

22 May 2026

The Treasury

Via portal: <https://consult.treasury.gov.au/c2026-756030>

Enhancing member protections in the superannuation system

The Super Members Council welcomes the opportunity to respond to Treasury's consultation on enhancing member protections in the superannuation system.

Executive summary

Australia's super system exists for one purpose: to enable millions of everyday working Australians to retire with dignity on incomes well above what the modest taxpayer-funded Age Pension could deliver. For most Australians, super will be one of the largest financial assets they ever own, often second only to the family home. Our system is the envy of the world.

The universal, compulsory nature of this system demands the very highest standards of consumer protection. When Australians are required to trust a system with their life savings, that system must be built to protect them from harm. This is not only from spectacular collapses, but from misconduct, poor governance, and high-risk business practices that threaten their super returns and life savings. When protections fail, the consequences are serious and often irreversible. Losses late in life cannot easily be rebuilt. The system must prevent harm before it occurs while preserving the space for member choice and appropriate informed risk-taking.

Success has brought new risks

Australia's super system is a global success story. Millions of Australians are now accumulating levels of super that are genuinely life-changing – delivering them financial security, independence and dignity in retirement. But that success has also made super an increasingly attractive target for bad actors.

As Australians' super balances grow, so too does the opportunity for unscrupulous operators to exploit consumers. Over the past decade, there has been an alarming rise in business models and conduct designed to extract maximum value from them with high-pressure sales tactics, conflicted distribution channels, overly complex investment structures, and weak governance arrangements. Several recent high-profile cases have laid bare the scale and consequences of these serious consumer risks. They've highlighted the urgency for policymakers and regulators to lift the bar on minimum consumer safety standards.

The devastating collapses of Shield and First Guardian should not be dismissed as isolated incidents. In truth, they are a warning sign. They have demonstrated how quickly catastrophic harm can be inflicted on a very large number of consumers when bad actors identify safety gaps in the system and use them to channel large volumes of retirement savings into high-risk or poorly governed structures. They also show how some emerging distribution models, including lead generation, switching pathways and some of the newer and less well governed platform arrangements, can make these movements appear normal or low risk to everyday Australians and expose consumers to serious risks.

This is not a peripheral issue. It goes to the very heart of whether the super system is safe in a world where Australians are now increasingly retiring with larger amounts of super, and where such risks are becoming more complex and harder for individuals to detect.

Trust is the system's foundation

The long-term success of Australia's super system depends on trust. Australians strongly support our universal, compulsory savings system because they trust that the system safeguards and protections are strong enough to protect and grow their savings over time.

Over the decades of their working lives, and then into their retirement years, Australians entrust their money to others such as super trustees, investment managers, advisers and service providers, to act



in their best financial interests. Most Australians simply do not have the time, expertise or information to actively manage their super day-to-day. They rely on the system safeguards to do that for them.

That trust is hard won and easily lost. When people see examples of devastating harm in which thousands of Australians have their super drained, misdirected or exposed to unnecessary risk, confidence in the system is shaken. Even those who are not directly affected begin to question whether their own savings are safe. Restoring and maintaining trust must therefore be a central objective of this crucial set of reforms which must be legislated swiftly.

A critical gap in protections

This submission identifies a fundamental weakness in the current system – one that many Australians would not be aware exists: **consumer protections are not consistently strong across the super system.**

From a member's perspective, "super is super". People do not distinguish between different legal structures or regulatory frameworks. They reasonably expect that the same level of protection applies to their retirement savings wherever they choose to invest it across the super system.

But that is not always the case. The Shield and First Guardian collapses exposed this safety gap in stark terms. Australians who believed they were protected by the strong safeguards of the super system were in fact moved into structures where standards were weaker, oversight was diminished, and the risks were significantly higher.

For many, this came as a shock. They did not knowingly opt into a lower level of protection. They were not clearly warned that risks were great and the oversights were less rigorous. And when things went wrong, they found that the basic consumer protections they assumed existed were not there. This mismatch between expectation and reality is deeply damaging to trust. It undermines confidence in the super system and enables harmful business models to emerge— particularly where they rely on complexity, opacity, or member misunderstanding.

A clear principle: lift protections, don't lower them

SMC's guiding principle is simple: consumer protections should be lifted across the system to match the standard already operating in high performing, rigorously governed, tightly regulated master trust super funds.

In these funds, there are strong, well-understood consumer safeguards:

- trustees are required by law to be diligent and active stewards to safeguard members' interests;
- investment options are subject to robust due diligence and ongoing oversight;
- conflicts are tightly managed; and
- there is clear accountability for outcomes.

This is the baseline benchmark that Australians expect – and should be guaranteed – across the super system.

However, this level of protection is not consistently applied, particularly in parts of the system involving newer super platforms and member-directed environments. The solution is not to dilute protections in well-governed parts of the system. It is to lift standards elsewhere.

A consistent, system-wide approach is essential to protect millions of consumers and to prevent regulatory arbitrage where harmful practices simply migrate to the weakest point in the system.

Delivering Better Financial Outcomes (DBFO) reforms are a critical part of the safety package

DBFO is designed to expand access to safe, regulated and affordable advice through super funds – closing the advice vacuum that lead generators and misselling business models currently occupy. It is the single most important consumer protection reform on the Government's agenda for this sector, and it is the reform most directly aimed at preventing the next Shield and First Guardian, not just cleaning up the damage and compensating devastated consumers from the last one.

SMC's strong recommendation is that the Government urgently bring forward the legislation and implementation of DBFO Tranche 2. Every day of delay is a day in which the advice vacuum remains open, and an opportunity for new business models like Shield and First Guardian to develop.

The consumer protection package targets the misconduct that has already occurred and the structural conditions that enabled it. DBFO addresses the underlying market failure – the absence of accessible, affordable, trustworthy advice – which created the preconditions for misconduct in the first place. Legislated together, and implemented urgently, they would reset the architecture of the system to



make consumers vastly safer and deliver them stronger retirement savings. Legislated apart, or with DBFO further delayed, the consumer protection reforms will end up doing more remediation work than they should have to.

Closing the gaps: key reforms

This submission sets out a targeted package of reforms to close these gaps and strengthen protections across the system. At its core are five priorities.

- **First, remove conflicted incentives:** Conflicted remuneration and outsized fee payments that reward product placement or switching behaviour distort decision-making and can make Australians poorer by delivering less super for retirement. These incentives have no place in a compulsory retirement system.
- **Second, restore trustee accountability:** The “trustee for hire” model undermines the crucial role of the trustee as the independent legal guardian of members’ interests with strict duties at law. Trustees must have genuine control, responsibility and accountability – not simply lend their licence to another party’s business model.
- **Third, better protect members at the point of switching:** Rather than blunt tools like mandatory waiting periods, members should receive clear, targeted warnings – particularly from the very start of establishment processes when they propose to move into fundamentally different risk regimes such as self-managed super funds (SMSFs).
- **Fourth, fix the advice gap:** A central driver of harm is the lack of access to safe, affordable financial advice through overdue DBFO reforms. In that vacuum, other actors have stepped in – often with poor or conflicted incentives.
- **Fifth, close the SMSF safety risk gap:** The shift from an APRA-regulated fund to an SMSF is one of the most significant changes in legal status an Australian can make about their retirement savings. The member ceases to be the beneficiary of a regulated trust and becomes the trustee, with the consumer protections of the APRA-regulated system no longer safeguarding their interests. Many Australians are making this change without understanding they are making it, involving a sales process, and the SMSF establishment data shows the pattern is accelerating. Safety reforms must close this gap, not just within the APRA perimeter. SMC’s proposals for how to achieve this are set out throughout this submission.

All three Treasury reform packages must work in unison

The Government's three interlocking Treasury consultations (lead generation, member protections, and the Compensation Scheme of Last Resort) have been crafted in the wake of Shield and First Guardian to close gaps at each point of weakness in the current safety architecture.

- **Lead generation** is the front end of the chain that produced the Shield and First Guardian losses. It identifies, qualifies and preconditions consumers for delivery into an advice and product channel.
- **Member protections** address the middle of the chain – how trustees, advisers and product distributors are responsible for members when they are inside the super system.
- **The Compensation Scheme of Last Resort** sits at the end of the chain, picking up the cost of harm when earlier safeguards have failed and remediation cannot be recovered from the entities responsible for the losses.

These reforms must be legislated concurrently. Tackling them separately risks leaving some safety gaps unfixed and displacing harm rather than stopping it in its tracks, with an ever-escalating compensation bill still careering out of control.

About this submission

This submission sets out SMC’s reform priorities, with an Appendix responding to any remaining Treasury consultation questions.



About the Super Members Council

We are a strong voice advocating for the interests of more than 12 million Australians who have over \$1.9 trillion in retirement savings managed by profit-to-member super funds. Our purpose is to protect and advance the interests of those millions of super fund members throughout their lives, advocating on their behalf to ensure super policy is stable, effective, and equitable. We produce rigorous research and analysis and work with Parliamentarians and policy makers across the full breadth of Parliament.



A level playing field on consumer protection

Members do not see "platforms" and "super funds" as different things. They simply see super. But the legal and prudential framework treats them differently. Members reasonably expect the same standard of protection for their compulsory retirement savings, whether their money sits on a platform or in a master trust super fund.

The reforms in this consultation should close this gap by lifting the bar, not lowering it. The benchmark is the well-governed master trust standard, applied consistently across four pillars:

- **Investment governance and oversight:** the same high level of due diligence, ongoing monitoring and conflicts management on every investment option, regardless of the product structure it sits in.
- **Operational risk capital:** an ORFR calibrated to the operational risks of the business the trustee runs, including the mass-loss exposure that broad platform menus generate.
- **Financial Accountability Regime (FAR) accountabilities:** a consistent regime of named, personally accountable senior individuals standing behind every super trustee, platform provider and advice licensee.
- **Financial accountability for harm** – when failures occur, the cost of remediating members falls first on the trustee responsible and the capital it holds for that purpose, not on the CSLR levy population.

Ban conflicted arrangements and payments

SMC supports targeted, platform-specific bans on any conflicted payments that can distort product listing, preferred placement, continued availability, or potentially product recommendations.

Australians are entitled to trust that the decisions made about what sits on their super platform's investment menu are made in their best financial interests, not because a payment, rebate, ownership arrangement or FUM-linked benefit has been engineered into the structure.

SIS Act and APRA conflicts rules matter, but platform environments need a harder-edged backstop. These rules should capture direct and indirect benefits, including related-party arrangements, equity interests, profit shares, preferential terms, and any payment that rises with placement or flows.

SMC supports a system-wide ASIC review of conflicted remuneration. The objective is straightforward: ensure that product selection and switching are driven by members' retirement interests, not driven by commercial incentives – and that trustee independence is protected from the conflicts that distort it.

Ban the 'trustee for hire' model

SMC supports a clear ban on the trustee-for-hire model in super. The "trustee for hire" model is an arrangement where a super trustee (responsible super entity) is paid a fee to conduct the trustee duties while the investment platform operation or 'white labelled' product is run by a separate legal entity. This model is incompatible with a super trustees' role as a gatekeeper and active guardian of members' financial interests. When a trustee is effectively rented to facilitate a model controlled by other commercial parties, governance weakens, accountability blurs, and members carry the risk. Although Shield and First Guardian are at the forefront of the current member protections landscape, this is not the first time the model has failed. The Trio Capital collapse in 2009 – Australia's largest super fraud, costing members approximately \$176 million – turned on the similar architecture as Shield and First Guardian. That model was an under-resourced trustee company sitting on top of related-party investment structures it did not effectively supervise, with the day-to-day investment management run by parties outside its line of sight.

Trustees must have real decision-making authority, independence, adequate resources, and control over key gatekeeping decisions. Without these, they should not be permitted to hold or govern compulsory retirement savings. Outsourcing should only continue where the trustee retains genuine control, independent judgment, active board oversight, and end-to-end accountability in practice, not just on paper.



Targeted warnings to protect consumers, rather than arbitrary waiting periods

Waiting periods are not a silver bullet to improve member protections

Delays imposed after a switching decision has already been made are unlikely to fix the real drivers of harm. Even short delays would likely create customer service complaints, operational and dispute risks with questionable effectiveness. This is because the decision to switch has typically been made weeks or months prior, especially in the case of SMSF establishment where a trust deed has already been executed and a structure created to receive the rollover (at significant cost to the member). Waiting periods are also inconsistent with contemporary consumer expectations of timely control over their retirement savings. This is why we emphasise the importance of a mandatory legal obligation requiring that anyone assisting someone to establish an SMSF must issue the person a strong, clear, plain-English, regulator-issued warning about the risks and lack of key consumer protections when leaving the APRA-regulated system.

Applying such a delay only to switches into "higher-risk" products or destinations is also inherently difficult to implement and unlikely to be effective in practice. It is unclear who would be required to determine what structures or products would constitute "higher-risk" vehicles.

A more effective and practical approach is to focus on targeted consumer warnings for SMSF establishment and rollovers

As explained earlier in this submission, the shift from an APRA regulated fund to an SMSF is not a like-for-like transfer of retirement savings between two parts of the same protected system. It is a quantum leap out of the strong consumer protection regime that applies to a member's super in the mainstream super system.

SMSF establishments and rollovers are also the clearest implementation points for a targeted warning required by law with an obligatory standardised text. The establishment of an SMSF structure requires a legal process. Any lawyer or person assisting a client to establish an SMSF deed should be required to issue their client a new official warning. The same warning should be issued again to the member at the proposed point of a super rollover into their newly established SMSF. This would be practically feasible because a manual process is applied to SMSF rollovers. The infrastructure is already in place, and the policy gap is the absence of a standardised consumer-protection warning issued by regulators at the key moment of decision. Recent SMSF establishment data reinforces the case: a rapid increase in new SMSFs points to systemic rather than isolated risks and to an emerging pattern of regulatory arbitrage. Misconduct is now migrating at ever-greater speed and scale to outside the APRA-regulated system where consumer safeguards are much weaker.

The warning should operate as a pause-and-prompt mechanism. At the point of decision, members should be presented with clear, standardised information explaining that they are becoming the legal trustee, that attesting that they fully understand and assume the legal and financial responsibilities of that role, and that they acknowledge that they will lose access to the strong consumer protections, compensation pathways and prudential oversight of the APRA-regulated system. This should apply consistently across transferring funds, receiving structures, financial advisers and SMSF auditors.

Warnings and education for SMSF trustees

SMC also supports stronger warnings and access to independent, government-backed information for prospective SMSF trustees. This should include reinstating clear "swim between the flags" guidance on government websites and reintroducing minimum balance recommendations. More broadly, SMSF settings should be strengthened through enhanced standards and governance. This must include a mandatory baseline education requirement for all new SMSF trustees and directors, supported by knowledge checks at key decision points.



Protecting members and increasing access to financial advice

Financial advice is a key part of the system and the solution

Access to affordable, professional, trusted financial advice is one of the most powerful tools to help members in the super system. It turns a compulsory savings system into a confident retirement plan.

The evidence is consistent across decades: super fund members who receive professional financial advice save more, invest better, draw down more confidently in retirement, and report materially higher financial wellbeing.

Today financial advice is being democratised and is a structural part of how the super system seeks to deliver on its promise to all working Australians, regardless of income or wealth.

Excellent advice can also be a form of consumer protection. A member who has a quality adviser is a member who is harder to mis-sell, harder to scam, and harder to push into a switch that is not in their interests.

The most important mechanism for making information, guidance and advice more accessible to members is removing impediments for trustees to deliver timely interventions to members at key life stages, and to facilitate the provision of affordable, high-quality personal advice when members need it. This can be done through guidance, and intra fund advice, but also through comprehensive advice paid by advice fee deductions from a member's super.

Another critical part of that mechanism, is the ability for advisers to seek a member's approval to deduct reasonable advice fee costs from their super balance – with a clear expectation of strong oversight from the member's super fund trustee. Without such a deduction mechanism, comprehensive advice could often be out of reach for the members who most need it and who could not otherwise afford it.

This places a significant responsibility on trustees to oversee, with skill, care and diligence, the deduction of advice fees from member balances. This ensures the advice is in the member's best interests, delivers a clear financial benefit, and does not erode their retirement savings.

Advice fees

However, Treasury's consultation paper identifies an incentive misalignment with advice fees in relation to Shield and Guardian¹:

"The collapses of Shield and First Guardian have highlighted conduct where switching advice was provided at scale, facilitated by the availability of superannuation balances as a funding source for advice fees."

"For members, the ability to deduct the cost of super switching advice means they do not need to bear the cost of advice immediately. This mechanism may make members more likely to agree to larger advice fees, creating incentives that increase the risk of adverse outcomes."

ASIC makes a similar point in its broader sector review of trustee practices on advice charging, which occurred prior to the collapse of these schemes²:

"ASIC recognises the importance of Australians accessing quality financial advice in relation to their superannuation and that it is common for this to be paid for out of superannuation. Concerningly, we have identified that in a small but serious number of cases, the superannuation balances of members are being reduced to pay for advice that instead of being helpful is destructive to their retirement outcomes."

The reform task here is to preserve access to quality financial advice while building guardrails and controls around advice fees to keep them aligned to member's interests in all cases.

¹ Source: Treasury, *Enhancing member protections in the superannuation system: Consultation Paper* (April 2026), p 38 (Part 2, Proposal 4: Limit fee deductions for switching-related financial advice).

² Source: ASIC, *Report 781: Review of superannuation trustee practices: Protecting members from harmful advice charges (May 2024)*. Available at <https://download.asic.gov.au/media/5qr132bb/rep781-published-9-may-2024.pdf>, p2.



Advice fees are growing rapidly, concentrated in the platform sector

APRA data on advice fee charging for the last two years is instructive. Advice fee deductions have grown rapidly in recent years, are heavily concentrated in the platform segment, and are flowing predominantly through the external adviser channel – the channel that produced the Shield and First Guardian losses.

- APRA's Annual *Superannuation Fund Expenditure* data⁸ shows total advice fees deducted from APRA-regulated super accounts have doubled in the last five years (from \$1.464 bn in 2020 to \$2.975 bn in 2025).
- Most of this increase occurred in just the last two years, with a \$1.1 bn surge in advice fee deductions from member accounts from 2023 to 2025.
- The compound growth in advice expenses has tripled in the last two years from 8.5% per year from 2015 to 2023 to 26.1% per year in the last two years.
- Just five platform-based retail funds account for \$815 m of the \$1.1 bn increase over the past two years.
- By contrast, advice provided through funds' internal planners and intra fund advice channels – the regulated, lower-cost, fund-employed advice models that DBFO is designed to expand – accounted for less than \$200 million of total advice fee deductions combined, or under 11% of the total in 2025.

Policy options must enable access to quality advice and ensure a member's interests are always paramount in all fee deductions, actively protecting against material risks of outsized advice fees that are misaligned with members' best financial interests, member losses from poor returns or collapses, and conduct risks for both financial advisers and trustees.

In ASIC's words:

“At the heart of the harm to consumers is poor conduct by financial advisers and financial advice licensees. But the way a trustee approaches its oversight of advice fee charges to member superannuation balances has the potential to mitigate this harm.”

Treasury's Option 4.1 (a blanket prohibition on advice fee deductions where the statement of advice recommends a switch) could be easily circumvented and would not pass this test.

It could deny the members who most need professional advice and who could not otherwise afford it the mechanism that makes that advice accessible to them. It would also be impractical disentangling switching advice from a comprehensive advice plan and attributing notional amounts.

A better path is the proposal Treasury canvasses in Proposal 4, with some amendments: a principles-based framework that codifies clear, auditable trustee obligations on all advice fee deductions.

The current framework (which includes the sole purpose test, the best financial interest duty and the best interest duty) is not consistently translating into effective controls at the point the fees are charged and deducted. ASIC's *Report 781* identified wide variability in trustee oversights, weak adviser onboarding and monitoring, and the absence of balance erosion controls. Most of the statutory obligations are sound. What is missing is a clear legal framework and regulatory specificity, in operational terms, what compliance requires. Consistency right across the super system will be key to ensure all consumers have similar strong protections at law and risks don't simply migrate to places where protections and oversights are lowest.

SMC recommends:

- **A mandated annual global cap on total advice fee deductions** from an individual member's super, set by each trustee and capable of accommodating very limited, well-justified exceptions. There must be a clear legal obligation that each trustee set such caps for its key member cohorts considering its own member demographics, balance distribution, advice needs and the assessed reasonable cost of advice for that membership, not by reference to industry peer comparison. Government should give ASIC and APRA joint powers to require the cap, review the methodology, and direct adjustments where it is inconsistent with the statutory obligations. Public disclosure of trustee caps will improve transparency for consumers and accountability across the system, enabling scrutiny of cap design and operation and ensuring effective market discipline.
- **Joint ASIC and APRA regulatory guidance** on how the sole purpose test and the Best Financial Interests Duty apply specifically to advice fee deductions. This must be codified, enforceable, and setting out the trustee processes, controls, evidence standards and



escalation pathways required to demonstrate compliance. If the regulators believe there is not sufficient legal clarity to do this, then they should advise the Government on law reform options.

- **Structural balance erosion protections for low and modest balance members** including a minimum residual balance threshold below which advice fees cannot be deducted, and proportionality constraints that limit deductions as a percentage of balance for small to medium balance accounts. ASIC's *Report 781* identified fee caps of up to \$20,000 or 5% of a member's balance, with few trustees applying controls to protect low-balance members; structural safeguards must address this directly.
- **Documented advice fee deduction policy** that sets out the methodology for determining caps based on member demographics and balance analysis, the cost-of-advice inputs, the proportionality and balance-erosion safeguards applied for low and modest balance members, and any exception arrangements.
- **APRA's advice fee reporting standards should be standardised to the super sector** and require consistent, uniform treatment of all advice fee deductions from member accounts. This includes pass-through arrangements, individually negotiated adviser fees, and platform to licensee fees, so that data is comparable across master trust and platform providers and captures the full picture on fee deductions.

The same protections must apply to advice fee deductions from SMSFs. Without equivalence, reforms in the APRA-regulated system will simply displace switching-related fee extraction into the SMSF segment. Explicit, informed and time-limited member authorisation, balance-erosion and purpose-based restrictions, and a structured certification role for SMSF auditors should all carry across.

The need for system-wide, future-fit reform

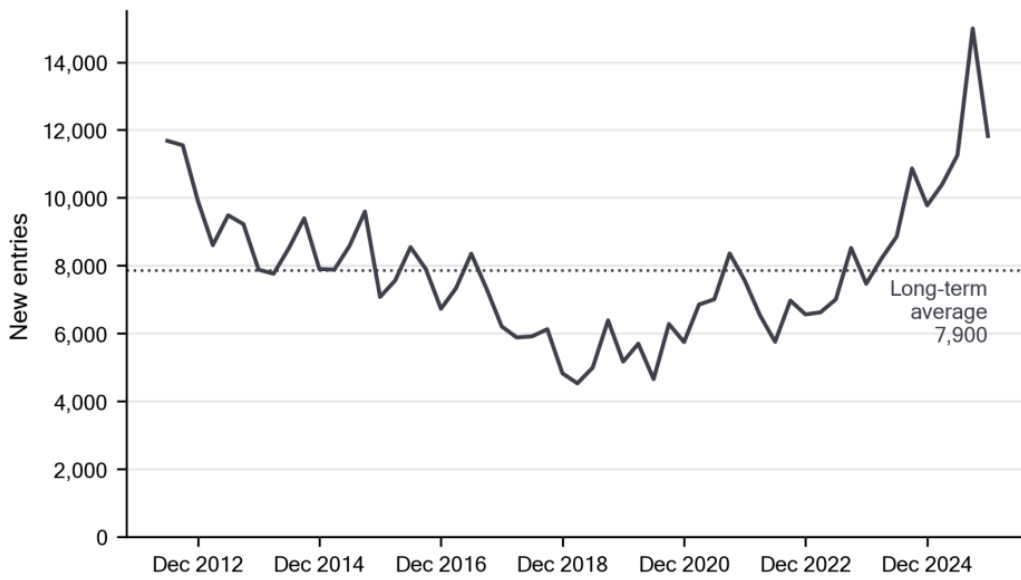
Many of the Treasury reform proposals largely focus on strengthening safeguards for APRA-regulated trustees. While these measures are important, emerging evidence suggests that misconduct is increasingly migrating outside this perimeter. Recent data shows a rapid increase in new SMSF establishments (see Figure 1, Quarterly new entries into SMSFs), coupled with an increase in younger members making the switch. This trend raises concerns that individuals, often with lower balances and less capacity to absorb losses, are increasingly being steered at scale into SMSF structures where consumer protections are weaker.

This creates a clear risk of regulatory arbitrage – exploitation of loopholes, differences and inconsistencies in laws and regulatory frameworks across different jurisdictions. If obligations on APRA-regulated trustees are materially strengthened without equivalent expectations elsewhere, there is a strong incentive for high-risk business models to adapt by shifting activity into less regulated segments of the super system. This includes the risk of:

- advisers channelling members into SMSF arrangements to access more permissive fee-charging settings;
- platform providers servicing SMSFs becoming de facto gatekeepers without being subject to comparable conduct and consumer protection obligations; and
- conflicted remuneration models continuing outside the APRA-regulated system to avoid proposed reforms.



Figure 1: Quarterly new entries into SMSFs



Source: ATO Self-managed super fund statistical report - December 2025 and historical



Appendix A - Responses to Treasury consultation questions

This appendix provides concise responses to Treasury's consultation questions not covered elsewhere. It should be read with the main submission, which sets out SMC's overarching policy position and rationale.

A summary of recommendations

- 1) Adopt a clear, risk-based Platform RSE/Trustee perimeter that targets higher-risk models, avoids unintended capture, and ensures obligations follow effective gatekeeping control (substance over form).
- 2) Introduce enforceable platform gatekeeping, including codified due diligence and risk-tiered holding limits for higher-risk options, supported by clear, standardised expectations and supervision.
- 3) Ban conflicted arrangements and payments linked to product listing, placement, continued availability or member flows, and prevent avoidance through indirect, ownership-based or related-party benefits.
- 4) Ban trustee-for-hire models in platform environments, while ensuring any outsourced arrangements remain subject to genuine trustee control, independence and end-to-end accountability.
- 5) Do not introduce a mandated waiting period for super switches; instead adopt standardised, regulator-set warnings targeted first to SMSF rollovers, where the protection gap is clearest and implementation is most workable.
- 6) Embed whole-of-ecosystem SMSF rollover warnings, with consistent messaging across trustees, advisers, accountants and government channels so members understand when they are leaving APRA-regulated protections.
- 7) Improve regulator visibility of switching patterns and fund flows by placing data and reporting obligations on advice licensees, receiving entities and platforms, enabling earlier ASIC and APRA detection and intervention.
- 8) Preserve access to advice fee deductions but strengthen trustee oversights and gatekeeping through a principles-based, auditable framework supported by joint ASIC-APRA guidance on how existing statutory duties apply in practice.
- 9) Require trustees to set and disclose annual global caps on advice fee deductions, supported by structural balance-erosion protections for low and modest balance members, documentation of cap methodologies.
- 10) Apply equivalent safeguards in the SMSF context, including explicit, informed and time-limited authorities for advice fee deductions, and a stronger assurance role for SMSF auditors through certification or attestation and reporting oversight.
- 11) Lift education standards for SMSF trustees through mandatory baseline education, targeted knowledge checks and refresher requirements, supported by clearer government-backed consumer guidance.
- 12) Set clear activation and sequencing across pathways so trustee-funded compensation is primary for eligible losses, with AFCA supporting dispute resolution and CSLR operating as a true last resort.
- 13) Fund compensation through prefunded, risk-calibrated trustee/platform capital (with supervisory oversight) and strong recovery/subrogation powers so misconduct costs fall on responsible parties, not other members.



Proposal 1: Strengthening governance requirements for Platform Trustees

Stronger platform trustee governance is crucial to consistent consumer protection across super. The core problem is inconsistent standards across the platform sector in fiduciary oversight, governance, product selection and diversification. At one end of the spectrum sits master trust super funds, with curated investment menus and active trustee oversight of every option available to members. In the middle sit the established platform operators with traditional superannuation businesses, who supervise adviser intermediation on their own platforms. At the other end of the spectrum sit a range of emerging platforms, including those exposed by Shield and Guardian, where oversight appears to be more limited. Gatekeeping responsibilities that should sit with the trustee have in substance in some instances been outsourced to a combination of a “trustee for hire” and to a financial adviser. This wide spectrum is problematic and must be made consistent, so that all members have a much stronger minimum baseline of safeguards and protections. Where the trustee operates as an active fiduciary, the platform operator can deliver flexibility and member choice, effectively and safely. Where the trustee operates as a passive licence-holder above an outsourced operation, the platform becomes a mechanism through which conflicted distribution can rapidly concentrate members into high-risk products. When they do crystallise, the damage can be catastrophic.

Platform trustees managing Australians’ compulsory, tax-preferred super savings must be held to the same high governance standards that apply to trustees in the rest of the APRA regulated super system. They must demonstrate the same strong legal duties of care and stewardship inherent to the concept of trusteeship. This requires clear and enforceable accountability for product selection and oversight. It also requires robust controls on concentration, and conflicts and regulatory powers that enable early intervention before harm escalates.

Defining “Platform RSE” and “Platform Trustee”

We support a clear, risk-based definition of platforms, with governance settings that reflect their elevated risk profile. SMC recommends an activity-based, risk-based definition anchored to the specific harm this package is seeking to address, being member exposure to higher-risk products in distribution settings where conflicted incentives and weak gatekeeping can rapidly translate into large-scale consumer harm. The perimeter should be drafted on a substance-over-form basis so it cannot be avoided through legal structuring, outsourcing, related-entity arrangements, product relabelling, or migration of activity into hybrid models (including SMSF-adjacent structures).

In particular, the definition should capture arrangements where platform features are present in substance, including where: (a) members (often with adviser assistance) can construct bespoke portfolios from a broad menu of underlying options beyond a limited trustee-curated set; and (b) the model materially elevates tail-risk exposures and/or exhibits “product shelf” economics that create incentives linked to listing, placement, retention or flows. A core policy principle should be that where an entity accepts compulsory super, the compulsory component should be subject to equivalent protections; and where platforms cannot reliably separate compulsory and non-compulsory money, higher standards may need to apply more broadly to ensure member protections are not diluted. Accordingly, strengthened governance expectations should not be confined to the APRA-regulated perimeter, but must extend for consistency.

“Platform Trustee” should be defined by effective gatekeeping control over the platform offer – product onboarding, monitoring, intervention and removal settings rather than by labels or custodial form. Where functions are outsourced, delegated or shared, accountability should still attach end-to-end to the Platform Trustee, and to any entity exercising material operational control in practice (including through delegation, service arrangements or related-entity structures). Consistent with that control-point approach, SMC supports ensuring Platform Trustees (and Platform RSEs within scope) are captured under the Financial Accountability Regime so that individual accountability follows real decision-making power. This is particularly important in platform and outsourced models, where responsibilities can otherwise be fragmented across related entities and service providers.

As an implementation option, Government could adopt a multi-layered definition that combines a substance-over-form core test with (i) alignment to existing ASIC concepts (including IDPS and IDPS-like arrangements where super is offered) and (ii) targeted objective thresholds (such as the number of available investment options) and (iii) explicit exclusions for lower-risk menu configurations that do not give rise to the policy concern. In particular, this could include a carve-out for menus limited to ASX-listed securities (including shares, exchange-traded products and listed investment



companies), together with cash and term deposits, recognising that these offerings do not exhibit the same product shelf dynamics, conflicted incentives or gatekeeping risks that the framework is intended to address. This blended approach would minimise overreach into lower-risk offerings and improve certainty while reducing the risk of perimeter gaps and regulatory arbitrage.

“Pre-mixed trustee-directed product” terminology

SMC supports Treasury clearly distinguishing between (a) platform-style, member-directed choice models and (b) trustee-constructed diversified options and limited, curated APRA-regulated choice options. In SMC’s view, the terminology matters less than ensuring the drafting is clear, administrable and resistant to avoidance. If Treasury retains the term “pre-mixed trustee-directed product”, it should be defined by function: options where the trustee sets and maintains the investment strategy and construction (including governance and ongoing rebalancing), and members are selecting a trustee-constructed option rather than constructing a bespoke portfolio from an external product menu. This functional approach helps ensure the perimeter targets higher-risk platform dynamics without inadvertently capturing well-governed, mainstream APRA-regulated choice offerings (including Master Trust and traditional super platforms).

Requirement to set an enforce holding limits for investment options

SMC supports the introduction of platform-level holding limits as a targeted safeguard if it is risk-based, operationally workable, and appropriately calibrated to the specific harm it seeks to address: catastrophic member loss arising from over-concentration in higher-risk, member-directed options. Holding limits can serve as a practical backstop where member portfolios, often constructed with adviser involvement, may otherwise become overly concentrated in a single product, issuer, or strategy.

Mandatory holding limits would be an effective safeguard if targeted to platform-style environments and higher-risk options. SMC does not support a one-size-fits-all cap applied across all options or all APRA-regulated choice products. The policy objective is not to restrict ordinary member choice; it is to reduce the tail-risk of severe loss where products exhibit higher complexity, opacity, leverage, liquidity risk or governance fragility, and where the platform model enables large numbers of members to be exposed quickly and at scale.

For holding limits to work as intended, the framework should:

- Be risk-tiered and proportionate: apply tighter limits to clearly higher-risk categories, with flexibility for lower-risk listed options and diversified vehicles.
- Be supported by clear, standardised expectations: Treasury and regulators should provide guidance on minimum design features (including how limits are calculated, monitored and updated) to avoid inconsistent approaches across platforms.
- Operate through automated platform controls: limits should be enforced through platform transaction settings (including pre-trade checks) rather than relying on manual intervention after harm has occurred.
- Clarify accountability where advisers are involved: settings should not create ambiguity about whether an adviser can override diversification guardrails, and trustees should not be exposed to open-ended liability for adviser misconduct where trustee controls are complied with and appropriately designed.

Holding limits should be based on objective features that correlate with over-concentration risk and the potential for severe, irreversible member detriment. Relevant characteristics include:

- Liquidity and redemption terms: frequency of dealing, redemption gates/suspensions, notice periods, and mismatch risk between underlying assets and promised liquidity.
- Leverage and embedded gearing: the extent to which losses can be amplified through borrowing, derivatives or structured exposures.
- Valuation robustness: reliance on infrequent or model-based valuation, related-party valuation, or other features that heighten pricing and fraud/theft risk.
- Single-issuer / single-strategy exposure: products where member outcomes can be dominated by one issuer, manager, sector, geography or strategy.
- Custody and asset safekeeping arrangements: complexity of custody chains, use of sub-custodians, and operational controls that affect the likelihood and detectability of fraud or misappropriation.



- Conflicts and related-party features: related-party transactions, revenue-sharing or other incentives that may undermine product governance or timely intervention.
- Complexity and product maturity: structural complexity and opacity, novelty/limited track record, and reliance on adviser-led distribution where incentives may drive over-concentration.

Overall, SMC supports holding limits as a practical, platform-level consumer safeguard where they are targeted to higher-risk options and implemented through clear, standardised and automated controls. Properly designed, they can reduce catastrophic loss risk without undermining legitimate member choice or imposing blunt restrictions on well-governed, trustee-curated choice offerings.

Codified due diligence requirements

SMC supports introducing codified due diligence obligations for Platform Trustees. While existing SIS Act and prudential settings already require robust due diligence, recent platform failures have demonstrated that principles-based obligations do not always translate into consistently strong onboarding and monitoring practices in complex, member-directed environments. Codifying minimum due diligence elements would provide clearer, enforceable expectations that platforms must operate as active gatekeepers (not neutral menus), including maintaining documented onboarding frameworks, applying consistent product assessment criteria, and retaining evidence of trustee scrutiny and approval.

The minimum elements should be framed as a clear, auditable set of requirements for initial onboarding and ongoing monitoring, scaled to the complexity and risk of each investment option, and focused on preventing catastrophic member losses:

- Documented onboarding framework: a written framework approved by the trustee board (or delegated committee), setting out the end-to-end onboarding process, decision rights, required information, and record-keeping.
- Consistent product assessment criteria (minimum risk domains): trustees should apply consistent criteria across options, including at minimum investment strategy and “true to label” checks; complexity and transparency; fees and value; liquidity and redemption terms (including mismatch risk); valuation methodology and frequency (including use of related parties); leverage and counterparty exposure; conflicts/related-party arrangements; custody/asset safekeeping and operational controls; and legal/regulatory structure.
- Stress testing and downside analysis: a documented assessment of how the option is expected to perform under relevant stress scenarios (including liquidity stress), and whether those outcomes remain appropriate for members likely to access the option via a platform.
- Fit for platform use and member protection settings: an explicit assessment of who the option is suitable for in a super platform context (including adviser-led distribution risks), and whether additional guardrails are required (for example, holding limits, warnings, or restrictions for higher-risk options).
- Evidence of active trustee scrutiny and approval: documentation demonstrating the information considered, questions asked, conflicts managed, and the rationale for approval (including why the product represents an acceptable risk/return and value proposition for members).
- Ongoing monitoring, triggers and intervention: minimum expectations for review cadence and monitoring metrics, with clear escalation triggers (for example, material changes to strategy, liquidity gates/suspensions, valuation issues, significant related-party changes, regulatory action, or abnormal inflows) and a defined action ladder (watchlist, restrictions/holding limits, suspension of inflows, removal).

Supplementary measures to support effective implementation

Codified due diligence should be supported by a coordinated ASIC/APRA approach to platform gatekeeping expectations (including guidance and supervisory focus), to improve consistency across platform operators and platform trustees.

Treasury should also consider clarifying how Design and Distribution Obligations (DDO) apply to platform-based distribution, including whether investment platforms should be treated as distribution participants (with obligations to assess target market suitability), rather than relying on legal structuring to shift responsibility to advisers or menu services.



Given evidence of over-reliance on external ratings, codified due diligence should be accompanied by expectations that trustees cannot solely rely on research house ratings and must undertake independent assessment. Treasury should also consider options to strengthen accountability and manage conflicts in the ratings ecosystem (including whether research houses should be required to be members of AFCA, and whether the appropriateness of funds paying for ratings should be reviewed).

Limiting conflicted arrangements and payments

SMC supports targeted, platform-specific bans on conflicted payments that can distort product listing, preferred placement, continued availability, or member flows. SMC recommends Treasury:

- Capture benefits tied to access, placement or flows: restrictions should cover any fee, rebate, marketing/support payment, “shelf-space” payment, data/access fee, preferential commercial term, or other benefit provided (directly or indirectly) in exchange for platform access, preferred placement, continued availability, or that varies based on member flows/volumes.
- Prevent avoidance through group structures: rules should be drafted to capture indirect and ownership-based benefits (including benefits flowing through related entities, vertical integration arrangements, profit shares, equity interests, and other economic benefits that increase with product placement or flows).
- Expand the definition of conflicted remuneration: broaden the definition to explicitly capture indirect benefits and ownership-based benefits (including benefits flowing through related entities, equity interests, profit shares, preferential commercial terms, volume-based arrangements, and other non-cash incentives that may influence product listing, preferred placement or switching behaviour).
- Ban platform-to advice licensee payments (with narrow carve-outs): prohibit payments and benefits from platforms to adviser licensees that create incentives linked to product choice, placement, continued availability or member flows. Any carve-outs should be tightly defined and limited to genuine cost-recovery for necessary administrative services, with clear prohibitions on volume/flow-based or preferential arrangements.

Proposal 2: Increase penalties under the SIS Act

SMC sees merit in increasing penalties under the SIS Act, including closer alignment with comparable settings in the Corporations Act. The effectiveness of However, higher maximum penalties on their own are unlikely to materially change outcomes without clear regulatory expectations and consistent, proportionate enforcement.

Penalty settings should not be viewed solely through the lens of maximum amounts. The policy objective should remain deterrence and ensuring that the costs of misconduct and governance failures are borne by responsible entities. This requires settings that support credible enforcement outcomes and minimise the risk that costs are socialised across the system through cross-subsidisation, including via the CSLR.

Reforms should ensure regulators have effective recovery and subrogation powers to pursue compensation and remediation from related and parent entities that benefited from, enabled, or controlled the relevant conduct - not only the immediate trustee or responsible entity. This will reduce incentives to “judgment-proof” entities and limit the need for CSLR cross-subsidisation.

Proposal 3: Introduce a waiting period for inter-fund super switches

Waiting period

SMC does not support a mandated waiting period as a default feature of the super switching system and cautions against relying on delay as a primary safeguard. Instead, SMC supports standardised warnings being targeted at the point of SMSF establishment and again at the point of SMSF rollovers as the most feasible and proportionate starting points to inform consumers of the key risks, given recent SMSF establishment data highlights emerging risks are being concentrated in SMSF switching pathways and because SMSF warnings can be implemented with clear, objective triggers. By contrast, attempting to extend warnings to “platform” or other “higher-risk product” categories would require



contested definitions and major systems changes, making the approach disproportionate given its likely limited effectiveness.

Coverage

SMC supports targeting safeguards to prescribed higher-risk switching scenarios through a standardised, disclosure-based warning regime to SMSF rollovers. This means focusing on arrangements that exhibit one or more of the following features:

- Reduced regulatory safeguards or oversight compared to mainstream APRA-regulated products (for example, SMSFs or platform arrangements with outsourced or fragmented trustee accountability);
- High complexity, opacity or leverage, making risks difficult for ordinary members to understand or monitor;
- Concentrated or illiquid exposures, particularly where members may be unable to exit in stress scenarios;
- Distribution models associated with conflicted incentives, high-pressure sales, or adviser-driven switching, including links to lead generators or volume-based remuneration;
- Product access pathways where trustee gatekeeping is weak or absent, such as menu-based platforms operating as neutral product shelves rather than active fiduciaries.

SMC does not support definitions that require transferring funds to assess the merits or riskiness of destination products on a case-by-case basis, as this would be operationally unworkable and inconsistent with straight-through SuperStream processing. Imposing universal delays or requiring funds to make subjective judgments about the riskiness of destination products would be unworkable at scale and result in inconsistent outcomes across the system.

Instead, SMC supports a framework where Treasury and regulators define prescribed high-risk categories or risk triggers, supported by system-level data, supervisory intelligence and regulator oversight, with waiting periods applied only where those risk signals are present.

Warnings / Notifications

SMC supports clear, standardised notifications that are targeted to the behaviours that result in members being moved into higher-risk environments and products where protections, governance and redress may differ materially from mainstream APRA-regulated super. Notifications should be concise, plain-language and designed to help members identify the key risk dimensions that have been evident in recent failures. A targeted warning approach should be supported by a prompt to pause to the member, with standardised disclosure wording that applies to rollovers, including SMSF rollovers, and is used consistently across trustees, advisers and accountants. These warnings could include:

- Clear, system-led trigger rules for when the warning must be given (for example, all rollovers to SMSFs), without requiring transferring funds to assess destination risk case by case.
- Regulator-prescribed, standardised wording that is concise, plain-language and used consistently across trustees, advisers and accountants.
- A clear statement that moving to an SMSF changes the governance model and can shift decision-making and responsibility substantially onto the member (and their advisers/service providers).
- A brief prompt that SMSFs involve ongoing administrative and compliance obligations and costs, and members should be confident they understand these before proceeding.
- A core disclosure that clearly asks the member to pause before making the decision and why this is important. The disclosure should also state the member is leaving an APRA-regulated super environment and may be moving to an SMSF or other arrangement with materially different protections, oversight and avenues for redress.
- A simple acknowledgement step, where appropriate, supported across the switching ecosystem so the warning is reinforced at relevant points without delaying routine APRA-to-APRA transfers.

Targeting of warnings

SMC supports standardised warnings being targeted to SMSF rollovers as the most feasible and proportionate starting point, given recent harm has been concentrated in SMSF switching pathways



and because SMSF warnings can be implemented with clear, objective triggers. By contrast, attempting to extend warnings to “platform” or other “higher-risk product” categories would require contested definitions, major systems changes, and could dilute or delay implementation.

SMC considers regulators are best placed to design and prescribe standardised warning content, and to ensure it is consistent across the system and kept up to date as harmful practices evolve.

Member protection will be strongest where policy settings do not shift the burden solely onto transferring funds to police downstream misconduct. Obligations should sit across the value chain including with receiving entities and intermediaries that design, market and accept flows into higher-risk arrangements, supported by regulator-led surveillance and visibility of switching patterns to enable early intervention.

Visibility of fund flows and timely intervention

Improving regulator visibility of super switching has the potential to deliver earlier and more effective protection for members than transaction-level delays alone. The Shield and First Guardian failures showed the cost of poor visibility. By the time risks crystallised, large volumes of retirement savings had already been channelled through complex structures and high-risk pathways that were not transparent to transferring funds or consumers. Regulators are best placed to maintain end-to-end visibility of destination products and fund flows, particularly in platform environments where investment menus, governance structures, related-party arrangements and distribution pathways are complex, fast-moving and opaque. High regulator visibility is therefore critical to detect abnormal inflows, emerging patterns of adviser-driven switching and concentrated exposures early enough for intervention to prevent member harm, rather than merely respond after losses have occurred.

Enhancing regulator access to flow data would enable ASIC and APRA to use these insights for regulatory oversight of DDO obligations, early intervention, and targeted advocacy or enforcement, including identifying abnormal inflows, concerning adviser behaviour, or emerging product-level risks. This system-level approach provides stronger consumer protection than transaction-by-transaction friction alone and avoids placing unrealistic or ineffective burdens on individual transferring funds, which lack visibility and control over destination products. Placing responsibility on the receiving product or platform would also materially strengthen consumer protection by aligning accountability with control, visibility and incentives.

This visibility should be complemented by a targeted reporting obligation on advice licensees, who are often the earliest point at which abnormal switching patterns emerge. Licensees have direct line of sight over adviser behaviour across dealer groups and are well placed to detect unusual surges in rollovers into particular products, repeated use of common distribution pathways, or concentrations of client funds into higher-risk structures. Where these patterns depart from expected business-as-usual activity, licensees should be required to notify the regulator in near-real time, supported by clear escalation thresholds and standardised reporting formats.

For example, this may include: (i) a sudden increase in rollovers by multiple authorised representatives into a single product or platform; (ii) clustering of client transfers following common lead generation or marketing campaigns; or (iii) material shifts in portfolio allocation toward complex or higher-risk assets that are inconsistent with historic advice patterns. These signals are unlikely to be visible to transferring funds but can be readily identified within licensee oversight systems and, when combined with regulator flow data, provide a powerful early warning framework.

To support timely intervention, regulators should also maintain a dedicated channel for advice licensees and other market participants (including super trustees) to escalate concerns where they observe emerging risks or suspect misconduct. This complements formal reporting obligations and ensures potential harm can be raised quickly, without waiting for regulatory thresholds to be breached or losses to crystallise.

Avoiding consumer harm caused by misplaced friction

Requiring transferring funds to intervene risks delays, inconsistency and member frustration without materially reducing harm. By contrast, lifting the bar for trustees of high-risk Platform products protects consumers without disrupting benign APRA-to-APRA transfers, preserves straight-through processing, and ensures interventions are targeted to where risk is concentrated.



Member protection is strongest when regulators have system-wide visibility and clear levers to act, supported by obligations on receiving entities to provide data and maintain effective gatekeeping. This approach strengthens trust, avoids burden-shifting, and ensures consumers are protected by those best placed to manage the risks they introduce.

Proposal 4: Limit fee deductions for switching-related financial advice

SMC does not support a blanket ban on advice fee deductions. For many members – particularly those with limited savings outside super – requiring all advice fees to be paid upfront would make quality switching advice unaffordable. This potentially risks pushing members away from regulated advice and towards less safe channels, including unregulated operators and high-pressure sales models, at exactly the point when they are making high-consequence decisions about their retirement savings.

The reform task is to preserve access to safe, affordable and high-quality advice while ensuring the deduction mechanism is no longer the structural enabler of the types of conduct witnessed in the Shield and First Guardian disasters. SMC supports a principles-based framework that codifies the outcomes Treasury is seeking to achieve, delivers them through clear, enforceable and auditable controls at the trustee level, and is designed to work coherently with broader advice reforms including DBFO.

The framework should:

- establish a clear, industry-wide floor of protections;
- require receiving entities to act as effective gatekeepers; and
- directly target switching-related fee extraction risks, including where these may migrate to SMSF pathways.

Six elements should form the operating core of that framework:

1. **Joint ASIC and APRA regulatory guidance** on how the sole purpose test and the Best Financial Interests Duty apply specifically to advice fee deductions – codified, enforceable, and setting out the trustee processes, controls, evidence standards and escalation pathways required to demonstrate compliance.
2. **A mandatory requirement for all trustees to set their own annual global cap** on total advice fee deductions from an individual member's superannuation. It should be set by each trustee based on its own member demographics, balance distribution, advice needs and the assessed reasonable cost of advice for that membership, not by reference to industry peer comparison with limited exceptions. Government should give ASIC and APRA joint powers to require the cap, review the methodology, and direct adjustments where it is inconsistent with the statutory obligations.
3. **Structural balance erosion protections for low and modest balance members** including a minimum residual balance threshold below which advice fees cannot be deducted, and proportionality constraints that limit deductions as a percentage of balance for small to medium balance accounts. ASIC's *Report 781* found fee caps of up to \$20,000 or 5% of a member's balance in operation, with few trustees applying controls to protect low-balance members; structural safeguards must address this directly.
4. **Documented advice fee deduction policy** that sets out the methodology for determining caps based on member demographics and balance analysis, the cost-of-advice inputs, the proportionality and balance-erosion safeguards applied for low and modest balance members, and any exception arrangements.
5. **Mandatory public disclosure of the caps** to improve transparency for consumers and accountability across the system, enabling scrutiny of cap design and operation and ensuring effective market discipline.
6. **Standardise advice fee reporting across all of the superannuation sector** with APRA's advice fee reporting standards amended to require consistent, uniform treatment of all advice fee deductions from member accounts. This includes pass through arrangements, individually negotiated adviser fees, and platform to licensee fees, so that data is comparable across master trust and platform providers and captures the full picture on fee deductions.



Taken together, these elements would convert the existing framework from one that relies on disclosure, consent and reactive enforcement into one that operates through proactive trustee controls, regulator-led specificity, transparent methodology and live data visibility – protecting access to affordable advice while ensuring the deduction mechanism is no longer the structural enabler of misconduct.

Monitoring high-risk switching behaviours

Trustee oversight should also extend beyond static fee caps to include active monitoring of adviser and licensee behaviour, consistent with Treasury’s proposal to scrutinise higher-risk business models.

Trustees should implement data-driven surveillance of switching patterns and fee activity, including:

- identifying advisers or licensees with materially elevated volumes of Third-party authority (TPA) activity over a defined period relative to peers;
- analysing time intervals between TPA execution and rollover completion, including outliers that may indicate pre-coordinated switching; and
- monitoring destination concentration, including whether a disproportionate share of rollovers are directed to a single fund or product.

These indicators provide an early warning system for potentially harmful models and enable trustees to apply proportionate responses ranging from enhanced scrutiny and file reviews through to restrictions or removal from fee deduction arrangements. This approach reinforces trustee gatekeeping obligations and ensures that fee cap settings operate alongside, rather than in place of, proactive control of switching-driven misconduct.

SMSF considerations

Reforms must not inadvertently displace switching-related fee extraction risks into SMSF pathways. Equivalent protections should therefore apply in the SMSF context. This includes clear requirements for explicit, informed and time-limited member authorisation of any ongoing advice fee deductions, supported by strengthened adviser and licensee obligations.

A more structured role for SMSF auditors should also form part of the compliance framework. SMSF auditors should be required to assess whether advice fee deductions are consistent with applicable legal requirements and policy principles. This includes any consent, balance erosion and purpose-based restrictions that apply in the APRA-regulated system – supported by an annual certification or attestation providing an additional layer of assurance that fee deductions are compliant. This builds on the existing framework, where SMSF auditors are already subject to mandatory reporting obligations under section 311 of the *Corporations Act 2001*, requiring them to report material contraventions of the law.

Proposal 5: Requiring Platform Trustees to compensate members for eligible losses

SMC strongly supports the principle that the cost of misconduct should fall on parties responsible, not be socialised across members of unrelated funds. Pre-funded compensation calibrated to risk, is an important prudential answer to this principle. As was the case in the distribution of Shield and First Guardian, platform business models with broad external investment menus, fragmented trustee accountability and conflicted distribution can produce mass-member losses. But compensation and remediation are a long and fraught process. Super fund members require access to compensation promptly, and with certainty. Pre-funded, risk calibrated capital, supported by strong recovery and subrogation powers is the structural solution.

The same principle does not however require applying the same prudential remedy to fund structures that do not produce the same exposure. The profit to member model (PTM) operates with an internal, curated investment menu, an active trustee gatekeeping every option and a duty regime in which members are the beneficiaries. Mass-loss exposure caused by an advised MIS failing on an investment platform is an entirely different risk proposition and exposure. Pre-funded compensation in this example is answering the same backstop that PTM’s address through reserving and their operational risk reserves. Competitive neutrality is sometimes invoked as a reason to apply the same prudential settings across all fund structures. SMC’s position is the reverse: competitive neutrality requires applying the same principle to the same problem – pre-funded capital should be required



where mass-loss platform exposure exists and should not be imposed where it does not. Anything else asks PTM members to hold capital against a risk they did not produce.

Eligible loss

Determination of an “eligible loss”, should be based on clear, objective criteria and a consistent evidentiary threshold, applied by an independent regulatory or statutory decision-maker, rather than by individual trustees or affected members.

An eligible loss should be defined narrowly and objectively. It should be limited to losses caused by fraud, theft, misappropriation or other dishonest conduct, and should not extend to ordinary market movements, poor investment performance or other investment risk. The definition should align with the existing SIS Act framework to provide legal certainty and a clear, established boundary between compensable misconduct losses and ordinary investment outcomes. That is important because it will support consistent decision-making, reduce disputes about scope, and give trustees and members greater confidence about when compensation is available.

SMC does not support an evidentiary standard that requires members to prove fraud or theft through final court judgments before accessing compensation, as this would delay redress and undermine consumer protection.

Activation

SMC considers that trustee-funded compensation should operate as the primary mechanism for eligible losses, but Part 23 assistance should continue to apply as an overflow mechanism where losses exceed the amount available in trustee capital or reserves, including where the fund is unable to meet its benefit obligations. From a system-design perspective, this integrated approach ensures:

- Clear sequencing of redress pathways;
- Faster and more certain outcomes for affected members;
- Better alignment between accountability, prevention and compensation; and
- Preservation of AFCA and CSLR as important but genuinely residual protections, rather than default tools for addressing systemic governance failures.

Alternative compensation proposals

SMC supports giving ASIC a power to direct a trustee to commence remediation where there is reason to suspect a contravention has caused member loss. This would provide a useful backstop to prompt timely action where remediation is delayed or not commenced. However, the framework should also make clear that trustees are expected to act proactively and do not need to wait for an ASIC direction before starting remediation.

Any directions power should be designed to accelerate remediation, not replace it. ASIC should be able to require a remediation process to be commenced and conducted appropriately, but trustees should remain responsible for assessing eligibility, applying the remediation methodology and delivering outcomes to affected members. The power should also be subject to procedural fairness and review.