TAXATION

JobKeeper disclosure by listed entities: ASIC

ASIC has issued a notice and guidance to help listed entities comply with their new obligation to disclose to the market information about JobKeeper payments.

Parliamentary report into ATO administration

House of Reps Standing Committee on Tax and Revenue has released a report on ATO administration with wide-ranging recommendations.

ATO transformation program

In a recent address, Tax Commissioner Jordan provided an update on the ATO's transformation program.

No 7 Bill before Senate

Bill to remove the $250 threshold for self-education expenses and other changes has been passed by the House of Reps.

Senate committee recommends CGT changes to crypto

Senate Select Committee has recommended changes to the rules around CGT for cryptocurrency and digital assets.

Senate committee report: tax changes mooted on bond market

Senate Standing Committee on Tax and revenue has released a report which recommends lowering the minimum investment parcel for corporate bonds.

WFH deductions: shortcut method

ATO has once again extended the application of the shortcut method to claim work from home deductions from 30 June 2021 to 30 June 2022.

GST analytical tool

ATO has published examples as to how its GST Analytical Tool (GAT) will be used in the Tax Assurance Report for various taxpayers.

Decision Impact Statement: property development and GST

ATO has issued a Decision Impact Statement on a case which involved GST amounts and property development.

FINANCIAL SERVICES

Better Financial Advice Bill receives Assent

Bill to implement recommendations of the Banking Royal Commission and the Tax Practitioners Board (TPB) review has received Royal Assent.

Financial Accountability Regime Bill introduced

Bill to implement the financial accountability regime and compensation scheme of last resort has been introduced in the House of Reps.

Financial advice white paper calls for reform

Financial Services Council has released a white paper on financial advice calling for reforms to reduce the cost of financial advice and unnecessary regulation.

AFCA appointments of new Senior Ombudsmen

AFCA has created the new role of Senior Ombudsman and announced seven appointments in various areas.

APRA remuneration prudential standard finalised

APRA has finalised its guidance to assist banks, insurers and super licensees to comply with the new remuneration prudential standard.

SUPERANNUATION

Super and other measures Bill introduced

Bill to make various changes to super including the work test, super guarantee threshold, and first home saver scheme has been introduced in the House of Reps.

Super guarantee and stapled funds: ATO

ATO has registered two instruments in relation to the single default account regime and additional choice of super fund requirements.

Super choice of fund: ASIC guidance

ASIC has released guidance for employers and trustees in relation to law reform impacting the super choice of fund regime.

Super choice sector: APRA information paper

APRA has published an information paper on the performance of choice super products which highlighted underperformance in the sector.

Super fund governance: APRA review findings

APRA has published an information paper on the findings from its recent super fund reviews highlighting how trustees can improve their governance.

ASIC identifies conflicts with super fund executives

ASIC has raised concerns about potential conflicts of interest involving personal investment switching by directors and senior executives of super trustees.

Super fund outcomes assessments: APRA guidance

APRA has published new guidance for super funds on the outcomes assessment requirements under the SIS Act.

Insurance within super: APRA guidance

APRA has updated its FAQs on members not required to elect insurance within super and the continuation of that insurance.

Sustainability challenges for super industry: APRA speech

In a recent speech, APRA Executive Board Member has outlined issues and challenges for APRA-regulated super funds.

REGULATOR NEWS

ATO 2020-21 annual report released

ATO has released its 2020-21 annual report including information on net tax collections, JobKeeper overpayments, and the tax gap.

TPB 2020-21 annual report released

TPB has released its 2020-21 annual report highlighting some of its communication successes.

Board of Taxation part-time members appointed

Government has announced the appointment of two part-time members for a three-year period.

TAXATION

JobKeeper disclosure by listed entities: ASIC

ASIC has issued a notice and guidance to help listed entities comply with their new obligation to disclose to the market information about JobKeeper payments. ASIC information sheet (INFO 263) answers frequently asked questions about a listed entity's obligation to disclose information about JobKeeper payments to comply with s 323DB of the Corporations Act 2001.

ASIC has also created a JobKeeper notice to help listed entities comply with their obligations. The JobKeeper disclosure obligations commenced on 14 September 2021, requiring all listed entities that received JobKeeper payments to give a notice to the relevant market operator.

Listed entities that have lodged their annual financial reports for the relevant financial year with ASIC on or before 14 September 2021 will have until 13 November 2021 to notify the market. Listed entities that lodge their annual financial reports after 14 September 2021 will have 60 days from the date their annual financial report was lodged with ASIC to notify the market. All listed entities must ensure information that is disclosed about JobKeeper payments is up-to-date and accurate.

Parliamentary report into ATO administration

The House of Representatives Standing Committee on Tax and Revenue has released a report entitled 2018-19 Commissioner of Taxation Annual Report. The terms of reference were that the Committee was to inquire into and report on the ATO's 2018-19 Annual Report – however, the report's recommendations are focused on the administration of the tax system more broadly.

The Committee makes 19 recommendations, including the following.

- Upgrading the Inspector General of Taxation to an office based on the "Taxpayer Advocate" as developed in the USA.
- Legislative amendments to provide taxpayers with protections when dealing with debts – specifically, to ensure that a debt is not payable until a final determination is made by a relevant dispute body or court.

- Reducing the statutory timeframe for cases involving fraud or evasion to 10 years after the issue of an assessment by the ATO (ie in s 170 of the ITAA 1936).
- Legislation to be introduced to shift the onus of proof to the ATO in relation to allegations of fraud or evasion after a certain period has elapsed.
- The ATO should develop an Australian Taxpayers' Bill of Rights that clearly outlines taxpayers' rights and obligations.

ATO transformation program

In a recent address, Commissioner Jordan provided an update on the ATO's transformation program.

The Commissioner said the ATO has learnt that the best way to help in response to COVID-19 is to work with tax practitioners to tailor a solution to suit their needs and those of their clients, whether that is a deferral for a small number of clients, or more tailored support for long-term difficulties. The ATO couldn't just put in place blanket deferrals for all the taxpayers living in a specific postcode or a specific industry, Mr Jordan said.

Despite the challenges of the last 18 months, Mr Jordan said the ATO has remained committed to its transformation to 2024 and has sharpened its strategic initiatives. At the core of the ATO's transformation is a vision of making it easier, cheaper, and safer for the tax profession, businesses and individuals to interact on a whole-of-government basis. Central to this is the Australian Business Registry Services (ABRS) which will bring together more than 30 government business registers through the Modernising Business Registers program.

Mr Jordan said the new director identification number (director ID) will be the first service offered by the ABRS, available in public beta from next month. The next step will be "Strong myGovID" which will incorporate liveness detection and face verification technology to strengthen myGovID. It will also enable real-time, online TFN applications. In conclusion, Mr Jordan said the "next few years are going to be big" with improvements planned for the lodgment deferrals process and managing tax disputes, and a new website in 2022-23.

No 7 Bill before Senate

The Treasury Laws Amendment (2021 Measures No 7) Bill 2021 has been passed by the House of Representatives unamended and is now before the Senate. The Bill seeks to:

- include a requirement for electronic distribution platform operators to provide information to the ATO about transactions made through their platform (in Sch 1);
- remove the $250 threshold for self-education expenses in s 82A of ITAA 1936 from 2022-23; and
- make transitional amendments associated with the Australian Financial Complaints Authority (AFCA) replacing the Superannuation Complaints Tribunal (SCT) and the repeal of the Superannuation (Resolution of Complaints) Act 1993.

It was first referred to a Senate Economics Committee, which handed down its report on 14 October 2021. The report recommended that the Bill be passed without amendment, although the dissenting views were that the Sch 1 measures did not go far enough.

Senate committee recommends CGT changes to crypto

The Senate Select Committee on Australia as a Technology and Financial Centre has delivered its third and final report.

The Committee took evidence from businesses, industry groups, academics and regulators in relation to the regulation of digital assets in Australia, "de-banking" practices affecting Australian FinTechs and other businesses, and several other issues relating to Australia's position as a technology and financial centre.

The report makes 12 recommendations across these areas which, in particular, will provide what the executive summary claims is a "clear regulatory framework for the digital assets sector in Australia".

Relevantly for tax practitioners, the report states that taxation rules for digital assets require "further clarification". In particular, the rules around CGT for cryptocurrency and digital assets need to be updated to ensure that new types of technology structures are appropriately accounted for, and digital asset transactions only create a CGT event when they genuinely result in a clearly definable capital gain or loss.

Senate committee report: tax changes mooted on bond market

The Senate Standing Committee on Tax and Revenue has delivered a report entitled The Development of the Australian Corporate Bond Market: A Way Forward.

Among other things, the report examined the tax treatment of corporate bonds for both issuers and investors, to determine whether there are any impediments in the tax system to the issue of corporate bonds compared to other forms of debt financing for business. It also examined the role of investment by superannuation institutions and retirees in retail corporate bonds.

Three of the 12 recommendations were tax-targeted.

- The Government should investigate the impact of increasing tax incentives to support the development of the corporate bond market to create alternative sources of funding and increase opportunities for investors to diversify their investment portfolios.
- The Government should further engage with mature and sophisticated international capital markets to determine how Australia could adjust its taxation system to further enhance domestic and international investment through the growth of the corporate bond market.
- The Government should investigate options to remove barriers inhibiting the investment of superannuation in the Australian corporate bond market.

The Committee's related media release states that the report recommended lowering the minimum investment parcel to $1,000 for corporate bonds "to improve accessibility to more investors".

WFH deductions: shortcut method

Once again the ATO has extended - this time from 30 June 2021 to 30 June 2022 - the application of the "shortcut" rate set out in Practical Compliance Guideline PCG 2020/3 for claiming work-from-home running expenses.

The latest extension means eligible taxpayers can claim additional running expenses incurred between 1 March 2020 and 30 June 2022 at the rate of $0.80 per work hour, provided records are kept of the number of hours worked from home.

Taxpayers eligible to use the shortcut rate are employees and business owners who work from home to fulfil their employment duties or run their business during the relevant income year and, as a result, incur additional running expenses that are deductible under s 8-1 or Div 40 of the ITAA 1997.

GST analytical tool

The ATO has published examples as to how its GST Analytical Tool (GAT) will be used in the Tax Assurance Report (TAR) for a Top 100 taxpayer and a Top 1000 taxpayer. The examples provide an overview of how the ATO looks at the taxpayer's BAS and accounting summary to make conclusions and the next course of action, if necessary.

A GAT FAQ is also provided which addresses queries raised in the GAT external consultation process. The document provides context to the GAT's application in Tax Assurance Reports in terms of the process surrounding rating adjustments and the overall calculation, the objective evidence accepted, and how the ATO assesses tolerance levels for variances found. It also covers how the ATO intends to work with taxpayers in calculating the GAT by reference to their different accounting systems, business models and operating circumstances.

The ATO also issued a helpful guide for taxpayers who may be contemplating engaging the services of a third-party advisor to undertake independent data testing with respect to a notified ATO Top 100 or Top 1000 GST assurance review. The guide provides practical guidance on the ATO's expectations and the conditions that must be met for a taxpayer's third-party advisor to undertake the independent data testing that can be relied upon in a GST assurance review.

Decision Impact Statement: property development and GST

The ATO has issued a Decision Impact Statement on WYPF and FCT [2021] AATA 3050.

The ATO was successful in the first issue dealt with in the case. The AAT agreed that what was termed "Builder's Works" by an ACT property developer was not non-monetary consideration for the purposes of the margin scheme cost base (ie for the purposes of Div 75 of the GST Act). The DIS sees this aspect of the decision as correct.

The taxpayer had success in the second issue. The AAT agreed that it had not passed on the GST referrable to what was termed the "Preparatory Works" to the purchasers of the apartments (ie that it had paid the GST itself). This meant that the ATO could not rule it ineligible for a refund under Div 142 of the GST Act. The AAT concluded that this was one of the "rare instances" in which a taxpayer had indeed paid excess GST that it did not pass on to the recipients of its supplies.

The DIS accepts this aspect of the decision, but focusses on the "particular circumstances" of the "rare instance" – the DIS does not endorse the decision as having a wider impact.

FINANCIAL SERVICES

Better Financial Advice Bill passes, awaits assent

The Financial Sector Reform (Hayne Royal Commission Response - Better Advice) Bill 2021 has received Royal Assent as Act No 115 of 2021. The Bill implements recommendations of the Banking Royal Commission and the Tax Practitioners Board (TPB) review.

The Bill establishes the framework for the Financial Services and Credit Panel (FSCP) within ASIC to become the single disciplinary body for financial advisers from 1 January 2022. The FSCP will be chaired and assisted by ASIC, and made up of members of industry appointed by the Minister.

The legislation also introduces new registration requirements for financial advisers. As recommended by the TPB review, the legislation removes duplication for financial advisers who provide tax (financial) advice so that they will no longer be regulated by the TPB, but instead regulated only under the Corporations Act 2001.

The legislation will also wind up the Financial Adviser Standards and Ethics Authority (FASEA) and transfer the education and training standards functions to the Minister and ASIC. The Government will use its legislative power to extend the cut-off date to pass the exam to 30 September 2022 for existing financial advisers who have attempted the exam twice prior to 1 January 2022, said the Minister for Superannuation and Financial Services, Senator Jane Hume.

Financial Accountability Regime Bill introduced

The Government has introduced the following package of financial services reform Bills in the House of Reps:

- Financial Accountability Regime Bill 2021
- Financial Sector Reform (Hayne Royal Commission Response No 3) Bill 2021
- Financial Services Compensation Scheme of Last Resort Levy Bill 2021
- Financial Services Compensation Scheme of Last Resort Levy (Collection) Bill 2021

Financial Accountability Regime

The FAR Bill will extend the Banking Executive Accountability Regime (BEAR) to all APRA-regulated entities and will be jointly administered by APRA and ASIC. The FAR will imposes four core sets of obligations on "accountable entities" and "accountable persons" (eg directors and senior executives), including a requirement to defer at least 40% of variable remuneration for a minimum of four years.

Date of effect: The FAR Bill will commence the day after assent and first apply to the banking sector from the later of 1 July 2022 or six months after assent. For the insurance and super sectors, the FAR will apply from 1 July 2023 or 18 months after assent.

Compensation Scheme of Last Resort

The Bills also establish the framework for a Compensation Scheme of Last Resort (CSLR) which will which facilitate the payment of up to $150,000 in compensation for eligible consumers who have received a relevant determination from the Australian Financial Complaints Authority (AFCA) which remains unpaid.

Date of effect: The establishment of the CSLR and the levy will commence on 1 January 2022 or the day after assent. The Government will fund the scheme costs in the first year to enable the CSLR to start paying claims from 1 July 2022. Going forward, the scheme will be industry funded through a levy on financial service and credit licensees.

The Treasurer said these Bill represent the final tranche of legislation to implement a further six recommendations of the Banking Royal Commission. To ensure that the

CSLR truly operates as a scheme of last resort, the Government will also consult on proposals to enhance the effectiveness of professional indemnity insurance in responding to compensation claims.

Financial advice white paper calls for reform

The Financial Services Council (FSC) has released a White Paper on Financial Advice calling for reforms to reduce the cost of financial advice and unnecessary regulation. FSC CEO, Sally Loane, said current regulations prescribe compliance obligations at every step of the financial advice process, and are past their use-by date.

The FSC white paper recommends raising the threshold for "retail clients" to those with assets of less than $5m (up from $2.5m); abolishing the safe harbour steps for the best interests duty; and introducing a simpler "Letter of Advice" instead of complex Statements of Advice (SoAs). The FSC commissioned KPMG to conduct a review of the white paper which found that the key recommendations would reduce the cost of providing financial advice per client from $5,335 to $3,466, and save financial advisers up to 32% of time when providing advice to clients.

AFCA appointments of new Senior Ombudsmen

The Australian Financial Complaints Authority (AFCA) has created the new role of Senior Ombudsman, and announced seven appointments in the areas of banking and finance, insurance, investments and advice, and superannuation. The new Ombudsman (all internal promotions) are Anne Maree Howley, Chris Liamos, Louise McAuliffe, Shail Singh, Neva Skilton, Brenda Staggs and Andrew Weinmann. The Senior Ombudsmen will be part of the leadership team in AFCA's Decision Makers group, which totals more than 80 ombudsmen and adjudication panel members.

APRA remuneration prudential standard finalised

APRA has finalised its [Prudential Practice Guide CPG 511 (Remuneration)] to assist banks, insurers and superannuation licensees to comply with the new remuneration prudential standard (CPS 511). The final guidance sets out additional examples of better practice, such as for applying material weight to non-financial performance measures. Under CPS 511, variable remuneration is subject to deferral requirements.

Date of effect: 1 January 2023 on a staggered basis, starting with large banks. It will apply to RSE licensees from 1 July 2023.

SUPERANNUATION

Super and other measures Bill introduced

The Treasury Laws Amendment (Enhancing Superannuation Outcomes For Australians and Helping Australian Businesses Invest) Bill 2021 has been introduced in the House of Reps and proposes to implement the following previously-announced Budget measures:

- Temporary full expensing extension to 30 June 2023 - the Income Tax (Transitional Provisions) Act 1997 will be amended to implement the 2021-22 Budget measure to extend the temporary full expensing (TFE) of depreciating assets by 12 months to 30 June 2023. Date of effect: applicable to depreciating assets that are first held, and first used or installed ready for use for a taxable purpose at or after the 2020 Budget time (ie 7:30 pm 6 October 2020).
- Super contribution deduction work test - individuals aged 67-75 will only be able to claim a deduction for personal super contributions if they meet the work test in proposed s 290-165(1A) of the ITAA 1997 for the income year in which the contribution is made. The amendments will effectively relocate the existing super contributions work test from the SIS Regulations to the ITAA 1997. The cut-off age will also be increased from 67 to 75 for accessing the non-concessional contributions bring forward rule. However, the bring forward amendment is not intended to enable individuals 67-74 (inclusive) to bring forward non-concessional contributions from future years (during which they

will be 75 or over) where they will not have eligible cap space. Date of effect: 1 July 2022.

- Super Guarantee $450 threshold - s 27(2) of the SGAA will be repealed to remove the $450 per month threshold before an employee's salary or wages count towards the super guarantee. Date of effect: 1 July 2022.
- FHSS Scheme withdrawals up to $50,000 - the maximum amount of voluntary super contributions that can be released under the First Home Super Saver (FHSS) Scheme will be increased from $30,000 to $50,000. Date of effect: 1 July 2022.
- Downsizer contributions from age 60 - the minimum eligibility age to make downsizer contributions into superannuation will be lowered to age 60 (down from age 65). Date of effect: 1 July 2022.
- Super fund tax exemption for pension assets - the ITAA 1997 will be amended so that super funds can choose to treat all of the fund's assets as not being "segregated current pension assets" for an income year if all of the fund's assets are held solely to discharge liabilities in relation to retirement phase interests for part of that income year. Date of effect: applicable from the 2021-22 income year.

Super guarantee and stapled funds: ATO

The ATO has registered the following instruments in relation to the single default account (stapled fund) regime and additional choice of super fund requirements that apply from 1 November 2021:

1. Superannuation Guarantee (Administration) – Choice of Fund – Written Guidelines for the Reduction of an Increase in an Employer's Individual Superannuation Guarantee Shortfall Determination 2021 - provides written guidelines the ATO must have regard to for the purpose of s 19(2E) of the Superannuation Guarantee (Administration) Act 1992 (SGAA) in deciding the level of reduction to apply to an increase in an employer's individual superannuation guarantee shortfall under s 19(2A).
2. Superannuation Guarantee (Administration) – Stapled Fund – Guidelines for the Reduction of an Employer's Individual Superannuation Guarantee Shortfall for Late Contributions Due to Non-acceptance by Notified Stapled Fund Determination 2021 - provides written guidelines the ATO must have regard to for the purpose of making a decision to reduce (including to nil) the amount of an employer's shortfall for an employee for the quarter in accordance with s 19(2F) of the SGAA.

ATO transitional compliance approach: From 1 November 2021 until 31 October 2022, the ATO says it will provide employers with help and assistance to comply with the stapled fund requirements. During this transitional period, the ATO will reduce any choice shortfall to nil if that shortfall arose due to the employer's lack of knowledge of the stapled fund requirements rather than intentional disregard. This transitional approach applies only to the stapled fund changes to the choice of fund requirements, it does not apply to existing choice rules.

Date of effect: 1 November 2021.

Super choice of fund: ASIC guidance

ASIC has released the following guidance for employers and trustees in relation to recent law reforms impacting the superannuation choice of fund regime:

- INFO 89: Communicating with employees about superannuation fund choice: what you can and cannot do;
- INFO 241: Prohibition of influencing employers' superannuation fund choice: s 68A of the SIS Act.

INFO 89 has been expanded beyond a focus on employers inappropriately providing financial advice to include the revised hawking prohibition and the design and distribution obligations (DDOs), which took effect on 5 October 2021. ASIC said employers are not a distributor when providing a PDS for their default fund to an employee. INFO 89 has also been updated for the "stapling" measure, which commences on 1 November 2021.

INFO 241 provides guidance to super trustees about the prohibition on using inducements (or kickbacks) to influence employers in their choice of a default fund or to encourage employees to choose or retain membership of a fund. Recent law reform has affected a variety of obligations concerning marketing and distribution of super products, including via employers. ASIC said trustees should be checking if the way they seek to attract and retain employees as members is appropriate, in light of changes to the law.

Super choice sector: APRA information paper

APRA has published an Information Paper on the performance of choice superannuation products ahead of its first Choice Product Heatmap to be released in late 2021. APRA said the Choice Heatmap will be an important pre-cursor to the annual performance test for trustee-directed products that will be applied from 1 July 2022.

APRA said the paper has highlighted underperformance in the choice sector. Median administration fees for choice products were found to be 40% higher than for MySuper product. Investment performance also displayed considerable variation for options with similar allocations to growth assets. A materially higher percentage of choice options underperformed a risk-adjusted benchmark by more than 75 basis point than MySuper options (15% compared to 7%).

Super fund governance: APRA review findings

APRA has published an information paper on the findings from its recent superannuation fund reviews highlighting how trustees can improve their governance and strategic planning. The three APRA reviews covered strategic and business planning; fund expenditure; and unlisted asset valuations.

APRA found that many trustees failed to rigorously measure and assess anticipated and achieved benefits to beneficiaries of expenditure on marketing campaigns and related activities. APRA also found instances of trustees being unable to demonstrate how additional benefits from sponsorships (provided to directors and staff) resulted in any improved outcomes for members.

While most trustees demonstrated a proactive approach to revaluing unlisted assets in response to market volatility, APRA said board engagement was often limited and revaluation frameworks need improvement. APRA also found that some trustees relied overly on external parties for unlisted asset valuations.

ASIC identifies conflicts with super fund executives

ASIC has raised concerns about potential conflicts of interest involving personal investment switching by directors and senior executives of superannuation trustees who are potentially privy to price-sensitive valuation information. ASIC said its surveillance of 23 trustees revealed conduct that fell below its expectations. ASIC was especially concerned that some funds failed to identify investment switching as a risk, and 10 of the 23 trustees did not have preventative controls such as trade pre-approvals or switching blackout periods.

ASIC Commissioner, Danielle Press, said policies should cover the identification, control, management and regular monitoring of conflicts as well as the consequences for non-compliance. ASIC said it is continuing to gather information and will consider next steps on some of the trading activity identified.

Super fund outcomes assessments: APRA guidance

APRA has published new guidance for superannuation funds on the outcomes assessment requirements under s 52(9) of the SIS Act. Five new frequently asked questions (FAQs) have been added to assist RSE licensees to explain how the outcomes assessment must consider the performance test, and provide expectations on the publication of the assessment. APRA has also updated FAQ 11 on how RSE licensees may undertake the outcomes assessment for lifecycle products.

Insurance within super: APRA guidance

ARPA has updated its frequently asked questions (FAQs) on the Treasury Laws Amendment (Putting Members' Interests First) Act 2019 (PMIF Act) to clarify that members who were not required to elect for insurance, as a result of the historical provisions in ss 68AAB and s 68AAC of the SIS Act, can have their insurance continued in a successor fund without needing to elect for insurance.

APRA said the Government intends to amend the SIS Act to give effect to this change in due course. The revised FAQs are available on the APRA website covering Putting members' interests first (PMIF) and Protecting your super package (PYSP).

Sustainability challenges for super industry: APRA speech

In a recent speech, APRA Executive Board Member, Margaret Cole, has outlined issues and challenges for APRA-regulated super funds.

Ms Cole said smaller super funds face the greatest performance and sustainability challenges at a time when the importance of scale, and the consequences for underperformance, have never been greater. In particular, APRA sees vulnerabilities in the retail sector with the 116 APRA regulated funds each holding less than $10bn.

Ms Cole said the challenges for many retail funds will become evident when APRA publishes an information paper in preparation for its first Choice Product Heatmap in December 2021. This paper is expected to show substantially higher average administration fees than for MySuper products and far greater variation in performance. APRA believes that the challenges for super funds are likely to accelerate as fund stapling from November 2021 breaks the traditional nexus between employers and default super funds. The end goal for every trustee should not be survival but a clear-eyed assessment of what is in their members' best financial interests, Ms Cole said.

REGULATOR NEWS

ATO 2020-21 annual report released

The ATO has released its 2020-21 Annual Report. Highlights include:

- Net tax collections in 2020-21 were $451.4 billion, up $46.6 billion (11.5%) over the previous year, and $49.9 billion (12.4%) above the amount expected at the time of the budget 2020-21;
- $470 million in JobKeeper overpayments were identified. As at 30 June 2021, $180 million had been recovered, while $89 million is being pursued (and $180 million will not be pursued);
- This year's tax gap program (estimated at 7.3% or $33.5 billion) will focus on the 2018-19 financial year. The ATO said this means that the impact of COVID-19 will be more evident next year;
- Government stimulus measures delivered by the ATO over the course of 2019-20 and 2020-21 included: (i) $88.8 billion in JobKeeper payments; (ii) $6.6 million in JobMaker Hiring Credit payments; (iii) $37.8 billion of superannuation approved for early release; and (iv) $35.7 billion in Cash Flow Boost credits.

TPB 2020-21 annual report released

The TPB has released its 2020-21 Annual Report, highlighting some of its communication successes. The TPB register exceeded two million searches for the first time and the TPB's Facebook followers increased by over 2,400. Other highlights include:

- Attendance at TPB webinars increased three-fold during the year, with over 61,000 attending webinars in 2020-21 (compared to 17,000 in 2019-20);
- TPB eNews open rate was 35% above industry averages;
- The TPB said it did not meet its performance measure in handling complaints effectively due to insufficient resourcing and "data sets limitations" but is looking to address the shortcoming with a skillset recruitment drive; and
- Registrations processing (registrations and renewals) improved against service standards.

Board of Taxation part-time members appointed

The Government has announced the appointment to the Board of Taxation of the following part-time members for a three-year period:

- Ms Andrea Laing - formerly the Global Project Manager of Shell and before that, the Country Tax Lead of Shell. With more than two decades working at Shell on tax issues, particularly indirect and employment taxes, Ms Laing has also worked at EY on indirect taxes and at the ATO on various tax issues.
- Mr Anthony Klein - has more than two decades of experience working in the tax advisory space, most of which has been spent at Big Four accounting and advisory firm PwC.