

12 February 2014

Manager  
Superannuation Unit  
Financial System Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [superannuationconsultation@treasury.gov.au](mailto:superannuationconsultation@treasury.gov.au)

Dear Sir / Madam

**RE: Discussion Paper – Better regulation and governance, enhanced, transparency and improved competition in superannuation**

BT Financial Group (BTFG) welcomes the opportunity to provide comments on the Discussion Paper – Better regulation and governance, enhanced transparency and improved competition in superannuation (the Discussion Paper).

BT Financial Group is the wealth management arm of the Westpac Group, helping millions of Australians with their superannuation, general and life insurance, investments and financial advice.

We are one of the largest and most established wealth managers in Australia. Our superannuation and investment platforms administer over \$107 billion of funds. Our flagship BT Super for Life product manages more than \$6 billion in funds for more than 500,000 customers. We manage corporate superannuation plans for more than 23,000 organisations and our insurance business provides general and life insurance protection to more than 1 million Australians.

BTFG strongly welcomes the government's pledge not to make any unexpected detrimental policy changes to superannuation in this first term of government. We believe an extended period of policy stability is needed to help rebuild consumer confidence in the superannuation system. Superannuation policy stability is also critical to support a strong level of voluntary contributions into the system which are essential to improving the retirement incomes of most Australians.

We appreciate the government's commitment to reducing the red tape burden faced by superannuation funds. While we have supported the intent behind the recent reforms to superannuation, including the introduction of SuperStream and MySuper, we believe there are significant opportunities to alleviate the compliance burden on the industry without compromising consumer protection.

Specifically, our submission identifies a number of opportunities for the government to streamline and enhance the recent regulatory changes, including through:

1. Delaying the commencement of the second phase of SuperStream from 1 July 2014 to 1 July 2015 and ensuring the payment system and SuperStream are able to be integrated over the medium term.
2. Reviewing the APRA Data reporting requirements with a view to significantly reducing the overall impact on industry and members, principally through reducing the scope of reporting at the investment option level, to MySuper.
3. Not extending the application of complex and potentially inappropriate MySuper fee rules to choice products and Managed Investment Schemes until detailed consultation has taken place.
4. Allowing a risk-based approach to the calculation of the Operational Risk Financial Requirement rather than applying a uniform 25 basis point approach.
5. The development of a comprehensive product rationalisation framework.

We also recommend changes to the governance requirements applied to superannuation funds. Aligning the governance of superannuation with listed companies and all other APRA regulated sectors will increase confidence in the superannuation system.

BTFG have strongly advocated for better governance and have adopted a best practice governance model for our superannuation trustee boards back in March 2011. We believe it is appropriate for the same high governance standards to be applied across all APRA regulated superannuation funds.

Finally, we have long held the view that the process of nominating default funds in Modern Awards lacks transparency and is anti-competitive. We believe allowing employers to select any MySuper default fund will enhance competition in the superannuation market.

Our detailed response follows. In addition, Appendix 2 provided in confidence, includes a summary of the estimated compliance costs associated with various regulatory obligations identified in our submission.

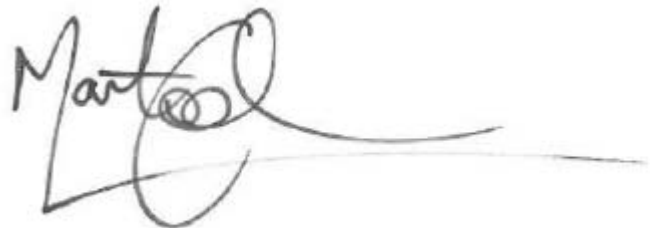
We would be pleased to meet with you to discuss and expand on any of the issues raised in our submission.

Yours Sincerely



Vicki Doyle  
Head of Retail & Corporate Super  
BT Financial Group

Yours Sincerely



Martin Codina  
Head of Government & Industry Affairs  
BT Financial Group

# Detailed Response

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## Part 1: A Better Approach to Regulations

### Introduction

The superannuation industry is at the tail end of an unprecedented period of regulatory reform. The vast majority of reforms have come from the good intention to provide a greater level of consumer protection or improve individual retirement outcomes.

While we have supported the intentions behind much of the recent reform agenda, greater focus is required when implementing such a large reform agenda to balance the implementation and ongoing compliance costs with the desired benefits of any reforms. Inefficient, misapplied or poorly implemented regulations are a cost to superannuation funds that are potentially worn by members, eroding their savings.

In response to Part 1 of the Discussion Paper, we have identified five key opportunities for the government to streamline and modify recent regulatory changes that if implemented would deliver a meaningful reduction in superannuation compliance costs. We believe these changes, while reducing compliance costs, would not negatively impact the protection available to superannuation members.

### **Superannuation funds need a sufficient implementation period to successfully deliver the employer contribution phase of SuperStream**

SuperStream introduces mandatory data and payment standards into the superannuation system. The introduction of the reform package was phased between rollovers (currently being implemented) and contributions as phase two (currently legislated to commence 1 July 2014).

Phase two will apply mandatory data standards to the superannuation contributions made by large and medium sized employers on behalf of their employees. While BTFG supports the intent behind SuperStream, we believe that it is critical that superannuation providers be provided with a sufficient implementation period from the finalisation of mandatory government requirements to effectively implement the changes. As at February 2014 these mandatory requirements were still in a draft format.

Superannuation providers will need to play a critical educational role to support employers of all sizes to transition into the new e-commerce environment. Putting in place educational support services will take time and is contingent on having a clear understanding of the final business and information technology solution that will be implemented. For BTFG, we will need to work with over 23,000 employers to ensure they are aware of the changes and appropriately supported to make the transition.

We believe the government should provide an immediate delay from 1 July 2014 to 1 July 2015 on the commencement of the second phase of SuperStream to ensure funds and employers have sufficient time to efficiently manage such an important reform.

Importantly over the medium term, with the APCA / RBA modernisation of the payment system (scheduled to be completed by 2016); there is a need for SuperStream requirements to be aligned with the mainstream payments system.

In due course, the upgraded payment system will allow employers to pass on rich data with direct credits so superannuation funds can reconcile and allocate members monies (the principal goal of the second phase of SuperStream) on a more efficient and cost effective basis.

**Recommendation:** Delay the commencement of the second phase of SuperStream from 1 July 2014 to 1 July 2015; and ensure the payment system and SuperStream are able to be integrated over the medium term.

## APRA data reporting requirements are in excess to the needs of a prudential regulator

### Background

In September 2012, APRA released a suite of proposed reporting standards for industry consultation. BTFG made a submission which highlighted the significant process and information system changes required by the new reporting standards and recommended a phased implementation approach to give the industry time to action such a significant change.

The final 35 new superannuation reporting standards issued in April 2013 remain substantially unchanged from the consultation paper issued in September 2012. With the exception of a 14 day extension to industry for a MySuper reporting form<sup>1</sup>, we are not aware of any other extensions having been granted.

The increase in both scope and quantity of APRA reporting represents the largest single change to regulatory reporting in the history of superannuation. Some key examples highlighting this increase include:

- Reportable data items will be expanded from 1170 to greater than 4000 data items.
- If implemented as currently proposed, the number of APRA reports per financial year lodged by BTFG will expand from approximately 500 to 5,014<sup>2</sup>.
- Reduction in time to report quarterly information has been reduced from 25 business days to 28 calendar days and annual reporting from 4 months to 3 months. This is a real time reduction of 25%.

### Our view

We believe these reforms do not strike the appropriate balance between the costs of implementing such a substantial reform with the benefit to APRA of holding more granular industry information.

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<sup>1</sup> SRF 702 Investment Performance (MySuper). For the reporting period ended 30 September 2013, most MySuper options had not been launched for retail funds which meant a 'nil' reporting form.

<sup>2</sup> Figure revised down from 6000 reports due to the removal of quarterly reporting for SRF 700 Product Dashboard for MySuper and Choice.

We contend that APRA could still successfully fulfil its supervisory function with a substantially reduced data set together with their considerable prudential supervision powers.

Through BTFG's strong commitment to transparent disclosure and as a part of the wider Westpac Group, BTFG already applies and adheres to rigorous reporting standards. We are confident that through our recommendations detailed below, we can demonstrate that BTFG will continue to meet APRA's objective to protect the interests of members whilst avoiding unnecessary implementation and ongoing compliance costs.

For these reasons, we believe that the APRA data reporting requirements should be reviewed by government with a view to reducing the overall impact on industry and members. A number of approaches to reduce the overall reporting burden are outlined below.

### **Recommendations:**

1. Data Content of Reports – Reporting should only request information needed for prudential supervision
  - The new APRA reporting requirements significantly expand the number of data items BTFG must record on registry systems and report to APRA. We believe that many of the new reports are in excess in terms of what is reasonably required for prudential supervision purposes.
  - APRA has suggested that the new data collection standards will be of significant benefit to all industry stakeholders by providing greater transparency of investments and costs in superannuation. A Regulatory Impact Assessment has not been undertaken so it is difficult to substantiate how an additional 4800 reporting forms will benefit members, while also balancing the considerable reporting burden to achieve this objective.
  - APRA possesses significant powers to supervise RSE Licensees through a robust prudential supervision framework. This is conducted via regular on-site prudential reviews, industry targeted reviews, regular access to Board papers, direct access to board members and senior management.
  - The provision of this data, in addition to the information already provided, has the potential to mire the regulator in data that is not relevant and which may actually diminish its ability to effectively supervise funds.
  - The additional reporting is imposing additional costs on the industry; and we believe it will also increase APRA's operations costs. There has not been a transparency of the increase in these costs to APRA. Given APRA is funded by an industry levy; these costs should be made public so that they are able to be incorporated into a cost/benefit analysis. Members are faced with incurring both super funds increased operating costs and APRA's increased operating costs.
  - In addition, much of the data APRA is requesting is readily available on public websites; especially in light of new Stronger Super website disclosure obligations under s.29QB of the SIS Act.

- For these reasons, we recommend that the government apply a rigorous review of all new APRA reports to ensure that only the data needed for the prudential supervision of the industry is included in the new reporting requirements.
- To assist with this review we have listed reports that we recommend be removed from the reporting obligations in section 4 below.

## 2. Frequency – All reports should be submitted to APRA on an annual basis

- The current reporting requirements require both quarterly and annual reporting of the same information. For example, investment performance is required to be reported on a quarterly, annual and ad hoc basis (e.g. on fund wind-up). It is our strong belief that quarterly reporting of investment returns reinforces a short term focus in superannuation. Most diversified default funds are managed for a minimum investment horizon of 5 years (some much longer).
- Reporting quarterly drives up compliance costs and forces trustees to provide data to APRA that has not had sufficient time to be properly audited in the reduced timeframe of 28 calendar days.
- For these reasons, the usability and integrity of this quarterly information is of very little benefit to members.

## 3. Volume of Reports – Reporting should be targeted to MySuper products only

- We support APRA's desire to provide a greater level of granularity in investment reporting. However, we believe that complex reporting needs to be appropriately targeted to MySuper investment options. The reporting standards cover both choice investment options and non-unitised products such as platforms and wrap like superannuation products. The vast range of these investment types dilutes the comparability between products.
- MySuper investment options are not comparable to platforms and wrap like superannuation products. We therefore recommend that platforms and wrap like superannuation products be excluded from the reporting requirements.
- In addition, although Choice investment options are more aligned with the MySuper regime, they are inherently more complex because of their structure and their heritage nature. Consequently, we recommend that Choice investment products be excluded from the current reporting requirements until such time as there has been a comprehensive and detailed consultation with industry on the impacts to members and funds on the costs of implementing such reforms.

## 4. Revised Reporting Obligations

- In light of our recommendations above to limit reporting obligations to information that is required for prudential supervision, reverting to annual reporting cycles and application to MySuper products only, our analysis has identified the following reports as being superfluous to reporting requirements:

1. SRF 250.0 Acquired insurance
2. SRF 330.1 Statement of Financial Performance (Select Investment Options)
3. SRF 331.0 Services
4. SRF 410.0 Accrued Default Amounts
5. SRF 520.0 Responsible Persons Information
6. SRF 530.0 Investments
7. SRF 530.1 Investments & Investment flows
8. SRF 531.0 Investment flows
9. SRF 532.0 Investment Exposure Concentrations
10. SRF 533.0 Asset allocation
11. SRF 540.0 Fees
12. SRF600.0 Profile and Structure (RSE Licensee)
13. SRF 601.0 Profile & Structure RSE level
14. SRF 610.2 Membership Profile – statistical data
15. SRF 610.0 Membership profile RSE level
16. SRF 610.1 Changes in Membership profile RSE
17. SRF 610.2 Membership profile
18. SRF 700.0 Product Dashboard
19. SRF 702.0 Investment Performance
20. SRF 703.0 Fees Disclosed (MySuper)
21. SRF 710.0 Conditions of release

## **MySuper fee rules have been incorrectly applied to choice products & Managed Investment Schemes (MIS)**

The MySuper legislation extended the MySuper principles designed for default members to choice products, which contradicts the Stronger Super changes announced by the government on 21 September 2011.

Specifically, the government stated in its Stronger Super Information Pack that, “**Trustees will not be limited on the types of fees that can be charged in choice products**”.

Superannuation trustees should not be limited in the way that they design the benefits and fee structures of choice products, given these products are actively chosen by engaged members.

We believe choice members are best placed to determine the value of these services without the need for government intervention. Restricting trustee discretion with respect to designing benefit structures and service offerings will stifle an already competitive market that actively competes to offer choice members with the services that they consider valuable.

We also note that the new fee disclosure requirements do not align with how choice products operate in practice. This may make our revised disclosure misleading and/or confusing to members. For example, the new prescribed fees refer to:

- an investment fee as a fee that is charged by the trustee, however in practice for platforms this fee is charged by the underlying fund manager;
- a buy-sell spread is a fee to recover transaction costs as incurred by the trustee however, in practice, for platforms this cost is incurred by the underlying fund manager and therefore will vary depending on the underlying fund.

Finally, the new fee rules will require disclosure of all fee definitions even where the fee is not one that is charged by the choice product. This is likely to create confusion with members.

**Recommendation:** We recommend that the MySuper legislation be amended to limit the scope of fee provisions to MySuper products only, as per the originally stated government policy.

Specifically, we recommend that the application of the general fee rules in Part 11A of the Superannuation (Supervision) Act should be strictly limited in their application to MySuper products only.

## **Operational Risk Financial Requirement needs to be applied using a principles based approach rather than a prescriptive approach**

### **Background**

The Operational Risk Financial Requirement (ORFR) under superannuation practise standard 114 (SPS 114) states that a registrable superannuation entity (RSE) licensee is required to maintain adequate financial resources to address losses arising from operational risks that may affect the RSE's business operations.



Regardless of the size, risk maturity and the sophistication of companies' existing capital frameworks, APRA has mandated a minimum ORFR target level of 25bps of funds under management (FUM). There has been no guidance issued by APRA that explains how the minimum 25bps was determined or what risk methodology was applied.

The ORFR therefore represents a one size fits all requirement that does not take into account the existence of regulatory capital held within a conglomerate group with a Tier 1 bank or insurer as parent.

**Recommendation:** As an RSE of a Tier 1 bank, BTFG is seeking a review of the mandated minimum level of ORFR on the basis that:

1. ***Tier 1 banks already have rigorous control frameworks and capital models adopted under Basel, validated by APRA, which would appropriately cover the risks faced by an RSE.*** RSE licensees within BTFG (Westpac Group) have determined that a significantly lower level of ORFR capital/reserve holding (between 8-21bps) would be more than appropriate and prudent for the risks associated with the BTFG business.
2. ***APRA has taken a 'one size fits all' approach to the implementation of ORFR, which is inconsistent with the intent of a risk based model (see SPS 114.8).*** SPS 114 states that the calculation of financial resources for operational risk should be aligned to a company's risk management framework, risk appetite and be appropriate for the size business mix and complexity of the RSE.
3. ***Retaining excessive amounts of un-utilised regulatory capital will become a financial burden for providers and a drag on the returns of members, who will be required to incur the net cost of capital.*** Given the quantum of the requirements and the inability to rely on other internal sources of regulatory capital, the cost of establishing ORFR may be passed onto members.

## Summary

BTFG has been in regular dialogue with APRA in seeking greater flexibility with respect to the overly restrictive form of ORFR, as well as the uniform 25bps minimum.

Greater flexibility needs to be provided in recognition that RSEs of banks and insurers are already comprehensively regulated for capital purposes. Additionally, there needs to be recognition of an RSE's expert operational risk modelling capability in order to determine the appropriate quantum of ORFR. We recommend that this is done in consultation with APRA on an RSE by RSE basis, as is the case for banks and insurers.

The current approach excludes these more sophisticated approaches on the basis that the superannuation industry is not well advanced in operational risk modelling. While this may be the case across parts of the industry, it is not an accurate reflection on the position of all RSEs.

Determining that the RSE of a bank is able to adopt the bank risk based models in the calculation of ORFR capital/reserves, rather than the mandated minimum 25bps, is likely to provide significant cost efficiencies to members and reduce the financial burden to members of RSEs holding excessive capital/reserves.

The 25bps requirement could then be used as the default ORFR in the absence of an APRA approved risk-based variation.

## Superannuation Product Rationalisation

The Super System Review's *Final Report*<sup>3</sup> outlined the advantages that product rationalisation provides to members including lower costs (primarily due to achieving economies of scale), improved service standards, and enhanced and new features including online transactions.

Our view is that a broad framework for superannuation product rationalisation needs to be developed in consultation with the industry to ensure that this can occur in a considered and efficient way and in the best interests of superannuation members.

Currently there is no broad policy or framework of measures to support the rationalisation of legacy superannuation products and funds. The measures available predominantly relate to certain tax relief on assets transferred under a fund merger, which involves the transfer of all fund members to another super fund. For example, there is no tax relief on assets transferred where members of a sub-plan or legacy product of the fund are transferred to a different super fund.

Importantly, historically product rationalisation has been primarily achieved through successor fund transfers. The superannuation regulations<sup>4</sup> require the trustees of both the original and successor funds to agree that 'equivalent rights' are provided to the transferring members in the successor fund after transfer. As outlined in the *Final Report*, this requirement results in product complexities and other undesirable features being perpetuated and as a result "legacy products are not rationalised"<sup>5</sup>. The *Final Report* made a recommendation that the successor fund transfer test is one of 'no overall disadvantage' rather than one of 'equivalence'. We support this consideration of this recommendation<sup>6</sup> when developing a policy and framework for superannuation product rationalisation.

**Recommendation:** We recommend that the government work with industry to develop and legislate a comprehensive product rationalisation framework.

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<sup>3</sup> Super System Review, Section 7.1 Legacy products, page 319

<sup>4</sup> Successor fund' is defined under sub-regulation 1.03(1) *Superannuation Industry (Supervision) Regulations 1994*. Members can be transferred as part of a 'successor fund transfer' as per sub-regulation 6.29(1)(c) *Superannuation Industry (Supervision) Regulations 1994*.

<sup>5</sup> Super System Review, page 320

<sup>6</sup> Super System Review, Recommendation 10.9, page 320

## Part 2: Better Governance

With the exception of superannuation, APRA currently requires that all other regulated entities have both an independent chairperson and that the majority of directors are also independent. The Australian Stock Exchange also believes that independence of the majority of directors and the chairperson is best practice in governance.

Good governance provides beneficiaries with greater confidence that board decisions are made in their best interests.

BTFG have strongly advocated for better governance and have adopted a best practice governance model for our superannuation trustee boards three years ago this March.

This change has significantly enhanced the oversight and governance of our superannuation funds and provided a stronger member focus, especially as we have navigated through the recent period of heightened superannuation reforms.

In addition, as members of the Financial Services Council (FSC) we are bound to implement the industry standards they set. This includes the new requirement laid out in FSC Standard No. 20: Superannuation Governance Policy, requiring that superannuation trustees have a majority of independent directors and an independent chair from 1 July 2014.

While the FSC standard will extend best practice to the retail superannuation sector, we think all superannuation fund members deserve superannuation funds which adhere to the highest levels governance standards.

**Recommendation:** Superannuation trustee boards be required to have a majority of independent directors and an independent chairperson. In addition we recommend that the FSC Standard No. 20 be used as a template for establishing a definition of 'independent' within superannuation law.<sup>7</sup>

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<sup>7</sup> FSC Standard No. 20 Superannuation Governance Policy, March 2013  
<http://www.fsc.org.au/downloads/file/FSCStandards/FINALFSCStandardNo20SUPERANNUATIONGOVERNANCE.pdf>

## Part 3A: Enhanced Transparency – Choice Dashboard

### MySuper Dashboard needs comprehensive consumer testing

While BTFG supports the concept of a MySuper product dashboard, we are concerned that the MySuper dashboard has been implemented without adequate consumer testing to ensure that the data and format prescribed adds to consumer awareness and engagement.

From a superannuation provider's perspective, the new MySuper dashboard adds to the existing disclosure framework without at the same time there being a rationalisation of any existing disclosure requirements.

We believe the government should undertake extensive consumer testing on the full suite of disclosure obligations with the aim of more effectively rationalising the suite of mandatory minimum disclosure obligations and ensuring that all communications to members enhance consumer engagement and understanding.

**Recommendation:** Consumer testing of the dashboard should be undertaken to ensure mandatory minimum MySuper disclosure obligations are both appropriate and lead to increased consumer understanding.

### Inclusion of the dashboard in periodic statements

BTFG does not support the inclusion of the MySuper dashboard in periodic (both annual & exit) statements.

Existing periodic statement requirements mandate the superannuation fund provide detailed information specific to a member's investment, such as investment returns, fees and costs incurred during the reporting period, in addition to other information. The MySuper dashboard is calculated using non-member specific (generic) fund information. We believe the presentation of two differently calculated sets of fee and performance information in a single letter, will lead to member confusion and otherwise avoidable complaints by members.

The MySuper dashboard is already available online and its inclusion in member statements is therefore redundant and arguably counter-productive.

**Recommendation:** Remove the Corporations Regulations requirement that the MySuper dashboard be added to any periodic statements.

### Extension of the MySuper dashboard into the choice environment

BTFG does not currently support the extension of the MySuper dashboard concept into choice superannuation products. As outlined above, further work is required to ensure the concept is appropriately targeted and provides meaningful disclosure to members.

Clearly the disclosure and goals of any individual choice product will be different to that of a single balanced fund designed for default members. With these differences in mind BTFG has worked with the FSC to identify how the dashboard concept could be applied to some choice products. We support the FSC's detailed submission on this issue.

The practical implementation of any new compliance obligation should always allow funds sufficient time to ensure it can be implemented efficiently. We believe the original proposed

commencement date of the choice dashboard is no longer feasible due to the number of technical concerns with the MySuper dashboard and the need for comprehensive consumer testing.

On this basis, we seek a deferral to allow time for the concept to be properly developed providing funds with greater certainty in the interim.

**Recommendation:** The choice dashboard concept should not be implemented until comprehensive consumer testing on the MySuper dashboard has been undertaken. To ensure sufficient time to implement any proposed changes we also recommend funds be given a minimum of 12 months to implement any new requirements from the date of completion.

In addition, we recommend that the government use the specific issues as identified by industry in the FSC submission as starting point when developing a future choice dashboard.

### **Scope of choice dashboard (for choice funds other than Platforms/Wraps)**

The implementation of the dashboard concept will have a disproportionately larger financial impact on the members of choice products compared to MySuper product members. This is simply a function of the number of dashboards that need to be produced and maintained for choice funds.

As a result, we believe that it is essential that any future choice dashboard requirements be subject to a materiality test to ensure that the costs of producing and maintaining a dashboard are appropriately balanced.

BTFG advocates the introduction of a materiality threshold, to be applied at an investment option level, whereby only investment options that represent over 5% of the overall assets in the fund are required to have a dashboard.

We believe a materiality threshold better balances the costs and benefits of producing a dashboard in circumstances where the costs of producing multiple dashboards are borne by all members of the fund. As previously outlined, the information contained in the dashboard is already required to be disclosed within the PDS and hence there is no diminution of consumer protection in respect of investment options which do not have a dashboard.

**Recommendation:** Should choice dashboards be introduced, a materiality threshold should be applied to ensure it is only investment options with over 5% of the assets of the fund that are subject to dashboard.

### **Exclusion of Platforms/Wraps from choice product dashboard**

Platforms already provide sophisticated customised reporting for their members. In addition members also have access to detailed generic information on all managed funds offered via the superannuation platform. We have attached an example of a managed fund profile in appendix 1.

These types of funds are specifically designed to give members a wide selection of investment options and assets in which to invest. In the original drafting of the dashboard requirements (explanatory memorandum to the third Stronger Super Bill) there appears to be a carve-out for superannuation wrap/platform products from the dashboard requirements as follows:

“the assets of the fund invested under that investment option are only invested in another single asset, such as individual financial products offered on a platform. [Schedule 3, item 8, subsection 1017BA(4)]”

However, the legislation itself is ambiguous in regard to the scope of this exclusion.

**Recommendation:** The Corporations Act should be clarified to explicitly exclude products offered via superannuation platforms/ from the product dashboard requirements, section 1017BA(4)(c) Corporations Act 2001.

## Part 3B: Enhanced Transparency – Portfolio Holding Disclosure

The regulation of portfolio holding disclosure as a result of the Cooper Review has been fraught with difficulties. To a large extent these difficulties have been due to the inherent complexity in trying to prescribe into law concepts that vary across differing organisational structures that provide superannuation.

To ensure the model developed provides members with meaningful information while keeping regulatory costs to a minimum, we recommend that the government develop a self regulating model. This would involve developing a principles based requirement within superannuation law that allows for industry representative organisations to come up with the exact framework for the disclosure.

**Recommendation:** Treasury to work with industry associations such as the FSC, to develop a principles based model that prevents highly detailed and technical regulations from being prescribed into law. A minimum of 12 months to implementation period should be provided from the date of the model's finalisation.

## Part 4: Enhancing Competition in the Default Superannuation Market

BTFG has long held the view that the current and historical process of nominating default funds in Modern Awards lacks transparency and is anti-competitive. We believe allowing employers to select any MySuper default fund will enhance competition in the superannuation market.

We believe the introduction of MySuper renders a separate process through the FairWork Commission (FWC) for the selection of default funds in Modern Awards redundant. The current process contains serious flaws which will result in an unlevel playing field across the industry as well as the imposition of unnecessary costs on superannuation funds, employers and ultimately members.

The FWC system will also give rise to significant disruption across employers and employees whenever their existing providers are prevented from continuing to act as their default fund on the basis of determinations made by the FairWork Commission – irrespective of the preferences of individual employers.

Thousands of employers' superannuation arrangements are likely to be disrupted as a result of the limited number of funds which can be listed as a default fund on individual awards and the removal of grandfathering provisions that were designed to minimise disruption to both employers and their employees.

The size of the disruption will only be known once the final list of funds has been determined, but could impact billions of dollars of superannuation contributions. According to the Productivity Commission, around \$6 billion, and potentially more than \$9 billion, in superannuation contributions were made to default funds in awards in 2010.<sup>8</sup> If BTFG is unable to be listed in Modern Awards because of the FWC process, up to 23,000 employers would need to select a new superannuation fund for their ongoing contribution after 1 January 2015.

BTFG therefore believes that it is no longer desirable for the industrial relations system to dictate default superannuation arrangements. The existence of MySuper, enhanced public reporting by APRA and a highly competitive market for default superannuation will ensure that employers are able to select an appropriate default fund provider.

**Recommendation:** The FairWork Commission should no longer play a role in the selection of default funds under Modern Awards. The government should replace the current process with an open market for default superannuation by allowing an employer to select from any APRA authorised MySuper product.

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<sup>8</sup> Productivity Commission, Default Superannuation Funds in Modern Awards  
[http://www.pc.gov.au/\\_data/assets/pdf\\_file/0011/119981/default-super.pdf](http://www.pc.gov.au/_data/assets/pdf_file/0011/119981/default-super.pdf)



## The current process lacks transparency and contestability, while increasing red-tape

Stage one of the FWC process covers all awards and therefore a broad cross section of the Australian population. Inclusion of the MySuper product must be in the best interests of default fund employees or a particular class of them.

It is difficult to reconcile this assessment against APRA's MySuper authorisation process. APRA has completed a robust licensing process for 116 funds (as at February 2014) to ensure that their MySuper offerings are suitable for any default members.

In addition to this rigorous authorisation process, which follows the issuance of a Registrable Superannuation Entity license, the current process effectively requires FWC to establish and oversee a duplicate process, with far less resources and without the relevant skills or experience.

In our view the Stage one process is an unnecessary and inappropriate duplication of the MySuper authorisation process. We do not believe the required process will be able to produce a reduced number of MySuper products without calling into question the MySuper authorisation process performed by APRA.

Stage two of the FWC process requires an employer or employee (or more likely, an organisation entitled to represent them, such as a union) to apply for a MySuper product to be included in each individual award. These applications will be heard by the full bench of the FWC which involves appearing in court before the bench.

This process fundamentally disadvantages MySuper providers who do not have affiliations (either through directorships or their ownership) with unions and employer representative groups who benefit significantly from having standing before FWC.

We believe the only way that MySuper products offered by BTFG would be able to participate in this process on a like basis would be through employers, for whom we provide default fund services, to appear before the FWC on our behalf for each modern award we seek to contest.

In our experience, it is highly unlikely that individual employers would be willing to dedicate the time and financial resources necessary to appear before the full bench of the FWC. These employers have historically also been reluctant to instigate an industrial dispute with the relevant union which is likely to be supporting the application of a related superannuation fund.

On balance, our assessment is the current model will continue to deliver a strong bias towards the nomination of superannuation funds in Modern Awards, which by affiliation, have pre-existing standing with the FWC.

**Recommendation:** The conflicts of interest and unlevel playing field evident in the current model be addressed by allowing any MySuper product to be selected as the default fund for any employer.

## **The Productivity Commission model was developed without visibility of how the MySuper market would develop**

The Productivity Commission submitted its final report to government on 5 October 2012. At this time, superannuation providers were still preparing to lodge their MySuper authorisation applications.

We believe the timing of the review resulted in the Productivity Commission being unable to assess a critical factor in reaching its conclusions – the actual number of MySuper products that would eventually be authorised and the robustness of APRA’s authorisation process.

It is clear Productivity Commission was concerned about employers having to choose from potentially hundreds of MySuper products in the market. This is despite the fact that non-award employers have been required to select a default fund from a much larger selection of funds since the introduction of the Superannuation Guarantee.

As at the beginning of February 2014, there were only 104 generic MySuper products approved by APRA. Clearly these concerns have not materialised. We believe this significantly reduced number of MySuper products strongly supports the case for opening the market for default fund selection.

Whether the market is open, or limited (as under the current framework), employers will still be required to make a default fund selection. APRA has indicated that it will be providing extensive public reporting on the performance and other relevant characteristics of MySuper products in order to support an informed market.

BTFG believes that employers will be able to make full use of this information to make a default fund selection without the need to artificially cull the number of funds via a FWC process.

Importantly, employers will be selecting from a list of superannuation providers who APRA has determined comply with the highest available superannuation regulatory standards – being those which apply to MySuper products.

## **We do not support the view that APRA would license a MySuper product they do not believe is of a high quality**

The discussion paper raises the option of applying some form of “quality filter” to produce an advisory or preferred list.

While BTFG strongly supports transparent reporting of MySuper product performance and other relevant characteristics, we do not believe a process to produce an advisory list should be implemented.

Any such process will invariably introduce additional costs, require ongoing review and potentially have implications for employers who decide to select a MySuper product which is not on the list.

Additionally, any process which seeks to reduce the number of available MySuper products will necessarily be second guessing APRA’s authorisation process.

Having received our MySuper authorisation from APRA, we can attest to not only the rigour and thoroughness of the APRA authorisation process, but also to the amount of detail and internal

expense required to qualify as a MySuper provider. Given this experience, we do not believe APRA would approve a MySuper product it did not consider to be of high quality.

**Recommendation:** We do not support the government creating a new process, in addition to the APRA MySuper authorisation requirements, with the goal of producing an advisory list of “high quality funds”.

# Appendix 1 – Managed Fund Profile

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See attached PDF appendix 1, for an example of the generic managed fund profile provided to members of BTFG's superannuation platforms.

**General Fund Information**

Fund Type  
APIR Code  
Commencement Date  
Fund Status  
Distribution Frequency

Investment Trusts  
FSF0002AU  
22/12/1993  
Open  
Quarterly

**Latest Summary**

Entry Price as at 07/02/2014 \$2.0164  
Exit Price as at 07/02/2014 \$2.0083  
Fund Size as at 31/12/2013 \$268.7M  
ICR as at 11/06/2013 0.97%

**Fund Objective**

To provide long-term capital growth with some income by investing predominantly in a broad selection of Australian companies. The option aims to outperform the S&P/ASX 200 Accumulation Index over rolling three year periods before fees and taxes.

**Manager Analysis**

The fund's strategy is based on the belief that, over the medium-to-long term, stock prices are driven by the ability of management to generate excess returns over their cost of capital in their chosen industry. The strategy of the fund is to generally invest in high quality companies with strong balance sheets and earnings. The fund predominantly invests in Australian companies and therefore does not hedge currency risk.

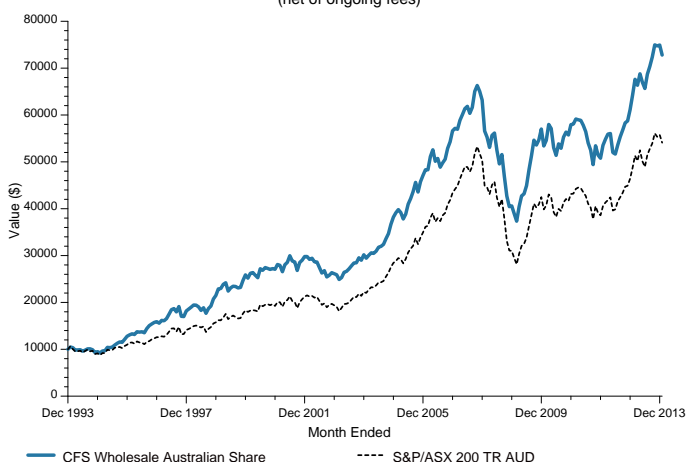
**Quarterly Performance Comment -**

No quarterly comment available for this product.

**Performance**

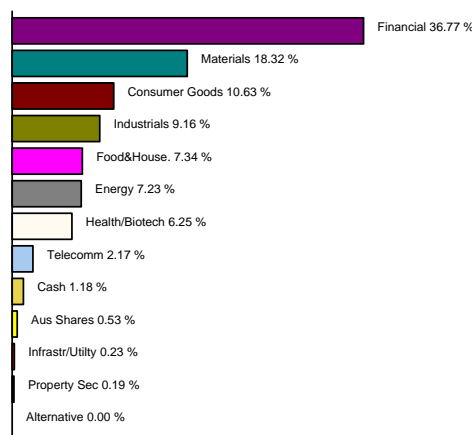
**Growth of \$10,000 Invested**

(net of ongoing fees)



**Asset Allocation**

**Asset Allocation as at 31/01/2014**



**Performance as at 31/01/2014 (% , net of ongoing fees)\***

	3 mth	1 yr	3 yrs	5 yrs
Income Return	-	3.73	3.29	3.36
Growth Return	-	9.62	4.54	9.97
Total Return	-2.89	13.35	7.83	13.33
S&P/ASX 200 TR AUD	-3.54	11.06	7.77	12.90

\* Returns greater than 1 year are annualised

**Strategic Asset Allocation**

(as at Not Available) **Ranges Neutral \***  
Strategic Asset Allocation unavailable

\* Neutral is the SAA supplied by the manager; If not, a mid-point of the range or average allocation has been used.

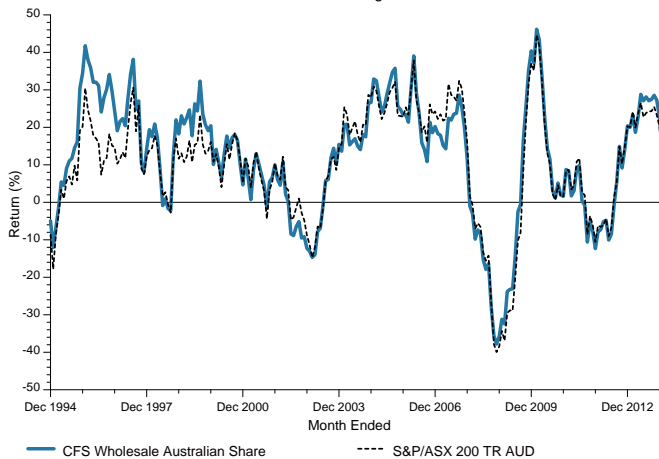
**Performance Comment**

The fund returned 13.35% in the year to 31/01/2014, outperforming the benchmark S&P/ASX 200 TR AUD, which returned 11.06%.

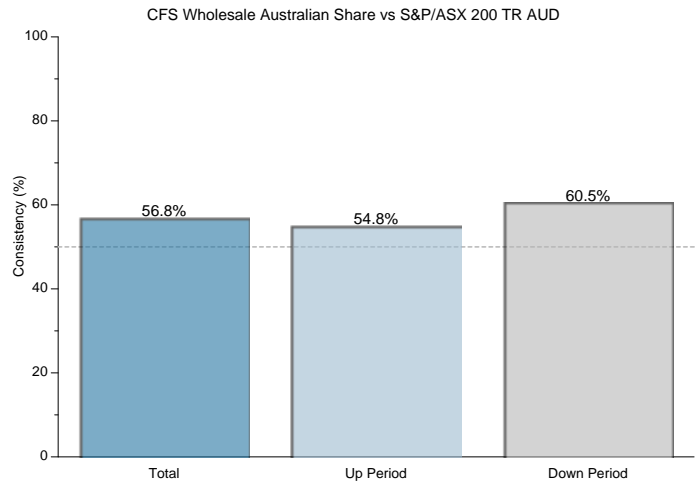
**Distribution (year ended 30/06)**

	2013	2012	2011	2010
Distributed CPU	5.75	4.79	4.79	4.84
Tax Preferred CPU	-	-	-	-
Tax Preferred %	-	-	-	-

**Rolling Returns**  
12 Month Rolling Period



**Consistency of Monthly Returns from Jan-1994 to Jan-2014**



**Twelve Month Rolling Returns**

Shows the 12 month returns of the fund compared to a benchmark over time. If the fund line is above the benchmark line, the fund has outperformed the benchmark over that 12 month period.

**Consistency**

Measures how often, by month, the fund outperforms the benchmark return. Up Period Consistency shows outperformance when the market is rising. Down Period Consistency shows outperformance when the market is falling. Defensive strategies tend to have higher Down Period consistency than Up Period Consistency.

## Financial Services Guide

Updated: 28 May 2013

This Financial Services Guide (FSG) is an important document which we are required to give you as an Australian Financial Services licensee. The FSG is to assist you in determining whether to use the financial services and products provided by van Eyk Research Pty Ltd ABN 99 010 664 632 (**van Eyk**), corporate authorised representative of van Eyk Financial Group Pty Ltd ABN 28 149 679 078, AFSL 402146 (authorised representative number 408625).

van Eyk has prepared and issued this FSG. The matters covered by this FSG include:

- Who we are and how we can be contacted;
- What research and services we are authorised to provide you;
- How we are remunerated;
- Details of our conflicts of interest management policy and disclosure; and
- Details of our internal and external dispute resolution procedures and how you can access them.

### You can contact us by:

Street & Mailing Address: Level 10, 9 Castlereagh Street, Sydney NSW 2000  
Telephone: 61 2 9225 6000 / Fax: 61 2 9225 6029

Email: support@vaneyk.com.au  
Website: www.vaneyk.com.au

### Our financial services

van Eyk's business is primarily that of providing research (e.g. general product advice) and ratings about a broad range of financial products. Our research is usually provided to retail clients through a third party financial adviser by means of written reports or our online research platforms such as "iRate".

van Eyk is authorised to provide the following financial services to wholesale and retail clients:

- (a) provide personal and general financial product advice about a broad range of financial products: securities (e.g. shares and non-government debentures); deposit products (e.g. bank accounts); derivatives (e.g. swaps); foreign exchange contracts; government debentures, stocks and bonds; managed investment schemes, including investor directed portfolio services (e.g. managed funds, 'wrap' accounts); retirement savings accounts; superannuation products;
- (b) provide miscellaneous financial investment products; and
- (c) deal in each of the financial products referred to above, on behalf of another person.

van Eyk Financial Group Pty Ltd has appointed Three Pillars Portfolio Managers Pty Ltd ABN 65 116 010 649 (**Three Pillars**) as its authorised representative (representative number 301271) to provide some of the financial services van Eyk is authorised to provide on van Eyk's behalf. Refer to Three Pillars' FSG.

### About general financial advice

Any advice we give you will be general in nature and will have been prepared without taking into account your objectives, financial situation and needs. You should consult a financial adviser if you would like advice that is appropriate to your objectives, financial situation and needs. When making an investment decision in relation to a financial product you should first refer to the disclosure document (e.g. prospectus) (if any) for that product.

### Payments to van Eyk

van Eyk does not receive remuneration from the issuers of financial products for undertaking research on the issuer's financial products. van Eyk bears the cost of undertaking this research.

van Eyk generates its income from other means such as:

1. the subscription fees payable by financial advisers who subscribe to iRate (our online research platform); and
2. fees for specific consulting services to wholesale investors such as an advisory group or a product provider.

You may request further information regarding van Eyk's remuneration before you are provided with the financial services.

### Staff remuneration, commissions and other benefits

van Eyk has established a remuneration structure for its staff that aims to minimise personal conflicts of interest. Our research staff are generally paid a salary and may be entitled to receive bonuses that are based on factors such as the quality and consistency of their research, as well as timeliness of delivery of their services. The remuneration of our research staff is not directly connected to the performance of other business units within the van Eyk group.

Non-research employees may be paid commissions for the sale of van Eyk's products (e.g. such as iRate subscriptions) or services.

van Eyk has established an employee share option plan for a number of key staff, that is not performance based but aims to retain key staff within the company.

### Relationships with product issuers

van Eyk may provide product issuers with research and other related services concerning fund manager selection, portfolio construction and management or asset allocation. Any relationship that van Eyk has with such product issuers will generally be disclosed in the product issuers' disclosure documents and kept separate from our research departments.

### van Eyk Ownership

van Eyk is an unlisted Australian company owned by a small group of shareholders. The largest shareholder groups are the ASX listed Australasian Wealth Investments Limited (AWI) and Directors and employees, including Mark Thomas (CEO) related entities. AWI is not involved in the day-to-day management of van Eyk but it has other business interests which complement and are aligned to the van Eyk business. The research functions of van Eyk are segregated from other parts of the van Eyk business.

### Conflicts of interest

van Eyk takes seriously the management of conflicts of interest relating to its business. van Eyk has established arrangements aimed at minimising such conflicts of interest and ensuring the utmost integrity of its research. More information about these arrangements can be obtained on request from van Eyk.

### Privacy

The privacy of your personal information is important to us. Any personal information we collect will be handled in accordance with our Privacy Policy. Our Privacy Policy details how we comply with the requirements of the Privacy Act in the handling of your personal information. A copy of that policy can be obtained by visiting our website.

### Compensation Arrangements

van Eyk holds a Professional Indemnity Insurance Policy, which satisfies the requirements for compensation arrangements under section 912B of the Corporations Act. Subject to its Terms and Conditions, the Policy provides cover for civil liability resulting from third party claims concerning the professional services provided by van Eyk and its employees and representatives. This Policy covers professional services provided by employees and representatives of van Eyk while they are in our employ, even where that employee or representative has subsequently left our employ.

### Complaints handling

van Eyk is committed to: providing a high standard of client service, maintaining our reputation for credibility and accountability and maintaining a strong corporate governance structure.

If our research or services fail to meet your expectations we would like you to inform us of your concerns. Should you wish to lodge a complaint please contact us using the contact details listed above.

In the event that the outcome of your complaint is not satisfactory to you, you may request that the matter be referred to the Financial Ombudsman Service (FOS). You may request further information about the complaints scheme at any time. FOS may be contacted at any time. Their details are: Financial Ombudsman Service, GPO Box 3, Melbourne VIC 3001 ; Telephone: 1300 78 08 08 ; Fax Number: (03) 9613 6399 ; Website: www.fos.org.au ; Email: info@fos.org.au

van Eyk Research Pty Ltd, ABN 99 010 664 632, corporate authorised representative of van Eyk Financial Group Pty Ltd ABN 28 149 679 078, AFSL 402146 (authorised representative number 408625)