details need to be provided with each payment in order to enable the contribution to be allocated to the correct account.

10 ATO form NAT 3092.

11 <http://www.spindirectory.com.au/spin/index.jsp>.

Some submissions argued that trustees and administrators should not accept non-compliant (incomplete) member information. This would require the super fund to identify within each bulk contribution transaction those members for whom data was incomplete or inaccurate, and return the money and details for those members until the employer fills out the correct information while retaining the balance of the money and allocating it to the members for whom the fund has complete information.

Preliminary recommendation

The Panel recommends that relevant legislation should be amended so that either:

- (a) In respect of employees who are members of accumulation funds, an employer satisfies its SGAA obligations only if it provides to the superannuation fund (or clearing house) its ABN and at least:
 - (i) on first making a contribution in respect of a particular employee to that fund after the amendment comes into effect, the full name, date of birth, current address, email address (if any), mobile phone number (if any¹²) and TFN of that employee and the amount of the contribution being remitted in respect of that employee; and
 - (ii) for each subsequent contribution in respect of each employee, the employee's name, TFN and the amount being contributed for that employee. If the contribution is made via a clearing house, the fund SPIN should also be required; or
- (b) The employer becomes liable for a fixed administrative penalty if it fails to meet the standards set out in (a) above.

Whether the penalty were payable to the fund to compensate for the increased processing costs, or to the ATO for administrative simplicity and ease of collection, is a matter for further consideration.

The Panel is disposed to the view that, where inadequate data is provided to enable matching of contributions to a member, the fund should seek to resolve that in the first instance with the employer. Where this process is unsuccessful within, say, 30 days, the fund could treat the payment as belonging to a lost member. The contribution could then be provided to the ATO as unclaimed money, together with relevant employer details. Under no circumstances should a contribution be returned to an employer who disadvantages an employee by failing to provide the information necessary to enable the contribution to be properly allocated to that employee.

¹² Strong anecdotal evidence is emerging that the mobile phone number is the strongest form of personal identification and stays attached to the owner more durably than street addresses or other forms of identification.

Preliminary recommendation

The Panel recommends that under either option, if, after having been provided a reasonable opportunity, the employee fails to provide a TFN or other required details to the employer, the employer's SGAA obligations are satisfied if the employer electronically provides such employee identification details as it has to the ATO together with the requisite contribution. The ATO would then treat the contribution as unclaimed money. On provision of the TFN, the ATO would remit the amount held for that employee to the employer's default superannuation fund, together with the employee's TFN, name, date of birth and where provided to the ATO, current address, email address and mobile phone number.

The Panel further recommends that the ATO should establish an employment web page where an employer can both register the tax status of a new employee in lieu of completing the paper TFN declaration and simultaneously advise the fund to which super contributions would be paid. The ATO would then communicate the new member details to the fund electronically.

The Panel notes that, under the terms of this recommendation, the member who failed to provide a TFN would receive no interest on the contribution made on their behalf, and could not have insurance arranged for them through the fund. These are issues for further consideration.

Establishment of the recommended procedures would require further investment in infrastructure on the part of the ATO.

6.2 Standardising data transmission

While some submissions argued that it is enough for the data to be provided, a clear majority favoured mandating a uniform standard format for delivery;¹³ that is, prescribing exactly the manner in which data is required to be completed. While this would promote confidence and clarity, the Panel is mindful of the cost involved in updating IT systems and existing member details to comply with any proposed changes.

Preliminary recommendation

The Panel recommends that APRA convenes a stakeholder group including at least the ATO, employers, payroll providers, super administrators and trustee representatives to devise online forms, that can be printed out on paper if necessary, covering all the common processes between:

- (a) the employer and the fund;
- (b) the fund and the member; and
- (c) inter-fund transfers such as 'rollovers'.

The Panel considers that such forms should be adopted by all APRA-regulated funds, including for transactions involving rollovers to or from SMSFs, by January 2012.

¹³ For example, Cuscal, *Response to the consultation paper on the Australian superannuation system review: Phase 2 submission*, 13 December 2009.

There would also need to be standards applying to the wholesale (peer-to-peer) transactions that occur from fund to clearing house, clearing house to clearing house and clearing house to fund.

Preliminary recommendation

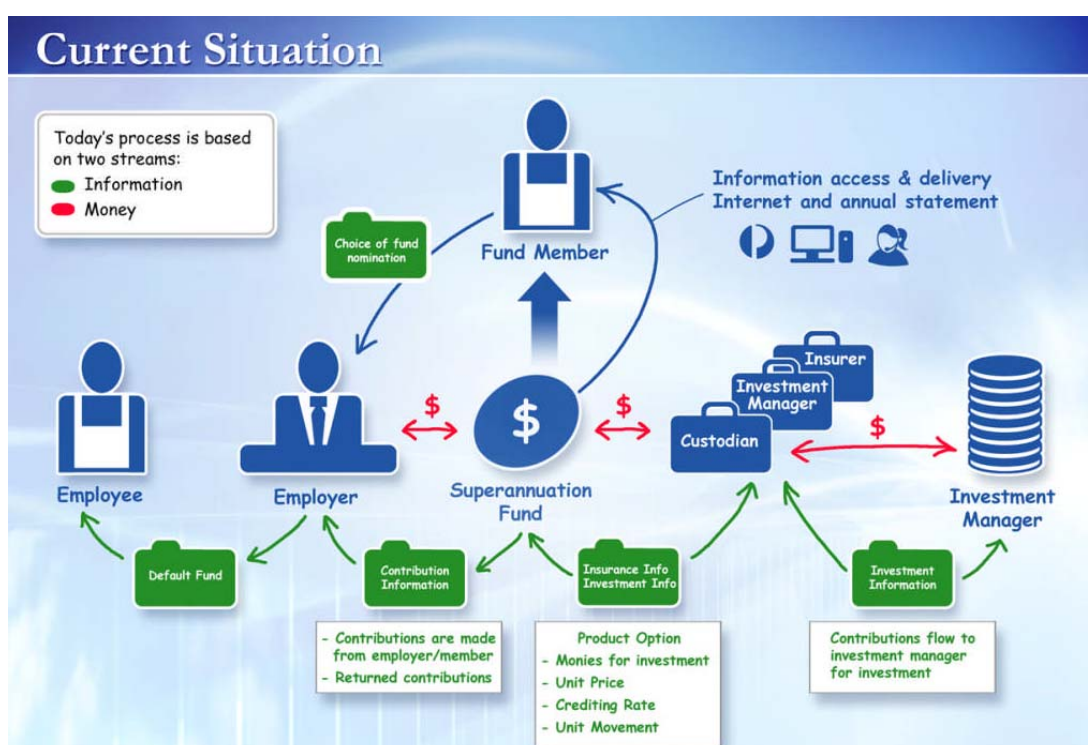
The Panel recommends that the Government be prepared to mandate the use of the forms, unless it is satisfied that there is near universal voluntary uptake.

One of the most popular ideas, supported by over 72 submissions, is the use of TFN as the single identifier. The use of TFNs is discussed in more detail later.

7. EFFICIENT USE OF TECHNOLOGY AND E-COMMERCE

The extent of the current failure to properly and promptly link contributions with the correct member account leads directly to delays in investing contributions, with an overall lower rate of return for the member.

The current process can be mapped as follows:¹⁴

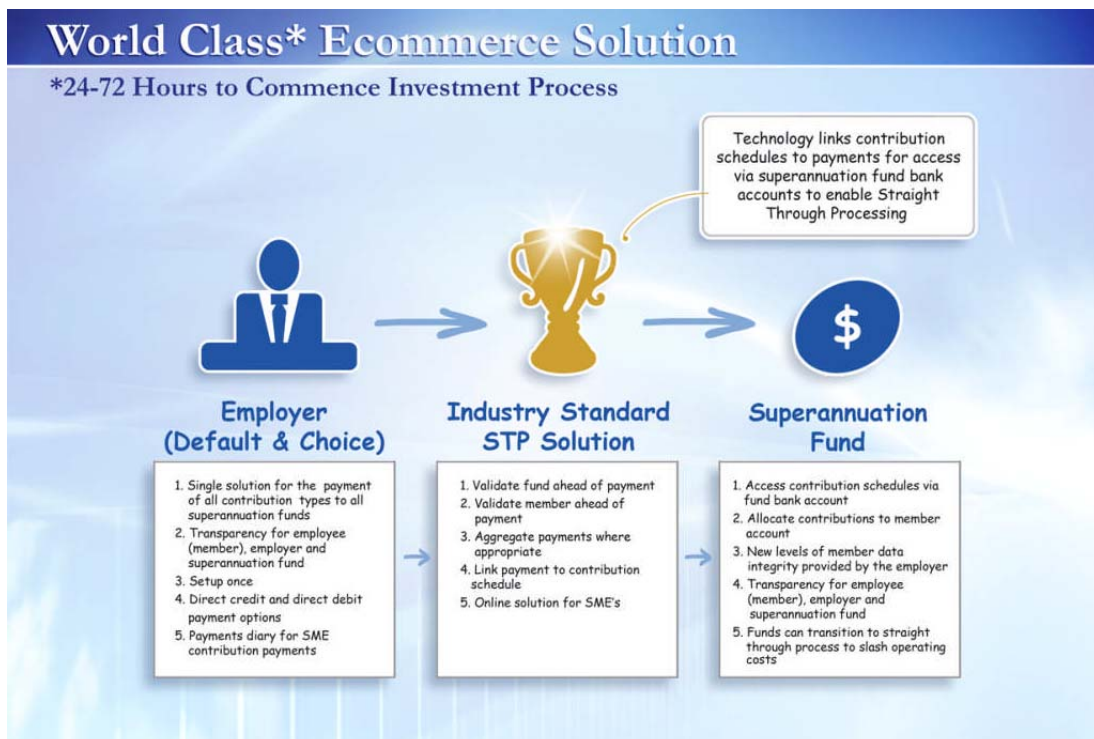


The strong consensus of submissions is that e-commerce – the linked electronic transmission of data and money – is a major potential source of efficiency gains, leading to improvements in members' retirement benefits. However, the lack of common standards, the lack of early adopter benefits, the lack of incentive for employers (and especially small employers) to participate and the narrow profit margins for administrators have hindered progress so far.

¹⁴ Payment Adviser, *Phase Two – Operation and Efficiency submission*, December 2009.

Employer take-up of electronic transactions for super is a particular impediment. Sixty one per cent of businesses are aware that all their superannuation funds allow electronic payments. However, fully 38 per cent of businesses use only cheques and 22 per cent use a combination of cheques and electronic payments. Use of only cheques is generally higher among businesses with fewer staff and lower turnover. Of the 60 per cent of businesses that do not exclusively use electronic payment methods, 65 per cent can see that it would increase efficiency. Despite this, 45 per cent of those who do not exclusively use electronic payment methods prefer to use cheques.¹⁵

The processes involved in an effective e-commerce solution could be represented diagrammatically as:¹⁶



While a small number of respondents favoured the development of arrangements unique to superannuation, the majority favoured the use of existing e-commerce facilities in place in the wider community.¹⁷

Submissions also indicated the positive environmental impacts of electronic solutions, dramatically reducing the carbon footprint and environmental inefficiency of the current paper-based superannuation payments system.¹⁸

For efficiency to be achieved, it is essential that data and money be simultaneously transmitted – any separation will reduce outcomes dramatically.

15 Colmar Brunton Social Research, *Attitudinal Survey for the Australian Taxation Office*, forthcoming.

16 Payment Adviser, *Phase Two – Operation and Efficiency submission*, December 2009.

17 For example, IFSA, AMP, CBus submissions to Phase Two – Operations and Efficiency.

18 Cuscal and PaymentAdviser, *Phase Two – Operation and Efficiency submissions*, December 2009.

Preliminary recommendation

The Panel recommends that:

- (a) The Government consider imposing a prescribed fee to be paid by the employer to any superannuation fund to which the employer contributes on behalf of a member when the contribution is made other than in electronic form accompanied by sufficient details to adequately identify the member. That is, the fee will only apply if the contribution is paid by non-electronic means (such as by cheque) or any payment not linked with adequate member details. In order to give employers and industry time to adapt, such a fee should come into effect after education and an appropriate transition phase.
- (b) A condition of holding a licence to administer superannuation funds (whether from ASIC as many currently do, or any additional licence from APRA) should be the capacity to provide e-commerce facilities to employers of all sizes.

7.1 Electronic funds transfer

EFT facilities give consumers a convenient and secure way of paying bills and afford a more efficient collection service for billers and financial institutions. Each month, 18 million bills worth \$11 billion are paid using BPay, and more than 84 per cent of these are paid on-line.¹⁹ Many submissions have called for the greater use of EFT in super. In fact, some called for all super fund members and employers to be able to use EFT.²⁰

One submission pointed to its experience that funds which have successfully implemented payroll-timed electronic capture of contributions have enjoyed savings in the order of 20 per cent of annual total administration costs.²¹

The Panel believes that all APRA-regulated funds should have the capacity to transact with employers, members and other industry participants using EFT.

7.1.1 Straight-through processing

Straight-through processing (**STP**) is an initiative used by companies across the world to process and complete transactions (ie data and monetary) from start to finish (that is, end-to-end processing) utilising electronic systems without any manual handling or intervention. STP optimises the speed at which transactions are processed by enhancing e-commerce between participants, eliminating manual data entry and preventing errors. STP involves the use of a single system to process or control all elements of the work-flow of a financial transaction, including what is commonly known as the front, middle, and back office and general ledger.²²

19 http://www.bpay.com.au/about/company_history.aspx.

20 PricewaterhouseCoopers, *Phase Two submission*, 14 December 2009.

21 Statewide Superannuation, *Phase Two submission* – para 7.2.

22 <http://www.sebi.gov.in/faq/faqstp.html>.

STP is currently being implemented by financial companies in an effort to decrease settlement risk by shortening the transaction-related processing time. In Australia, the first step toward the introduction of STP was to develop an interface between the Austraclear²³ and SWIFT²⁴ networks. This allowed users of both systems to send confirmation messages via SWIFT that are received by the Austraclear Network and ultimately result in transactions in the Austraclear System without the need to re-key information. This has resulted in:²⁵

- (a) reduced resource requirements within the back office;
- (b) reduced manual processing errors; and
- (c) faster settlement times.

What is the advantage of using STP over the traditional method?²⁶

In the traditional method, each and every transaction involves costly multiple data re-entry from paper documents and other sources which are susceptible to errors, discrepancies, delays and possible fraud. Further, the traditional means and methods of capturing and processing of information such as phone, fax, email etc. requires human intervention which slows the entire cycle, introduces errors and delays settlement. STP enables orders to be processed, confirmed, cleared and settled in a shorter time period, more cost effectively and with fewer errors. Apart from compressing the clearing and settlement time, STP also provides a flexible, cost-effective infrastructure, which enables e-business expansion through real-time processing and access to enterprise data. STP also streamlines back-office activities, leading to fewer failures, lower risks (though with potentially larger impact if operational risks are materialised) and drastically reduces costs per transaction. It embraces a set of applications, business processes and standards, which are set to revolutionise the settlement and processing standards within the capital markets industry.

The Panel considers that STP, conducted with appropriate risk controls, represents the ideal operational environment for superannuation funds.

7.1.2 SwimEC

SwimEC is the superannuation, wealth and investment management electronic commerce program developed jointly by the superannuation and managed funds industries. It aims to deliver industry-wide cost reductions and efficiency gains by promoting industry message standards for electronic commerce.

23 Austraclear is a proprietary system operated by Austraclear Limited, a wholly owned subsidiary of SFE Corporation Limited (a listed company). Its members are the major participants in the money market: banks, government and semi-government bodies, insurance and superannuation companies, trustee companies, non-bank financial institutions and larger corporations. Austraclear provides an electronic central depository (private sector, commonwealth government securities and semi-government securities) and an electronic system for transferring ownership of securities without the need for the physical transfer of paper.

24 SWIFT is the Society for Worldwide Interbank Financial Telecommunication, a member-owned cooperative which provides the proprietary communications platform, products and services that allows customers to exchange financial information securely and reliably. It also acts as a catalyst to bring the financial community together to work collaboratively to shape market practice, define standards and consider solutions to issues of mutual concern.

25 http://www.asx.com.au/professionals/austraclear/products_services/straight_through_processing.htm.

26 <http://www.sebi.gov.in/faq/faqstp.html>.

The swimEC program:

- (a) creates the standards, relationships and processes for the automated exchange of superannuation and managed funds information across all industry stakeholders; and
- (b) assists members to roll out the finalised standards into production.

The implementation of the swimEC standards would enable participants to:

- (a) increase efficiency by integrating systems with electronic gateways, automatic exchange of data and transfer of funds;
- (b) eliminate the use of multiple, expensive proprietary interfaces for messages among industry organisations, and allow administrators, payroll providers and SMEs and financial advisers to focus on core functional delivery;
- (c) decrease administrative costs by re-engineering internal business processes;
- (d) decrease costs by eliminating errors due to data entry and use of paper for transfer of information;
- (e) decrease costs of responding to member and investor enquiries; and
- (f) decrease resources required for administration enabling resources to be reallocated.

It is expected that the adoption of standards-based electronic commerce can provide cost reductions in excess of 20 per cent for specific transactions,²⁷ or industry-wide cost savings of up to \$660 million with full-industry adoption of the swimEC standards.²⁸

The adoption of the swimEC standards has been low across the industry because it is not mandatory. Reluctance to adopt the standards appears to be driven by the costs involved in implementing the standards; and the perceived lack of advantage in early adoption as the system depends on mutuality to generate cost savings. Also, the standards have been amended to incorporate the needs of many different industry participants resulting in many data fields that are only of relevance to a minority.

While swimEC was a worthy initiative on the part of the industry, it has not gained acceptance as the way forward for e-commerce in the superannuation industry.

7.1.3 Standard Business Reporting

Standard Business Reporting (**SBR**) is an Australian Government initiative to reduce the burden of business to government reporting. Duplication of business reporting occurs across agencies and between jurisdictions, which means that the net reporting burden has continued to rise. SBR is a multi-agency initiative led by Treasury with ATO, ASIC, APRA and State and Territory revenue offices in partnership with software developers, business, bookkeepers, tax agents and payroll professionals. SBR is simplifying business-to-government reporting by:²⁹

- (a) removing unnecessary or duplicated information from government forms;

27 <http://www.swimec.com.au/overview.cfm>.

28 <http://www.superannuation.asn.au/swimEC/default.aspx>.

29 http://www.sbr.gov.au/en/About_SBR.aspx.

- (b) using existing business software such as accounting and payroll systems to automatically pre-fill forms;
- (c) adopting a common reporting language, based on international standards and best practice;
- (d) making financial reporting a by-product of natural business processes;
- (e) providing an electronic interface to agencies directly from accounting software, which will also provide validation and confirm receipt of reports; and
- (f) providing a single secure online sign-on for users to all agencies involved.

SBR is focussing on financial reporting first, given that it affects most businesses. Forms-in-scope of the SBR program include the Business Activity Statement (ATO), Financial Statement (ASIC) and Payroll Tax (State and Territory Government revenue offices).

SBR is expected to save Australian business an estimated \$800 million per year once fully implemented, with phased roll-out commencing in July 2010. However, adoption of the SBR will be voluntary and no legislative changes will occur as a direct result of the initiative. Given that it will be cheaper, faster and easier to use, it is expected that there will be a large adoption of the SBR initiative.

While SBR will make business-to-government reporting easier, it will also enable the streamlining of the movement and use of financial information along the entire reporting chain, such as from business and intermediaries through to analysts, investors and regulators.

The SBR initiative to date has reduced the number of unique data elements used in government reports from 9,648 to 2,838, which represents an overall reduction of 71 per cent.³⁰

Potential utility of the SBR approach for superannuation transactions

While the Australian version of SBR is restricted to business-to-government reporting, there is potential for its protocols to be developed to provide an e-commerce framework for superannuation. Already, the Netherlands have extended their version of SBR to business-to-business transactions. For example, participating banks in the Netherlands provide loan discounts to businesses that report using the framework as it allows them to monitor the businesses accurately and at low cost.

The current SBR project does not extend to business-to-business transactions and provides only for the transmission of data, not money, so the potential for SBR to be used in super would have to be explored. The Panel sees considerable potential in the industry adopting the SBR data protocols, which will already be adopted by many employers and embedded in business software systems. By linking this approach with an existing electronic payment system such as BPay, employers would have a much greater facility in engaging directly with funds or a clearing house at lower cost to the employer.

³⁰ http://www.sbr.gov.au/About_SBR/Publications_and_presentations/~media/Files/SBR_Major_Streams_inbrief.ashx.

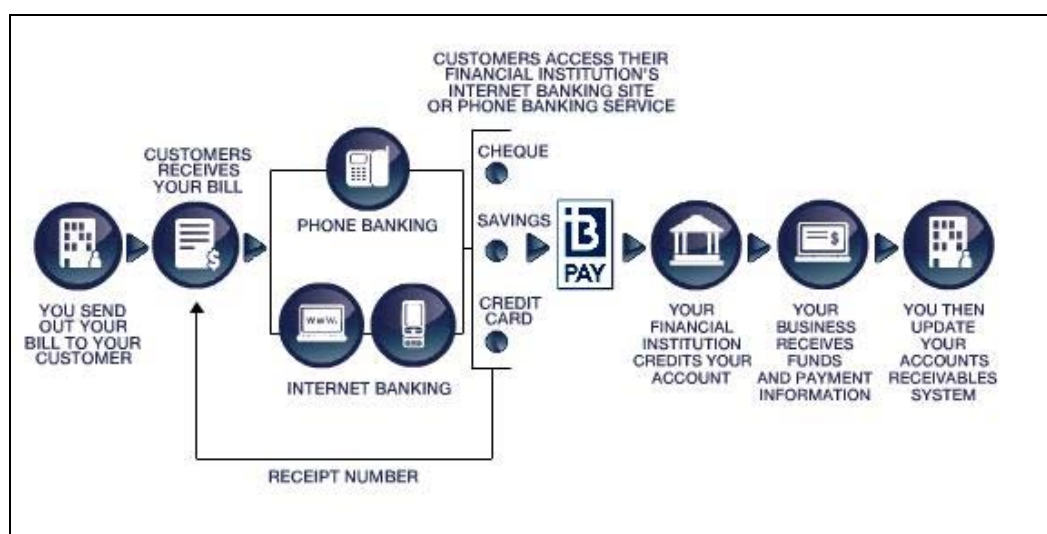
7.1.4 Assisting employers

In the same way that SBR is using existing business software packages to facilitate seamless reporting to government, the Panel notes that there are various products and portals already in existence that make it easier for an employer to make contributions to super. Examples include MYOB M-Powered Superannuation, Westpac's QuickSuper and Reckon Tools' SuperLink. The Panel considers that there is scope for these products to be modified as necessary to embody the SBR-type protocols it envisages as applying in the super industry.

7.1.5 BPay

BPay is owned by the four major banks.³¹

BPay process:



BPay transactions incur a flat fee of 45.1 cents per transaction from a debit account, or 40.7 cents per transaction plus 0.297 per cent of the transaction value when paid from a credit card account.

BPay utilises multiple levels of data validation to ensure that receipted payments are reconciled on a 'straight through' basis. First, a unique biller code is assigned to each billing organisation. This is much like the SPIN associated with each fund. Second, each individual bill is issued with a unique 'bill identifier'. To ensure the accuracy of the bill data, an algorithm check routine is run against all inward bill payments. This enables billers to receive not only clear funds for the value component and remove the need for costly re-work of dishonour, but also to identify the remitter of the payment.

While BPay is primarily a consumer bill-paying service, it has the potential to be further developed as a business to business payment system suitable for processing superannuation contributions.³² In particular, BPay has flagged the development of a successor product, MAMBO, which will facilitate the secure, linked transmission of payments and information.³³ Many larger funds already provide facilities for members to make after-tax contributions by BPay.

³¹ BPay.com.au.

³² Westpac *Super System Review: Phase Two submission*, December 2009

³³ BPay, submission to Department of Human Services – Payments and Information Delivery Reform Taskforce, 3 November 2009.

7.2 Achieving e-commerce as the norm in superannuation

The Panel is convinced that major cost savings are available in the superannuation industry through a shift from the fragmented and largely manual processing of member accounts, contributions and rollovers to a standardised electronic approach.

While attempts have been made to devise industry standards to facilitate this, they have been voluntary and to date have failed due to excessive complexity and low take up. The Panel notes the recent announcement by three major fund administrators of agreement on a set of principles to govern the electronic processing of rollovers between participating funds. These are to be further developed consistently with standards to be adopted by the Medicare Australia clearing house and using an open governance structure along the lines of that provided by the Australian Payments Clearing Association for banking.³⁴

Many administrators and clearing houses already engage with payroll providers to partially automate employer to fund transactions but, due to the lack of common standards across the industry, these processes often require funds to provide specific software to large employers, and/or the application of proprietary middleware solutions to convert the output from payroll providers into a format useable by the fund administrator.

The Panel believes that a key pre-condition to fully effective e-commerce in superannuation is the availability of a data base containing accurate and secure details of all funds other than SMSFs. Details to be incorporated would include as a minimum fund name, SPIN and bank account details including name, BSB and account number. To avoid the extraction of monopoly profits, this data base needs to be governed and administered on a cost recovery basis, either by a collaborative industry enterprise or by a government agency. The Panel will give further consideration to this issue.

Preliminary recommendation

The Panel recommends that Treasury convenes a working group comprising representatives of relevant segments of the financial sector to devise the process for development of SBR-compatible standards to provide for linked personal and financial data transmission and facilitate related software development. The Panel further recommends that the standards address each of the processes specified in paragraph 6.2 above to be available for roll-out to employers, funds and administrators by January 2012, with related software to be available no later than January 2013.

As adoption of the process will generate significant savings for the industry, and hence for members, it is appropriate that the development work is financed through the industry supervisory levy for both APRA-regulated funds and SMSFs.

All administrators and clearing houses should be required to adopt these standards, either as a licence condition if directly regulated or by way of a standard inclusion in their contracts with trustees under the outsourcing operating standard, from January 2014.

34 Joint press release by AAS, Pillar Administration and Superpartners, 11 March 2010.

7.3 Standards Australia

The move towards a largely automated back office for superannuation may lend itself to the development of a formal Australian standard registered with Standards Australia. This is a matter to which the Panel will give further consideration before its final report.

8. ADMINISTRATORS

A few very large administrators have emerged over the past 20 years. Their role in the sector is critical to its success. The corporate failure of any one of them could create a very difficult position, while the operational collapse of one could create a real crisis.

The current lack of ready access to capital to support ongoing investment in improved technology and to address administrator liability in the face of operational risk represents a real concern which needs to be addressed in the near term, even though this may result in a transitional increase in costs to funds.

Three of the largest superannuation administrators support the notion that they be licensed directly by APRA, rather than the prudential risks being addressed through the current indirect method of reviewing fund outsourcing arrangements. Many other industry players saw similar advantages³⁵ though a few opposed the concept on the basis of likely increased costs to the industry and the imposition of a further layer of regulation.³⁶ The administrators suggest licence criteria around capital adequacy, adequacy of resources, fit and proper standards and risk management standards.

There was a view that imposing prudential regulation directly on administrators could result in a blurring of accountability, rather than having full responsibility for the fund's operation borne by the trustee, as is currently the situation.³⁷ APRA currently has some regulatory reach into administrators by way of the outsourcing operating standard in SIS;³⁸ trustees' contracts with their administrators must, among other things, require the service provider to give information to APRA or the trustee on request, to allow APRA access to premises and to meet with the administrator, and to require an audit to be conducted. An arguable limitation of this approach is that the only remedy available in the event of failure of an administrator to meet those requirements is for APRA or the trustee to take a civil court action for breach of contract.

The Panel notes that for those super funds that conduct in-house administration, the administrative process is already subject to prudential oversight. APRA's guidance indicates that the trustees of public offer funds would be expected to retain a higher level of liquid assets in order to satisfy the 'adequacy of resources' operating standard.³⁹

The Panel has no doubt about the significance of the administration function, and will settle a view over the balance of the Review as to whether this warrants its direct prudential supervision, in contrast to other service providers in superannuation, and in other

35 For example, ASFA, AIST, Law Council, MLC, Equisuper, Rice Warner Actuaries and Mercer *Phase Two* submissions.

36 For example IFSA, Statewide Super and Australian Bankers' Association *Phase Two submissions*.

37 PricewaterhouseCoopers, *Super System Review: Phase Two submission*, 14 December 2009.

38 APRA, Superannuation Guidance Note 130.1 Outsourcing.

39 APRA, Draft Superannuation Practice Guide 110, Capital.

prudentially regulated industries. An alternative may be to extend the current Australian Financial Services Licence scheme to cover all super administrators, especially as many are already required to hold one. This may provide a vehicle for imposing suitable capital and other requirements.

While administrators and clearing houses acknowledge that theirs is a low margin/low profit business, they were firm in the belief that the market and competition should set both fee levels and fee structures. The Panel endorses that approach, while cautioning trustees against an excessive focus on negotiating down the administration fees, which tend to be highly visible, while paying less attention to other costs, including investment costs and costs associated with the promotion and marketing of the fund.

9. CLEARING HOUSES

9.1 Single national clearing house

The Panel sought comment on whether there was the need for a single national clearing house for superannuation transactions. The consensus among those making submissions was that clearing houses serve a valuable purpose, and that the recently announced government-funded service for small businesses was an important initiative. However, most considered that there is currently an effective market in clearing house services which could be strengthened with the adoption of common e-commerce standards.⁴⁰

9.2 Medicare Australia proposal

The government announced at the end of 2009 that Medicare Australia will provide free superannuation clearing house services for small businesses with less than 20 employees from July 2010. It was done in an effort to assist small businesses to reduce the time and paperwork burdens involved in meeting their SGAA obligations. The Medicare Australia super clearing house will allow those eligible small business to pay their superannuation contributions electronically to a single location.

Other key initiatives of the Medicare Australia clearing house include:

- (a) employers will be able to pass on choice of fund nominations to the clearing house for processing;
- (b) small businesses that choose to use the clearing house service will have their SGAA obligation to make superannuation contributions discharged when payment of the correct amount is made to the clearing house rather than when it is forwarded on to the fund; and
- (c) Medicare Australia will develop an online system for registration and on-going payments. This is still being developed.

Small businesses will be able to register for the service from May 2010.

⁴⁰ Westpac and ICAA submissions argued for a central clearing house; SuperChoice (page 6) preferred a single entity, but also endorsed a group of approved clearing house operators.

The Panel notes that the architecture of the Medicare Australia clearing house is still under development, and encourages those engaged in the process to have regard to the SuperStream proposals in its design.

9.3 Required developments for clearing houses

Some submissions suggested that administrators must have the capacity to act as a clearing house as well as an administrator, that is, to be able to receive data and money in respect of superannuation funds in addition to those that they administer. Alternatively, BPay platforms could be employed by a super fund with a customer reference number attributed to each member. Contributions could be linked to member accounts which would reduce administration processing time and the need for external clearing houses.

There is currently an incentive for clearing houses to retain funds while clarifying member data with a contributing employer, as they can benefit from the interest earnings on the contribution pending its transmission to the fund. The time that money sits with a clearing house represents time out of the market for super fund members, and so works to their detriment.

Preliminary recommendation

The Panel recommends that, either as a condition of their Australian financial services licence granted by ASIC or as a standard contractual condition, clearing houses be required to provide linked member and funding data electronically to the fund within two business days of receipt of clean data.

10. TAX FILE NUMBERS

10.1 Background

The TFN is a unique number issued by the ATO to identify individuals, companies and others who lodge income tax returns. Members who do not quote their TFN to super funds are unable to make after tax contributions. While quotation of TFNs is not compulsory in super, typically in the order of 90 per cent of member accounts have an associated TFN.⁴¹ The Panel has recommended at paragraph 6.1 above that employers should be able to satisfy their SG obligations with respect to employees who fail to provide a TFN after being given reasonable opportunity to do so by remitting the amount to the ATO.

The Privacy Commissioner's TFN Guidelines regulate the collection, storage, use, disclosure, security and disposal of TFNs.⁴² Part 25A of the SIS Act sets out requirements for the provision, storage, use and disposal of TFNs within the superannuation system. The *Taxation Administration Act 1953* also prohibits unauthorised requests, recording, use or disclosure of TFNs. The *Data-matching Program Act 1990* and data-matching guidelines regulate

41 Private industry sources, oral communications.

42 <http://www.privacy.gov.au/law/act/tfn>.

data-matching records using the TFN between the ATO, Centrelink and the Department of Veterans Affairs.⁴³

The TFN was designed to improve the service and administrative efficiency of the tax system, including data-matching.

10.2 Office of the Privacy Commissioner, Privacy Act and TFNs

The Office of the Privacy Commissioner is an independent statutory body whose purpose is to promote and protect privacy in Australia. The Office is established under the *Privacy Act 1988* and has responsibilities for the protection of individuals' personal information handled by Australian government agencies, large private sector organisations, private health service providers and some small businesses.

The Privacy Act largely protects the personal information of individuals through binding privacy principles. Personal information is defined generally as information or an opinion which identifies an individual.⁴⁴

The handling of TFNs in the superannuation context is already allowed under the TFN Guidelines. The current TFN guidelines, last amended in March 2004, relevantly say that:⁴⁵

- (a) the rights of individuals under taxation, assistance agency or superannuation law to choose not to quote a TFN shall be respected;
- (b) the TFN is not be used to establish or confirm an individual's identity, obtain information or match data about the individual for any purpose not authorised by superannuation law; and
- (c) TFN information shall only be used or disclosed by TFN recipients as authorised by taxation, assistance agency or superannuation law.

As indicated in the Privacy Commissioner's submission to Phase Two of the Super System Review,⁴⁶ TFN data-matching by super funds for purposes such as:

- (a) more efficient handling of inactive superannuation accounts;
- (b) automatic consolidation of multiple accounts; and
- (c) reduction of incidents of lost accounts by re-uniting 'lost members' of super funds,⁴⁷

would amount to an extension of the TFN's current use, rather than a completely new application.

Interestingly the Privacy Commissioner's notes in the TFN guidelines indicate that '*the purpose of the tax file number is to facilitate ... superannuation administration*' and '*the tax*

43 <http://www.privacy.gov.au/law/other/datamatch>.

44 *Privacy Act 1988* section 6.

45 <http://www.privacy.gov.au/materials/types/download/8959/6713>.

46 Office of the Privacy Commissioner, *Submission to the Review Panel on the Phase Two: Operation and Efficiency – Issues Paper*, December 2009.

47 Super System Review, *Phase Two: Operations and Efficiency – Issues Paper*, 16 October 2009.

*file number can only be used or disclosed by tax file number recipients for reasons necessary to administer or comply with ... superannuation law.*⁴⁸

While the Commissioner's notes provide an interpretation of the TFN guidelines, the annotations do not form part of the law. Therefore it appears that adopting the TFN as an identifier within the superannuation system for the purposes of improving administration can be achieved if those TFN requirements were included in the superannuation law. This is supported by the Privacy Commissioner in its submission to the Super System Review, as follows:

'The Office understands that generally, TFN data-matching by super funds would only be permissible under the TFN Guidelines where such activities are authorised under superannuation law. If the Government were to consider such a proposal it would need to determine whether current superannuation law provided the necessary authorisation or if amendments to existing law are required.

Legislative amendments which clearly authorise specific matching activities would provide appropriate certainty for super funds and regulators.'⁴⁹

The Privacy Commissioner is not opposed to promoting efficiency in the superannuation system through limited and clearly articulated use of the TFN, provided such a proposal is measured and accompanied by strict privacy safeguards to protect personal information and choice; and is based on the likelihood of strong individual benefits.⁵⁰

This approach reflects the Government's intention regarding the use and protection of unique identifiers. This intention was indicated in the Government's first stage response to the Australian Law Reform Commission report titled *For Your Information: Australian Privacy Law and Practice*⁵¹ recommendation 30-2.⁵²

Preliminary recommendation

Having regard to the extended use of personal information proposed in SuperStream, the Panel recommends that Treasury be tasked with preparing a Privacy Impact Assessment to help identify and assess any privacy impacts of the 'SuperStream' proposals adopted by the Government.

10.3 Proposed extended use of TFNs in superannuation

There is widespread consensus in the industry that the lack of a unique member identifier, which can be used to link accounts with contributions, and to identify multiple accounts held by the same person, is a significant impediment to major cost savings in the industry. The

48 <http://www.privacy.gov.au/materials/types/download/8959/6713>.

49 Office of the Privacy Commissioner, *Submission to the Review Panel on the Phase Two: Operation and Efficiency – Issues Paper*, December 2009.

50 Office of the Privacy Commissioner, *Submission to the Review Panel on the Phase Two: Operation and Efficiency – Issues Paper*, December 2009

51 <http://www.austlii.edu.au/au/other/alrc/publications/reports/108/>

52 http://www.dpmmc.gov.au/privacy/alrc_docs/stage1_au_govt_response.doc

Panel endorses those concerns. The Panel also notes that the great majority of member accounts already have an associated TFN.

The Panel considers that, where a member has consented to the use of their TFN for the purposes of the superannuation legislation, it would be consistent with the intent of that consent for the TFN to be used for administrative purposes designed to reduce costs and so maximise member retirement benefits.

Preliminary recommendation

The Panel recommends that relevant legislation be amended to permit superannuation fund trustees and their agents to:

- (a) use TFNs as a primary search key to link contributions and rollovers with member accounts;
- (b) seek confirmation from the ATO in relation to each new member that the quoted TFN is correct;
- (c) seek confirmation from the ATO in relation to each requested rollover to a SMSF that the member holding the quoted TFN is a member of that SMSF; and
- (d) exchange the TFN with other trustees to identify accounts in multiple funds held by the same individual, and hence permit the trustee of the fund to which contributions are currently being made to invite the member to initiate consolidation of the accounts.

11. PORTABILITY, SMALL/INACTIVE ACCOUNTS, LOST MEMBERS AND ERFs

11.1 Background

The 16⁵³ eligible rollover funds (ERFs) form a unique segment of the superannuation system. These funds were intended to be a temporary repository for the benefits of members who have lost connection with their superannuation, and to protect those members. In practice, ERFs also accept rollovers from superannuation funds for a number of other reasons where the member has not actively made a choice about their superannuation.

ERFs are obligated to receive payments from another superannuation fund, an approved deposit fund, or an RSA. An ERF must also treat each member, regardless of their account balance, as a 'protected member'. For all other superannuation funds, a member is only 'protected' if they satisfy the conditions in SIS regulation 1.03, primarily members whose balance is below \$1,000.

ERFs have not achieved the intended objectives because:

- (a) Some funds do not send small inactive accounts to ERFs.

53 APRA, *Annual Superannuation Bulletin*, June 2009.

- (b) Some ERFs appear to have made little effort to re-connect people with their superannuation. There is little incentive to align members with their money because of the cost of matching and because ERFs continue to collect ongoing fees on these 'inactive' accounts. Rice Warner estimated that, for the year ended 30 June 2008, the average fee for ERFs was 2.49 per cent,⁵⁴ although this figure equates to an average of \$23.16 per account per year because of the predominance of small accounts in ERFs. However, because of the very low level of activity inherent in the operation of an ERF, the member account perspective is less relevant than in a normal super fund.
- (c) There has been no unique member identifier to aid the process.
- (d) Matching lost members with unclaimed superannuation is costly. Ultimately, the cost of running the exercise depends on the volume of matches. In 2008, one ERF undertook cross-matching of 3 million accounts, leading to approximately 104,000 accounts (with a total value of \$39 million) being matched; an average of \$400 per account. This exercise cost approximately \$625,000, being \$79.93 per 1,000 records, plus a cost of \$3.68 per successful match.⁵⁵

Legislation has been passed to give effect to the Government's 2009-10 Budget announcement which will require superannuation providers to transfer to the Commonwealth all 'lost member' accounts that have a balance of less than \$200, and all those accounts that have been inactive for more than five years and for which there are insufficient details to identify the owner. This will come into effect from 1 July 2010, and is expected to reduce the number of lost and unidentifiable accounts by about 40 per cent with consequential administrative savings for funds. It is expected that approximately \$238 million will be transferred to the Commonwealth over the next three years.

The general approach of this measure was canvassed in the November 2008 discussion paper 'Superannuation Clearing House and The Lost members Framework'. Other lost member issues canvassed in the discussion paper, such as the definition of a lost member, trustee obligations and automatic consolidation, are subjects of the Review's consideration.

Even when members are not lost, many have multiple accounts. As at June 2008, there were in excess of 32 million member accounts in the superannuation system⁵⁶ despite the total Australian population being only 21 million.⁵⁷ While there are some individuals who have sound reason to hold more than one superannuation account – for example, to have one account providing a transition to retirement pension and another to receive contributions, or to maintain access to certain insurance benefits – each duplicate account incurs administration costs. In many cases, this is simply a deadweight cost to the individual and the system overall.

When a member wishes to consolidate accounts, it is often a time-consuming and frustrating process. One provider reports that only 6 per cent of members who started a consolidation process actually completed it.⁵⁸ Many small balance accounts are abandoned even if not lost, with the benefit being eroded due to fees and charges. This contrasts with consumers

54 IFSA and Rice Warner Actuaries (2008), *Superannuation Fees Report – Market Segment Analysis at 30 June 2008*, December 2008.

55 Superpartners, unpublished data.

56 APRA, *Annual Superannuation Bulletin*, June 2009.

57 Australian Bureau of Statistics, *Australian Demographic Statistics June 2009*.

58 BT Financial Group, *Australian superannuation system review: Phase 2 submission*, 14 December 2009.

wishing to change banks or mobile phone providers, where the receiving entity is authorised to contact the former provider on the customer's behalf and implement the change.

11.2 Facilitating account consolidation

If the SuperStream recommendations are implemented, it is expected that over time the problem of lost members will diminish significantly. However, wider use of TFNs with other electronically available identifiers can accelerate the process of reducing the number of lost, inactive accounts.

Other measures can be put in place to make it easier for members to consolidate their superannuation accounts when they wish to do so.

The automatic consolidation of all of an individual's accounts across a number of funds would become feasible, subject to implementation of the SuperStream recommendations, and subject to specific legislative change to authorise it. However, this presents specific problems because:

- (a) some people hold inactive accounts so that insurance cover will continue. (This rationale does not warrant maintaining an ERF account because they cannot provide insurance cover); and
- (b) lack of identifiers leads to cases where apparent similarity of detail results in inappropriate merging of accounts. On the other hand, minor differences in detail result in the creation of multiple accounts in the first place.

11.2.1 Auto-consolidation within the same fund

The loss of insurance is irrelevant where a member has multiple accounts within a single fund, because the member would retain insurance cover within the continuing account, while issues of identity are more readily addressed. While it is increasingly common for a member in transition to retirement to maintain both a pension and an accumulation account deliberately, there is no apparent reason for a member to hold multiple accumulation accounts within a single fund.

The Panel considers that a reduction in multiple account holdings will strip unnecessary costs out of the system and, all else being equal, will lead to a reduction in administration costs as a percentage of assets under administration. It acknowledges, however, that spreading fixed administrative costs over a smaller number of accounts may lead to an increase in the weekly amount needing to be charged to those remaining accounts.

Preliminary recommendation

The Panel recommends that necessary legislation should be enacted to permit the trustee to auto-consolidate the accounts without prior reference to the member, where multiple accumulation accounts within a single fund share a common TFN and member surname.

11.2.2 Optional account consolidation across more than one fund

Difficulties with automatic account consolidation could be overcome by having mechanisms permitting the member to opt in or out of the consolidation process, whereby data matching across funds identifies members with multiple accounts and then auto-generates a message

to the member asking them to nominate a single account. The member could choose to keep them all open or, if the member did not advise the trustee within 60 days of a decision to retain some or all of the accounts, the accounts could be automatically consolidated into the fund with the most recent contribution.

The critical step, missing in the system at present, is to draw the issue of multiple accounts to the member's attention, and then make it easy to resolve them. The ATO, through its SuperSeeker website, enables members to search for accounts where the fund has reported the member to the ATO as being lost. However, there is no current facility which would enable members or funds to identify, from a single site, all of a person's superannuation accounts.

Preliminary recommendation

The Panel recommends that, by 30 June 2011, the ATO should develop electronic means to display all the super funds of which an individual logging on is currently a member. Similarly, the ATO should provide an electronic facility to include all member accounts for which it holds TFN identification.

11.2.3 Rollovers/switching funds

The current requirements for members wanting to change funds are triangulated. Members need to contact their employer to have future contributions redirected and also need to contact their existing fund to have their existing balance transferred to their new fund.

In its Phase Two submission, the consumer group, CHOICE, was strongly critical of the ATO's standard choice form NAT 13080⁵⁹ saying that it acted as a barrier to choice and mobility.

The Panel agrees that it is too difficult for members to consolidate multiple accounts to their chosen fund because of the onerous requirements placed on them by funds to roll their money out. Despite the introduction of a standard form by way of Schedule 2A to the SIS Regulations, the information required by this form is overly-detailed, the identification requirements are onerous and the process becomes simply too difficult. In addition, even when a person completes the current standard form, many funds reject this in favour of the fund's own form.⁶⁰

59 <http://www.ato.gov.au/content/downloads/SPR56761NAT13080.pdf>.

60 BT Financial Group, *Australian superannuation system review: Phase 2 submission*, 14 December 2009.

Preliminary recommendation

The Panel recommends that:

- (a) Procedures should be established between the ATO and administrators and clearing houses so that when an employer seeks to enrol a new member, the fund administrator (or clearing house if one is used) must validate the TFN provided with the ATO to ensure that it is the number for the individual named.
- (b) At the same time, the ATO should be required to check its data base to see whether it holds unclaimed money for that member. If so, it should advise the administrator and transfer the money. The ATO should also determine whether the member has more than one account. If the member has more than one account, the administrator of the new fund should be notified and then determine with the member whether they wish to consolidate their accounts. The Government should consider amending the SIS Act to over-ride any provision in the governing rules of any fund with a defined contribution component which would otherwise prevent the consolidation of member accounts.

Preliminary recommendation

The Panel further recommends that relevant legislation should be amended to:

- (a) prohibit a fund from accepting as a member any person for which there is not provided sufficient identification data (full name, address and date of birth) to provide a proper preliminary identification, and from accepting any contribution which cannot be reasonably identified as being attributable to a particular member;
- (b) remove from super funds the current exemption from initial customer identification requirements under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 when a member exercises a choice to join that fund, or to roll into that fund the whole or part of a benefit from another fund. Risk-based customer identification would ordinarily be satisfied if the member has provided their TFN to the fund and the trustee has confirmed with ATO that the TFN is correctly associated with the details for that member or the trustee has confirmation from its own records or another APRA regulated fund that they have previously provided that level of identification;
- (c) enable the trustee of an APRA-regulated fund, with the authority of a member, to initiate a rollover of all or part of that member's benefit from another fund as though the member had initiated the request to the exiting fund, without further proof of the member's identity being required;
- (d) require the trustee of any fund receiving such a request to normally remit the member's balance electronically to the new fund within two clear business days, subject to a capacity for APRA to provide relief from this provision when prudential considerations require it; and

Preliminary recommendation (continued)

- (e) amend the choice of fund form⁶¹ to make it more user-friendly and to enable the member to tick a box requiring all super accounts to be consolidated,⁶² with the nominated APRA-regulated fund to action as above. In view of the greater engagement of most SMSF members, and risks identified in the use of SMSFs for illegal early release of superannuation, the Review recommends that this facility not be extended to the trustees of SMSFs at this stage.

The Panel is conscious that, in seeking to drive efficiency gains, it should not disadvantage members for whom insufficient information is provided for an account to be established. To this end, as noted at 6.1 above, the Panel is disposed to the view that arrangements should be developed whereby unallocated contributions are retained in the system, though not by individual funds, and should not be returned to the employer.

11.3 One national ERF

A majority of submissions opposed a single national ERF⁶³ and the Panel recognises that there may well be constitutional difficulties in seeking to implement one.

The Panel considers that if the proposed cross-fund matching rules and the use of the TFN reduce the number of lost accounts, there is likely to be a consolidation in the sector. Also, regulatory changes could address remaining problems with ERFs.

Preliminary recommendation

In order to have ERFs more effectively fulfil their intended function, the Review recommends that:

- (a) The RSE licence for each trustee of an ERF be subject to the condition that they actively cross match with any active fund seeking the service. All ERF licensees must provide an online facility for people to search for lost super.
- (b) All funds be required to cross match with ERFs for a new member until such time as the recommendations at paragraph 10.3 above are implemented.

11.4 Member protection

Member protection, the rule under which members with an account balance of less than \$1,000 cannot have that balance eroded by fees greater than the earnings accruing to their account, was introduced at a time when the SGAA contribution rate was only 3 per cent, and average wages were substantially lower than is the case today. In the current environment, any employee on a minimum wage, but working more than 10 hours a week, would have more than \$1,000 in super after their first year of employment.

There are direct costs to funds in terms of cross-subsidising such low balance members. REST,⁶⁴ which has an unusually high proportion of low balance members due to the youth

61 ATO form NAT 13080.

62 Mercer (Australia) Pty Ltd, *Submission on Phase 2 of super system review*, 14 December 2009.

63 Rice Warner and ICAA were exceptions in this regard.

and casual employment characteristic of its members, estimates this as 17 basis points across the fund, or between \$7 million and \$17 million in any given year. Further, every fund needs to provide for member protection in devising its administrative systems and procedures, adding both complexity and cost.

The Panel considers that member protection operates as a disincentive for members to consolidate small account balances, is administratively inefficient and has probably outlived its usefulness.

For a member with an \$800 balance and normal admin fees of \$1.50 a week, a subsidy will occur if fund returns are anywhere between 0 and 9.75 per cent (that is, a very large proportion of the time). The argument for abolition goes to considerations of both efficiency and broader equity. The population who could benefit from it is both small and fluid, in that generally only those in the very earliest stage of workforce participation have balances as low as \$1,000. However, the cost to the system overall of being able to track those members and apply member protection if/when needed is substantial.

Preliminary recommendation

The Panel therefore recommends that the Government legislates to abolish the member protection rules.

12. CONTRIBUTIONS

12.1 Regulation of contributions

The ATO currently has regulatory responsibility for SGAA contributions, concessional and non-concessional contributions and the government's co-contribution. The ATO also has responsibility for monitoring the aggregate level of member after-tax contributions. On the other hand, APRA has administrative carriage of section 64 of the SIS Act, which requires employers to make timely remittance to a fund of employees' after tax contributions made through the employer. There are no regulatory requirements about the timely remittance of salary sacrificed contributions. If an employer fails to remit salary-sacrificed contributions to a fund, or to do so in a timely manner, the employee's only recourse would be by way of civil court action. The Panel believes this is clearly inadequate.

12.1.1 Frequency of employer remittance of contributions

Currently, there are two payment periods in place for contributions – one (quarterly) for SGAA contributions and one (monthly) for member voluntary after-tax contributions. Under the SGAA, members' salary sacrifice contributions are regarded as employer contributions and count toward the employer's SGAA obligations even though they are before-tax contributions being paid by members from their pay.

A number of submissions suggested more frequent remittance of contributions would enhance efficiency, for example, monthly or in-line with payroll arrangements.⁶⁵ Increasing

64 REST, *Submission on Phase 2 of super system review*., 14 December 2009.

65 For example, Financial Planning Association, *Submission on Phase 2 of super system review*., 21 December 2009.

the frequency of contribution will improve the compounding periods of returns to members and, consequently, will potentially improve member superannuation savings. Rice Warner estimates that members could earn an additional \$2.2 billion **over 10 years** if member contributions were invested sooner via electronic means.⁶⁶

A number of submissions recommended that salary sacrifice contributions be remitted monthly as if they were after-tax contributions. Adopting this suggestion would mean that other SGAA contributions should also be made monthly as there is no reason to distinguish between the two. Otherwise, some employers might discourage salary sacrificed contributions because they are required under the SIS Act to remit them more frequently than SGAA contributions.

12.1.2 Roles of ATO and APRA

While most submissions consider the ATO the logical overseer of SGAA contributions, there were many comments about the ATO's performance in enforcing the SGAA.⁶⁷ Concerns were noted about the extent to which the ATO enforces the SGAA with respect to independent contractors and follows up complaints by employees about deficient payments by employers.⁶⁸

Preliminary recommendation

The Panel recommends that relevant legislation is amended so that:

- (a) an employer is required to remit salary sacrificed contributions no less frequently than it is required to remit a member's after-tax contributions; and
- (b) the ATO is specified as the sole regulator responsible for compliance with all aspects of superannuation contributions, although APRA would retain responsibility for overseeing the solvency of defined benefit plans and any action needed to restore a DB fund to a satisfactory financial position.

The Panel also recommends that, when an employee makes a complaint that an employer is not meeting its SGAA obligations, ATO continues, on a risk-assessed basis, to assess the employer's compliance with its SGAA obligations for all employees in the particular workplace, and not only the complainant.

13. OVERSEEING THE IMPLEMENTATION OF SUPERSTREAM

Participants in an industry round table discussion agreed that it will be critical to have in place an on-going governance structure to oversee the development and mandate the implementation of the standards that are central to SuperStream. One possible reason why existing proposals such as SwimEC have failed to get significant traction is that they have lacked an appropriate governance (and legislative) framework.

The identity of this body is a matter to which the Panel will give further consideration.

⁶⁶ Cuscal, *Response to the consultation paper on the Australian superannuation system review: Phase 2 submission*, 13 December 2009.

⁶⁷ For example, D Peace, Mercer.

⁶⁸ For example, CBus.

One possibility is the Payments System Board (**PSB**).

In theory, SuperStream could be declared a 'payments system' by the PSB under the *Payment Systems (Regulation) Act 1998*. Doing so would mean that the PSB could:

- (a) determine rules for participation in that system, including rules on access for new participants, drawing on expertise from the Australian Competition and Consumer Commission;
- (b) set standards for safety and efficiency for that system. These may deal with issues such as technical requirements, procedures, performance benchmarks and pricing;
- (c) direct participants in a designated payment system to comply with a standard or access regime; and
- (d) arbitrate on disputes in that system over matters relating to access, financial safety, competitiveness and systemic risk, if the parties concerned wish.

Other possibilities include a role for Standards Australia, a wholly new body or the Australian Payments Clearing Association.

