SUBMISSION TO GOVERNMENT

CUTTING RED TAPE

FINANCIAL INSTITUTIONS

{APPENDIX A}

{MAY 2014}

GH/COR/FI

EXECUTIVE SUMMARY

The specific reform items are classified under four broad themes:

- **Accountability/transparency of regulatory processes**
- **Regulatory arbitrage/duplication**
- **Regulatory overreach**
- **Modernisation of regulation**

Potential cost savings are an estimate and include both implementation and on-going costs for industry (and where relevant public sector costs) over the next decade. A high level indicative view of the approximate cost impact on the industry is classified as follows:

Low	Up to $10M
Medium	$10M to $100M
High	Over $100M

The urgency of the requisite change i.e. when the change needs to be complete in order to be effective is classified as follows:

Immediate	0-6 months
Short term	6 months – 2 years
Medium term	2 – 5 years

Implementation of the G100's recommendations is estimated to result in cost savings in excess of $1b over the time periods suggested.

Item	Issue	Cost Impact	Urgency	Page No.
	ACCOUNTABILITY & TRANSPARENCY OF REGULATORY PROCESSES			
1	**Achieving more effective regulatory change consultation processes** Align economic settings with settings and direction from Government to ensure that regulator-driven policy changes doesn't curtail domestic growth	Medium	Immediate	8
2	**Mandatory application of best practice principles by Government and Regulators** Ensure comprehensive consultation prior to the development of regulation. Moreover, all Cabinet submissions must include a Regulatory Impact Statement (RIS) and that the RIS must quantify the impact to business and the community.	Medium - High	Immediate	9
3	**ASIC and APRA not to create policy** Address the agency problem with regulators ASIC and APRA by ensuring that financial sector policy is determined by Government and are not delegated, except for minor relief arrangements. Clarify the mandates of ASIC and APRA to ensure both organisations do not depart from the boundaries of regulation and into policy making.	Low - Medium	Short Term	9
4	**Regulatory burden: assessment and independence** Accept and adopt the ANAO recommendation to ensure Treasury retain the lead role in consultations concerning financial sector levies, to avoid conflicts for regulators.	Low - Medium	Medium Term	10
5	**Government efforts in international regulatory forums** Report annually on the extent of regulatory measures related to the financial system that have been, and will be, assessed under the Legislative Instruments Act 2003, and as part of sunset clauses enshrined in relevant bills.	Low - Medium	Medium Term	10

Item	Issue	Cost Impact	Urgency	Page No.
6	**Compliance burden on boards and directors** Review prudential standards to better identify roles of directors and management.	Medium	Short – Medium Term	11
	REGULATORY ARBITRAGE/DUPLICATION			
	FINANCIAL ADVICE			
7	**Tax Agents Services: Dual regulation by ASIC and Tax Practitioners Board** Ensure that the Government's review of adviser standards are harmonised with TASA standards and do not create two sets of rules	Medium	Immediate	12
	SUPERANNUATION			
8	**Modern awards: Redundancy of Fair Work Australia default fund selection process** Remove the ability of modern awards to specify default funds, and remove the ability of a separate authorisation process through the Fair Work Commission	Medium	Short Term	14
9	**Payment Systems Inefficiencies and SuperStream** Delay the second phase of SuperStream to determine whether a coordinated approach can be delivered, particularly if the APCA and RBA payment models can be aligned.	Medium	Short Term	15
10	**Dual regulated entities** Clarify the Corporations Act so that for dual regulated entities, the same assets can contribute towards both ASIC's and APRA's financial resource requirements.	Medium - High	Medium Term	16
11	**Operational risk financial requirements** Amend the law to ensure that RSE licensees undertake a robust assessment and quantification of their operational risk exposures and to more broadly recognise access and substantiated availability of capital to address operational risks where an RSE licensee is a member of an APRA regulated conglomerate group. APRA to align its risk based capital framework across industries and permit offsets for capital it requires within its other capital regimes.	Medium	Medium Term	17

Item	Issue	Cost Impact	Urgency	Page No.
	INSURANCE			
12	**General insurance regulations: inconsistency of State-based regimes** Work with COAG to introduce a national regime for general insurance regulations to abolish stamp duties, harmonise workers compensation insurance and OH&S standards.	Medium	Medium Term	17
13	**Unemployment/income protection classified as general insurance** Consider appropriateness of this treatment.	Medium - High	Medium Term	18
14	**Supporting disabled claimants to return to work** Amend legislation to permit insurers to fund rehabilitation treatments.	Medium	Medium Term	19
15	**Streamline regulator visits and requests** Better coordination and planning on part of regulators.	Low - Medium	Medium Term	20
16	**Auditing standards** Consider repeal of some existing requirements.	Low - Medium	Medium Term	20
17	**Obligation for insurers to produce letter of credit** Amend prudential requirement and rely on commercial practice.	Low	Medium Term	21
18	**Policyholder communication on Statutory Fund mergers** Amend current notification requirements.	Low - Medium	Medium Term	21
19	**Prescriptive prudential regulation that limits mobility** Consolidation and simplification of prudential standards.	Medium	Medium Term	22

Item	Issue	Cost Impact	Urgency	Page No.
20	**Align Accounting Standards and APRA requirements** Amend requirements to achieve better alignment.	Low - Medium	Medium – Long Term	23
21	**Consistency and Certainty of regulator guidance** Better and more timely guidance by regulators where necessary.	Low - Medium	Medium Term	24
22	**Electronic transactions** Rationalise and simplify the differences between the Corporations Act, Electronic Transactions Act, Insurance Contracts and Life Act to ensure insurers and customers can communicate easily and in a technology neutral manner.	Low - Medium	Medium Term	24
	GENERAL			
23	**Annual company income tax returns** Abolish the requirements to prepare an annual tax return for large companies, and rely upon audited financial statements, and exception requests	Medium	Short – Medium Term	25
24	**FATCA Intergovernmental Agreement** Ensure the ATO can act as the primary liaison point for FATCA information provided to the US. Ensure a similar approach for GATCA and any future international tax information sharing agreements raised as part of the G20 or in bilateral discussions.	Medium - High	Immediate	26
	REGULATORY OVERREACH			
	GENERAL			
25	**APRA data reporting** Increase accountability and cost benefit assessment of regulators concerning data collection, assess data reporting costs against benefits, and align APRA required information with financial statements. Where unreasonable cost burdens are identified in relation to particular data items under APRA's reporting framework, Government consider solutions including reducing the frequency of reporting for data items and extinguishing the requirements.	High	Immediate – Short Term	26

Item	Issue	Cost Impact	Urgency	Page No.
26	**Remuneration reports** Remove complexity and simplify.	Medium	Immediate	28
27	**Variations to substantial shareholdings** Dialogue with ASIC to amend requirements	Medium	Immediate	29
28	**Parent entity financial statements** Remove APRA requirement for reporting and adopt Corporations Law approach.	Low	Immediate	30
	SUPERANNUATION			
29	**Accrued default amount abrogation** Amend the definition of accrued default amounts (ADA) to provide a further exception in relation to members who have provided a direction to a trustee to invest in the current default option of a fund that is not a standard employer-sponsored fund (Choice Fund).	Medium	Immediate	30
30	**Superannuation transparency; Product dashboards** Remove requirement to have a dashboard for choice products and remove requirement to publish dashboards in periodic statements Align disclosure requirements with the best interests of all members by subjecting any proposals to thorough consumer testing.	Medium	Immediate	32
	MODERNISATION OF REGULATION			
31	**Product rationalisation** Commencement of industry-government working group to conclude the outstanding work on addressing legacy products through a comprehensive product rationalisation mechanism	Medium	Medium Term	33
32	**Productivity Commission recommendations** Implement the Productivity Commission recommendations to address reviews of government regulation	Low - Medium	Medium Term	34

Item	Issue	Cost Impact	Urgency	Page No.
33	**Updated disclosure regime (Product disclosure statements)** Improve disclosure regime to ensure client directed disclosure precedes, client pushed disclosure	Low - Medium	Short Term	35
34	**Register of current law** Develop a public central electronic database with appropriate hyperlinks incorporating consolidated law, regulator guidance, class order relief and other relevant instruments	Low	Medium Term	35
35	**Keeping regulatory guidance current** Ensure Regulatory Guidance is formally reviewed and updated every five years.	Low	Medium – Long Term	36

ACCOUNTABILITY & TRANSPARENCY OF REGULATORY PROCESSES

1. ACHIEVING MORE EFFECTIVE REGULATORY CHANGE CONSULTATION PROCESSES

Issue

The G100 believes that regulatory consultation processes could be improved to avoid unnecessary cost burdens on industry. According to the World Economic Forum Annual Report into global competitiveness, Australia has slipped from being ranked 9th in 2008/09 on the transparency of government policymaking to 51st in the 2013-14 review[1]. Moreover Australia is ranked 128th on the burden of government regulation.

'Throw away costs' or 'sunk' costs are often created as a result of tactical or interim solutions put in place to meet tight compliance deadlines. These costs are significant and avoidable.

We have identified the following factors:

- new compliance requirements are not defined and are ambiguous
- lobbying activities, industry consultations and discussion papers are being published during the release period. These papers often seek feedback from industry and response dates are often only months away from the actual compliance date
- during the release period organisations have to set up processes and projects to comply even when the requirements are not defined, there are gaps and the requirements are evolving.

Proposed solution

Good policy and regulation making process should be engineered to overcome problems such as complexity and unnecessary cost.

In current practice, it appears that the substance of this process actually occurs after the release of the regulation rather than before its release. Activities such as; industry consultation, release of discussion papers for comment, assessment of whether a regulation is fit for purpose, closing gaps should generally occur before the release of the new regulatory requirement.

Government agencies and regulators should be accountable to ensure there is substance to the consultation period, to ensure it operates effectively prior to the release of regulation or guide. Adopting this approach will:

1. materially eliminate sunk and throw away costs.
2. eliminate the need to extend compliance deadlines
3. reduce complexity and incoherence
4. close outstanding gaps in new regulation issued
5. ensure legislation is relevant
6. reduce any extreme regulation.

Relevant examples of regulation:

- Stronger Super reforms
- Future of Financial Advice reforms (FOFA)
- APS 910 Financial Claims Scheme
- APS210 Liquidity

[1] http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf

To this end, the G100 welcomes the Government's commitment to ensure all Cabinet submissions include a Regulatory Impact Statement (RIS) and that the RIS must quantify the impact to business and the community. We believe the formulation of good public policy includes thorough consultation and development of comprehensive RISs. These are important steps in minimising unintended consequences that may arise from regulation.

Cost Impact	Medium	Urgency	Immediate

2. MANDATORY APPLICATION OF BEST PRACTICE PRINCIPLES BY GOVERNMENT AND REGULATORS

Issue

Currently there is no obligation on government or regulators to follow best practice regulatory guidelines.

Proposed solution

The G100 believes that this can be addressed by:

- compulsory analysis consideration of cost/benefit in all regulations prior to their release;
- mandatory application of relevant principles (COAG, OBPR) on government and regulators, including issuance of consultation regulatory impact statements (RIS) and extension of Office of Best Practice Regulation (OBPR) powers. Formal guidelines imposed in relation to provision of adequate transitional provisions in all regulatory instruments e.g. minimum timeframes for transition.

The G100 welcomes the Government's commitment to cut excessive regulation by reforming the process by which regulations are created, implemented and reviewed. This should apply to all Departments and regulators.

Cost Impact	Medium to High	Urgency	Immediate

3. ASIC AND APRA NOT TO CREATE POLICY

Issue

During the previous Parliament, there were instances where the financial services regulators (APRA and ASIC) would stray from regulation and enter the policy making arena, particularly for Stronger Super and FOFA.

The Government should ensure that APRA and ASIC operate within their mandate and do not develop policy – this clearly is the realm of Executive Government.

Proposed solution

Develop and publish a clear demarcation between policy creation by Government and the compliance and enforcement of legislation giving effect to this policy by APRA and ASIC.

The mandates of ASIC and APRA also need to be clarified to ensure both organisations do not depart from the boundaries of regulation and into policy making.

Accept and adopt the ANAO recommendation to ensure Treasury retain the lead role in consultations concerning financial sector levies, to avoid conflicts for regulators.

Cost Impact	Low to Medium	Urgency	Short Term

4. REGULATORY BURDEN: ASSESSMENT AND INDEPENDENCE

Issue

Unsuitable regulations can affect economic activity, and can impose costs on consumers and businesses.

A number of constructive measures were introduced to give the government the opportunity to review regulations regularly to ensure that they meet the policy intent that they were established for. It is unclear to the business community that these reviews are being implemented in a systematic way because legislative review is being conducted on a timely basis as it is required to be done simultaneously with the creation of new measures, reflecting the urgency of other government priorities of the day.

Background

Australia has introduced a formal system of periodic reviews though the use of sunset provisions for legislative instruments through the Legislative Instruments Act 2003. and five yearly reviews for regulation that is not subject to sunset or other statutory review provisions.

Proposed solution

Report annually on the extent of regulatory measures related to the financial system, and other sectors, that have been, and will be, assessed under the Legislative Instruments Act 2003, and as part of sunset clauses enshrined in the relevant bills.

Ensure that a regulatory review function inside, Treasury, PM&C or the Parliament are able to issue recommendations, ideally on a transparent basis, where legislation under review is not meeting the policy intent, or the costs of meeting it do not deliver a public benefit.

Cost Impact	Low to Medium	Urgency	Medium Term

5. GOVERNMENT EFFORTS IN INTERNATIONAL REGULATORY FORUMS

Issue

The OECD (2009) noted that "better regulation principles at the national level are implemented too late in the decision-making process when regulations are set at the international level."

Australia's increased involvement in international forums has contributed to the growth in domestic regulation. There is a specific concern that measures agreed in other jurisdictions should not be subject to high levels of scrutiny at a domestic level.
This can partly be traced to the pace of reform in recent years and international coordination efforts on measures such as short selling.

One of the risks of this is that regulation suitable for larger markets is unsuitable when those same principles are applied in Australia.

Background
There is a growing tendency for our domestic regulators to link international financial sector reforms to Australia. This is arguably running ahead of faster access to new markets for product distribution in different markets and the attendant opportunity to offset higher obligations with higher revenue.

For example, APRA's arrangements with the Bank for International Settlements (BIS) and ASIC's arrangements with the IOSCO, suggest a firm linkage between international policy settings being considered by Australia, with little evidence to show how they contribute positively to our domestic economy. On prime facie evidence these arrangements do little to improve our access to international markets.

Proposed solution
Ensure international liaison and financial services policy activity is repositioned to better deliver growth and opportunities for Australian business, and that international stability reforms are subject to a proper process of scrutiny led by Treasury, not regulators. Identifying and facilitating international policy setting and market opportunities should be led by Government, due to its foreign affairs and trade capabilities.

Report biannually on the extent to which Australia is meeting the OECD Guiding Principles of Regulatory Quality and Performance and The Policy Framework for Efficient and Effective Financial Regulation (PFEER)

Cost Impact	Low to Medium	Urgency	Medium Term

6. COMPLIANCE BURDEN ON BOARDS AND DIRECTORS

Issue
Industry is concerned that there is a growing trend towards an inappropriately detailed level of Board involvement in issues which should be management responsibility such as following Board approved principles and mandates.

In particular, standards and requirements by Boards are becoming less principles-based and more prescriptive and rules-based. This results in an increase in required documentation, reporting and the level of detail therein which creates a real risk of a failure to 'see the wood for the trees', with important issues not being given sufficient consideration or missed. This increased burden also takes away from the Board's strategy setting and monitoring role which is a vital function for any financial services entity.

Background
The G100 believes that the requirements of some prudential standards blur the lines between responsibilities that would typically be considered managerial in nature and those that would be considered the remit of the Board. Prudential Standard CPS 220 (Risk Management) stipulates a number of risk management responsibilities that go beyond the Board's oversight role and are more managerial in nature. For example, paragraph 13 of the CPS 220 states that the Board must ensure that:

- senior management monitor and manage all material risks;
- sufficient resources are dedicated to risk management;
- uncertainties attached to risk measurement are recognised; and
- staff understand and are educated on risk appetite, risk profile and capital strength.

While it is appropriate for the Board to approve and oversee an organisation's risk management framework, the actual implementation and controls should be the responsibility of management. The Board should ensure that management monitors compliance with the framework rather than monitor adherence to the framework themselves.

Proposed Solution
The G100 recommends that a review of APRA's Prudential Standards be undertaken to determine whether requirements imposed upon Boards are consistent with the fundamental obligations of a company director. To the extent that such obligations would be more appropriately undertaken by management, the particular Standard should be amended to provide that a Board can rely on senior management to implement a requirement and advise the Board. For example this could be achieved by rewording CPS 220 and replacing the term 'ensuring' with a requirement that the Board 'is reasonably satisfied'.

Cost Impact	Medium	Urgency	Short to Medium Term

REGULATORY ARBITRAGE/DUPLICATION

FINANCIAL ADVICE

7. TAX AGENTS SERVICES - DUAL REGULATION OF FINANCIAL ADVISERS BY ASIC AND TAX PRACTITIONERS BOARD

Issue
From 1 July 2014 Tax Agent Services Act (TASA) imposes obligations for providers of a new class of advice, tax (financial) advice. In a nutshell, the obligations require Authorised Representatives and Licensees who provide tax (financial) advice to:

- register with the Tax Practitioners Board (TPB) and be subject to a dual regulatory regime (as they are also regulated by ASIC);
- meet significantly increased TPB educational standards including mandatory university level study and study in Australian taxation law and commercial law, whilst also meeting ASIC's forthcoming increased requirements of study for financial planners which will include an awareness of taxation;
- potentially amend business models including supervisory models to comply with the TPB's requirements, as the TPB does not seemingly recognise the difference in supervisory models between tax agents and financial planners.

Industry argues that the regime was both duplicative and onerous in submissions made prior to the passage of the legislation. Both the operation of the dual regulatory regime and the nature of the underlying requirements are questionable in terms of overall benefit to consumers of financial advice or indeed tax (financial) advice services.
In addition, in some cases, the introduction of this framework may prevent individuals from entering the financial planning industry as they may not meet the relevant experience requirements to qualify for registration as a tax (financial) adviser.

Background
In the final sitting of Parliament under the previous Government, legislation was rushed through that placed new, onerous obligations on financial advisers who provide incidental tax advice as part of their financial planning services. Senator Cormann's statement at the 12 June 2013 Parliamentary Joint Committee on Corporations and Financial Services which scrutinised the Bill, describes the problem best:

> "*Irrespective of any transitional arrangements, before you actually enter into a change, people should have a very clear understanding of what is involved, how it is going to impact on them, how they can get themselves into readiness for compliance and what the cost-benefit equation is.*
>
> *On all of these levels, I do not think we are quite there. My view is that the most sensible approach is to have an extension to let a government, outside a pre-election period, deal with this in an orderly and professional fashion rather than to rush this at the tail end of what was a very difficult parliament, quite frankly. That is my view.*"

Commencement of the new requirements was deferred until 1 July 2014 due to the significant concerns raised. This provides an opportunity for the Government to consider the unnecessary regulatory burden posed by these requirements and consider suitable amendments. The previous government did not undertake a cost benefit analysis of the requirements.

Further, consideration of efficiencies and overlap between ASIC and the TPB has been left to the agencies and to date there is considerable overlap, inefficiency and unnecessary cost burdens in the operation of the two regimes.

Proposed solution(s)
There are numerous potential amendments that could be made to reduce unnecessary cost and regulatory burden associated with the regime:

1. Abolish the requirements.

2. ASIC are re-instated as the sole regulator of financial advice [including tax (financial) advice], with relevant educational requirements incorporated in the ASIC regime.

3. Formal protocols are established to ensure ASIC and TPB are accountable for working in unison to ensure that licensing and educational requirements for financial planners are streamlined and do not prevent individuals from entering the financial planning industry.

4. Synthesise ASIC's and the TPB's CPE requirements so that overall they do not become overly burdensome on the adviser or duplicative. Like the broader educational requirements this process should be streamlined and considered in conjunction with one another.

   For example, the requirements for tax (financial) advisers should be incorporated in the relevant ASIC AFSL requirements and consider where the existing ASIC requirements may be adequate for the nature of tax (financial) advice provided.

5. The educational requirements pay due regard to "incidental" tax (financial) advice, and do not require upgrade from the ASIC status quo unless it can be demonstrated that the relevant ASIC tax modules are inadequate for the type of

advice provided. This may require segmentation of the educational requirements based on how "intensive" any tax (financial product) advice is.

6. The regulations explicitly carve out general advice.

Cost Impact	Medium	Urgency	Immediate

SUPERANNUATION

8. MODERN AWARDS -REDUNDANCY OF FAIR WORK AUSTRALIA DEFAULT FUND SELECTION PROCESS

Issue

As a result of the Stronger Super reforms that implemented MySuper as a universal default product, it is wasteful and inefficient to have a secondary Fair Work Australia (FWA) process to specify default funds in modern awards. MySuper products are subject to an eight step APRA approval process prior to being granted an authority to operate as a default superannuation product. The G100 believes that MySuper approval is sufficient and the FWA process is rendered redundant by virtue of the MySuper regime.

Background

Currently default superannuation fund arrangements in Australia are part of industrial awards and hence part of Australia's industrial relations system. When the Workplace Relations Act 1996 (Cwlth) was introduced it expressly included superannuation as an allowable matter in awards. The Howard Government committed to the removal of superannuation as an allowable matter from 2008. The Rudd Government instituted the Fair Work Act which expressly included superannuation as an allowable matter.

On 13 October 2012 then Minister Shorten released the Productivity Commission's (PC) final report into Default Superannuation Funds in Modern Awards. Whilst certain recommendations are welcome, others fail to place the requisite efficiency lens over the Fair Work Australia process when viewed alongside the MySuper regime. Furthermore, Fair Work Act amendments passed on 24 June 2013 moved away from certain PC recommendations that would have enhanced competition and streamlined the selection process (for example, competition is stifled by the limiting the number of funds that can be listed within an award).

The Government has committed to ensuring competition in the default superannuation market and on 28 November 2013 the Assistant Treasurer released a discussion paper 'Better regulation and governance, enhanced transparency and improved competition in superannuation' seeking feedback on the Coalition's superannuation-related election commitments, including fund governance, transparency and competition in modern awards.

Proposed solution

The Government should remove the ability of modern awards to specify default funds, allowing employers the freedom to select an APRA approved MySuper default fund based on their consideration of the merits of each fund and what is in the best interests of employee members.

MySuper funds must be authorised by APRA and there is a rigorous application process which superannuation funds must satisfy prior to potentially receiving authorisation. The 24 June 2013 Fair Work Act amendments add a costly and unnecessary second and third

layer to this "selection process" by requiring the Fair Work Commission (FWC) to establish an Expert Panel to advise it on the selection of default superannuation funds, with the Full Bench of the FWC to make the final decision.

This FWC process will subject trustees to a separate set of criteria when applying to APRA for MySuper authorisation. This is unjustifiable and duplicative given the already heightened standards and governance required by APRA of MySuper arrangements.

Cost Impact	Medium	Urgency	Short Term

9. PAYMENT SYSTEMS EFFICIENCIES AND SUPERSTREAM (ELECTRONIC CONTRIBUTIONS)

Issue

There are currently multiple agencies setting data messaging and electronic data standards in the financial sector including APCA, RBA, ASIC, APRA, and the ATO. There is no consistency across the agencies resulting in duplication of processes and increased costs for participants and customers. Within superannuation multiple clearing houses increases inefficiency and operational risk. Trust is being placed in institutions that have no record in payment management rather than in the banking system where providers are bound by EFT codes of conduct and are subject to prudential supervision.

For example, in parallel with the implementation of the SuperStream reforms, Australian Payments Clearing Association (APCA) and its members are working with the Reserve Bank of Australia (RBA) to implement a new payment system by the end of 2016. The upgraded payment system will deliver the ability for employers to pass on rich data with direct credits so super funds can reconcile and allocate members monies (the principal goal of the second phase of SuperStream).

Background

SuperStream is a Super System Review (Cooper Review) initiative to introduce mandatory data and payment standards into the superannuation market place. The initiative is broadly supported by the superannuation industry who are currently implementing phase one of SuperStream which introduces electronic rollover of benefits between different superannuation providers upon a member's request.

Phase two of SuperStream is currently legislated to commence 1 July 2014 and will apply mandatory data standards to large and medium sized employers for superannuation contributions that they make for their employees.

The G100 is concerned that the implementation timeline for phase two of SuperStream does not adequately take account of the time it will take to fully implement phase one and underestimates the amount of work it will take for government and superannuation funds to educate employers about their new obligations.

Proposed solution

There is an opportunity for the Government to review the achievability of the second phase of SuperStream, and todelay the commencement date by 12 months while this review is conducted.

Delaying the second phase will also allow the Government, in conjunction with industry, to analyse the substantial progress made by APCA and the RBA to improve the payment system and to determine if aligning the two projects would substantially reduce the implementation costs for government, employers and super funds.

A co-ordinated and consistent approach across the sector is required as currently there are many agencies involved. Leveraging the banking system where providers are bound by EFT codes of conduct and subject to prudential supervision will reduce operational risk and complexity.

Cost Impact	Medium	Urgency	Short Term

10. DUAL REGULATED ENTITIES

Issue

Stronger Super removes the current exemption for dual regulated entities from having to meet the Corporations Act resource (capital) and risk management requirements for Responsible Entities (REs). The change has potentially significant implications in terms of the costs of the financial services industry as it is common for entities to act as a trustee/RSE licencee of an Registrable Superannuation Entity (RSE) and also as a trustee/responsible entity of managed investment schemes. We are concerned removal of this exemption creates a significant cost and compliance burden by effectively duplicating requirements.

Background

It is common in the financial services industry for a body corporate to act as both an RSE licensee (of an APRA regulated superannuation fund) and also a responsible entity (RE) licensed with ASIC. APRA's consent is obtained under the RSE licence and the RSE is subject to periodic supervisory reviews to ensure compliance with their licence requirements.

Thus, the body corporate's activities:

(a)as an RSE licensee are governed by the RSE licensing rules of SIS and (in many cases) the Australian financial services licensing rules in the Corporations Act 2001 (Cth) (Corporations Act); and

(b)as a responsible entity (RE) are governed by the managed investment scheme and Australian financial services (AFS) licensing rules in the Corporations Act.

In those situations where the trustee of a superannuation fund holds both an RSE licence and an AFS licence, section 912A of the Corporations Act exempts the trustee from the following obligations as the holder of an AFS licence:

a) the obligation to have available adequate resources (including financial, technological and human resources) to provide the financial services covered by the AFS licence and carry our supervisory arrangements; and

b) the obligation to have adequate risk management systems.

This is chiefly because APRA will already consider these matters as part of their licencing and ongoing supervisory process. Moreover, dual regulated entities generally don't separate the management of their responsibilities under their different lines of business (e.g. RE and RSE) and policies such as strategy, risk management and investment management usually cover all areas of the business. This exemption has been important in maximising these efficiencies while also minimising duplication.

The Stronger Super amendment comes into effect from 2015.

Proposed solution

The legislation should be clarified so that for dual regulated entities, the same assets can contribute towards both ASIC's and APRA's financial resource requirements.

Cost Impact	Medium to High	Urgency	Medium Term

11. OPERATIONAL RISK FINANCIAL REQUIREMENTS

Issue

The Operational Risk Financial Requirement, whereby an RSE licensee is required to maintain a reserve to address operational risk losses, is duplicative where an RSE licensee and its operations are wholly within a conglomerate group that already holds adequate capital to address operational risk losses. Any required additional RSE licensee reserve should be maintained to a level determined from a detailed assessment and quantification of its retained risks and not to some arbitrary minimum level that has no regard for the quantified risk exposure. Holding an excessive reserve may mean that fund members will bear unnecessary costs in funding the reserve which is contrary to members' best interests.

Background

Under its standards making powers, APRA has introduced the requirement (under APRA Superannuation Prudential Standard SPS 114 – Operational Risk Financial Requirement (ORFR)) that RSE licensees hold sufficient capital reserves to address losses arising from operational risk events. Guidance in the Standard indicates APRA's expectation that the reserve for a soundly run RSE should be no less than 0.25% of funds under management. APRA allows a lower minimum requirement (0.10%) where an RSE holds investments in an entity (such as a life company) that also has a regulatory capital requirement.

Proposed Solution

Amend the law (SIS s.52(8)) to ensure that RSE licensees undertake a robust assessment and quantification of their operational risk exposures and to more broadly recognise access and substantiated availability of capital to address operational risks where an RSE licensee is a member of an APRA regulated conglomerate group. Alternatively, APRA's framework should be amended to ensure alignment of its risk based capital framework across industries and permit offsets for capital it requires within its other capital regimes.

Cost Impact	Medium	Urgency	Medium Term

INSURANCE

12. GENERAL INSURANCE REGULATIONS - INCONSISTENCY OF STATE BASED REGIMES

Issue

In the Life and General Insurance sectors there are numerous inter-jurisdictional overlaps and inconsistencies. In particular, inconsistencies across State and Territory Government regulatory regimes add unnecessary costs and compliance burdens and are a major impediment to forming a common market in Australia.

There is also inconsistency across State and Territory Governments in the rate and application of stamp duty as it relates to insurance premiums. This places unnecessary costs and compliance burdens on industry, for example in maintaining and administering variable rates in policy administration systems

An example is workers compensation insurance. The compulsory nature of workers compensation and its role in the broader industrial relations environment have resulted in a far more intense level of regulation than any other insurance product. To date, this regulation has been almost entirely state based (other than for Commonwealth employees and seafarers). The result is the current variety of different schemes for each state and territory. Provision of workers compensation continues to be dominated by the state public sectors and licensed private insurers remain excluded from direct underwriting in four of the five largest states.

Background

Life & General Insurers are subject to a range of industry specific regulation at a Federal (e.g. *Insurance Act 1973, Insurance Contract Act 1984), and* State and Territory levels. These regulations subject insurers to prudential supervision and also deal with aspects of market conduct and consumer protection and the various statutory insurance schemes, which operate in each State and Territory.

Proposed solution

- There is a need for a national regulatory framework that is developed through COAG. In particular, there is a need for the rationalisation of prudential regulation with APRA being the sole prudential regulator and the states and territories removing overlapping or duplicate requirements in statutory and other classes of insurance.
- Taxation inconsistencies that lead to compliance burdens and distort market efficiency should be abolished. Imposing specific taxes on insurance deters people from insuring their property and exacerbates the underinsurance problem.
- For example, nationally consistent frameworks in worker's compensation insurance and occupational health and safety; such frameworks would remove unnecessary cost and compliance burdens while at the same time acting to deliver optimal outcomes for injured workers and provide employers with a regulatory environment better attuned to modern business practices. Similar results could be attained across other classes of general insurance, via consistent state based (or preferably national) frameworks.

Cost Impact	Medium	Urgency	Medium Term

13. UNEMPLOYMENT/INCOME PROTECTION BEING CLASSIFIED AS GENERAL INSURANCE.

Issue
The Offices of State Revenue classify unemployment/income protection as general insurance for stamp duty purposes with the result that they are subject to more taxes than would otherwise be the case which increases the burden on the community.

Background
Income protection insurance makes a strong contribution in lowering the risk affecting individuals arising from unexpected events. However, according to the best estimates available, income protection is subject to high levels of underinsurance.

Because of the barriers to obtaining insurance, including the presence of taxes, this reduces demand for income protection insurance as the degree of risk people would like to offset, cannot necessarily be optimised. The effect of this is that unforseen events are otherwise met from savings, or assistance from family and friends, government welfare and social programs, charities and debt.

Proposed Solution
Consider whether it is appropriate for income protection insurance to be treated as general insurance by State Revenue Offices, as this differs from the treatment of other life insurance products.

Cost Impact	Medium to High	Urgency	Medium Term

14. SUPPORTING DISABLED CLAIMANTS TO RETURN TO WORK

Issue
Life insurers are limited by legislative provisions in their capacity to pay for rehabilitative treatments that would assist claimants to return to work which leads to higher ongoing benefit payments with the insured less likely to undertake a full process of remediation despite the encouragement of insurers and health professionals.
This ultimately increases claims administration costs, which can lead to higher premiums for the insured.

Background
The Act currently prohibits a life insurer from directly paying for medical treatment that would otherwise be payable under Medicare, for example, surgery, hospital costs and physiotherapy. These rehabilitation expenses are those which have as their primary focus the restoration of the patient's functional ability. This is an anomalous policy outcome that affects the insured, and the insurer, by increasing the barriers to rehabilitation by adding to the costs and time of payment processing, and creating a more uncertain and adversarial relationship between the two parties.

Easing the process of paying directly for rehabilitation costs will ensure insurers to focus on meeting rehabilitation costs, whilst the insured can focus on their health and returning to work.

Proposed Solution

Amend, via the repeal of relevant sections, of the Health Act to allow life insurers to fund rehabilitative treatments and assist workers in their return to the workplace.

Cost Impact	Medium	Urgency	Medium Term

15. STREAMLINE REGULATOR VISITS AND REQUESTS

Issue
The frequency of formal and informal APRA meetings with institutions is too often and requires a considerable commitment of senior management time in addition to the preparation of information for the visits which involves a significant amount of work, including ongoing liaison time with the regulator.

Background
Quarterly meetings generally run for up to three hours and require the attendance of four to five senior members of the regulated entity and deal with all key risk categories (credit risk, liquidity risk, capital, operational risk and market risk). APRA also makes a significant number of ad hoc requests for information as well as the quarterly review and prudential reviews. Often, it is unclear why APRA is seeking this information.

Proposed Solution
The G100 suggests that APRA audit all meetings with a view to reducing their frequency and duration and, where possible, meetings and requests for information should be coordinated. To assist industry in preparing for these meetings and requests for information it would be very helpful if APRA articulated why information is being requested and the prudential benefit it expects to obtain from the information..
Consistent with requirements in the US, Australian regulators should be required to estimate the average burden hours pre response/request sent to each entity ('Paperwork burden' initiative).

Cost Impact	Low to Medium	Urgency	Medium Term

16. AUDITING STANDARDS

Issue
Auditing standards are becoming excessive. APRA requires external audit and a peer review of actuarial reports, in addition to on-site reviews which results in insurers receiving multiple queries on each return, despite external audits and site visits. In addition to the requirement to prepare a global audit there is also a requirement for an audit of separate branches. Individually and collectively these distinct issues create a significant regulatory burden that adds questionable value to the work conducted by regulators, or to the overall reduction of risks.

Background
Audit requirements have developed over time, through standards that were not considered holistically and subject to the proper process of legislative Parliamentary scrutiny. This regulatory burden adds to the cost of doing business in a number of sectors and changes would help deliver a material improvement.

Proposed Solution
Consider the repeal of some of the existing audit requirements, applicable to financial services providers, particularly where there are demonstrable examples of limited benefit.

Cost Impact	Low to Medium	Urgency	Medium Term

17. OBLIGATION FOR INSURERS TO PRODUCE A LETTER OF CREDIT IS UNNECESSARY

Issue
Letter of credit requirements may be unnecessary for insurers rated AA or above.

Background
Insurers/reinsurers are required to seek a letter of credit in certain circumstances to lower external risks. This is prescribed in GPS 117 "Prudential Standard - Capital Adequacy: Asset Concentration Risk Charge". There is a concern that while some of these letters of credit, because of their term and nature, can have a significant cost they are unnecessary given current commercial practices between insurers and reinsurers. Where an insurer is highly rated, and considered to be a satisfactory counterparty, through an ordinary commercial assessment, there's little value in having a further prescriptive approach.

APRA concurs that the ultimate responsibility for the prudent management of capital of a general insurer or Level 2 insurance group rests with its Board of Directors which must ensure that the general insurer or Level 2 insurance group maintains an adequate level and quality of capital commensurate with the scale, nature and complexity of its business and risk profile, such that it is able to meet its operations under a wide range of circumstances. In this context, responsibility for assessing counterparty risk rests with the insurer and it will reflect an assessment of the financial position of entities it deals with.

Proposed Solution
It is proposed that the prudential standard be amended to remove the obligation to have a letter of credit where an insurer is satisfied with the counterparty risk and liaise with the industry to consider any associated threshold requirements.

Cost Impact	Low	Urgency	Medium Term

18. POLICYHOLDER COMMUNICATION ON STATUTORY FUND MERGERS

Issue
Although a policyholder is protected through continued capital/solvency levels and the maintenance of all existing terms and conditions a life company must write directly to every affected policyholder and advise them of a fund restructure. In addition, any restructure is investigated and reported on by the Appointed Actuary and an Independent Actuary (approved by APRA) to confirm that no policyholder will be unfairly treated and that the receiving fund meets all solvency requirements.

Given the number of policyholders in these funds, it is estimated that the associated printing and postage costs can exceed $1M and are unnecessary in view of the protections outlined above and other suitable approaches to communicating with members' approaches.

Background
Under APRA's LPS 600 a life company that restructures a statutory fund must within 6 weeks of the restructure give written notice to every policyholder. The notice must include:

- the name and identifying details of the funds involved
- the identifying details of each policy owner's policy that is referable to either the transferring fund or the receiving fund;
- where the benefits under the policy are to be provided out of more than one statutory fund:
- the benefits under the policy that are to be provided out of each fund; and
- either the proportion of the premium that is related to the benefits to be provided out of each fund and is to be credited to the fund or the way in which that proportion is to be calculated.
- a summary of the reasons for the restructure and containing relevant extracts from any report by the appointed actuary on the proposed restructure which deal with implications for policy owners; and
- a revision to the policy document setting out the first two bullet points above.

Proposed Solution
In view of the protection of policyholder interests and that there is no change to the terms and conditions, we believe a direct mail-out is unnecessary. Where an Appointed Actuary and Independent Actuary confirm that no policyholder will be unfairly treated and the receiving fund meets all solvency requirements, the required communication under LPS 600 to policy holders can be satisfied through the following:

- a Public Notice in the main daily press in each State and Territory in which the fund operates; and
- publication of a Notice to policyholders on the Company's public website; and
- updating all future standard policyholder communications that are required to refer to a statutory fund with the new (receiving statutory fund details) as part of standard policy owner or prospective policy owner communications.

Cost Impact	Low to Medium	Urgency	Medium Term

19. PRESCRIPTIVE PRUDENTIAL REGULATION THAT LIMITS MOBILITY

Issue
Prescriptive regulation is unnecessarily costly, particularly when it prescribes in detail the structure of companies in a 'one size fits all' approach. This impedes the ability of institutions to change reporting and governance structures as needed in response to changing institutional and market circumstances.

Background
Examples of prescriptive prudential regulation include:

- standardisation of requirements for Level 1 insurance companies and Level 2 groups is not always appropriate. It is noted that this is generally better post the Life and General Insurance Capital (LAGIC) requirements, but some inconsistencies such as, the content of the Insurance Liability Valuation Report/Financial Condition Report ILVR/FCR for capital related recommendations of the Appointed Actuary still exist;
- APRA's detailed requirements for standards are sometimes inconsistent with their stated high level purpose. In particular, the Internal Capital Adequacy Assessment Process (ICAAP) summary statement is intended to document the process of how the insurer manages capital (GPS 110 para 12), yet APRA has determined that a significant amount of additional detail, that does not describe the process must be included in the summary statement. This now overlaps significantly with the full ICAAP report;
- APRA's requirements within standards are often unclear. For example, the introduction of the 'Other Accumulations Vertical Requirement' in GPS 116 required the formation of an Institute of Actuaries Working Party to interpret the requirements;
- greater clarity in the drafting of standards, particularly in the stated purpose of standards and in any prescriptive elements of standards, would help to reduce this 'interpretational' workload on insurers and professional bodies; and
- reliance upon a highly prescriptive approach through D2A, with no alternative methodology to submit data through other solutions.
- There is also an increasing number of issues where the requirements on APRA forms are not reflected in the validation rules in D2A.

Proposed Solution

The solutions to the above issues are varied. However, changes include consolidation and simplification of the existing standards, an update of the D2A system, and the establishment of alternative tools as an alternative to the existing system to allow better matching between entities and APRA's needs. In addition, wherever possible, the objective should be to replace standards with broader principles that regulated entities can rely upon.

Cost Impact	Medium	Urgency	Medium Term

20. ALIGN ACCOUNTING STANDARDS WITH APRA REPORTING STANDARDS

Issue

Entities must prepare different sets of information to meet their financial reporting obligations under the Corporations Act and for APRA which imposes significant costs on regulated entities.

Background

APRA's standards should be consistent with accounting standards unless there are clear reasons to diverge. For example, the recent request to separate non-reinsurance recoveries on paid claims may be inconsistent to common accounting treatments. Differences in requirements to allow for deferred reinsurance expense, that is. methodology in calculating premium liabilities in form 150.1 and Risk margin in form 150.0.

Proposed Solution

It is proposed that each of the existing APRA standards be aligned with the corresponding accounting framework, unless there are clear reasons to diverge. .

Cost Impact	Low to Medium	Urgency	Medium to Long-Term

21. CONSISTENCY AND CERTAINTY OF REGULATOR GUIDANCE

Issue
The timeliness and reliability of guidance given by regulators varies significantly and this places additional pressure on project teams with responsibility for delivering technology and other solutions in response to reforms and changes in regulation.

It is common for firms to seek the views of regulators, for example, on the meaning of a definition or guidance as to the scope of requirements, in the process of developing systems to enable compliance. It is not uncommon for 6-18 months to elapse before obtaining responses in respect of relatively low level issues, which means system development work is delayed. Frequently these requests, run up against commencement dates – reflected in the legislation that have the effect of creating compliance risks and increasing costs for entities that could have been lessened or avoided altogether.

Background
All regulators that deal with the financial services sector use a different approach when responding to industry on areas of legal clarification and reform. The ATO uses a formal rulings approach, APRA issues standards and places responses to FAQs on its website, and ASIC issues regulatory guidance. These different approaches could reflect the maturity of the organisation, relationships to stakeholder and their propensity to provide entities with the confidence that they are compliant with the legislation.

Proposed Solution
The G100 believes that the growth of supra-regulation through guidance and other forms should be limited and the extent to which it can realistically be considered relief by industry should be considered. Where regulatory guidance is necessary, standardised protocols should be developed on their timing, method of release and format. Adoption of this approach would address the increasing prevalence issues that appear to be adding to delays in guidance given by some regulators and would reduce compliance risks and costs to industry. However, it would be preferable that many of the issues requiring clarification and resolution were dealt with in the consultation period in the process of developing legislation and regulations.

Cost Impact	Low to Medium	Urgency	Medium Term

22. ELECTRONIC TRANSACTIONS

Issue
Insurers are unable to make use of provisions in the Electronic Transactions Act to 'make available' information to policy holders, and are unable to make use of hyperlinks in customer communications, due to current drafting issues between separate pieces of legislation.

Background
Section 16 of the Electronic Transactions Act 1999 (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

The objects of the Act include facilitating the use of electronic transactions and enabling business and the community to use electronic communications in their dealings with government.
The Act generally provides that if a Commonwealth law requires or permits transactions to be in written form, that requirement is met if the transaction is made in electronic form, unless excluded from the operation of the Act, or particular sections of the Act, or in the Regulations.

Proposed Solution
Rationalise and simplify the differences between the Corporations Act, Electronic Transactions Act, Insurance Contracts and the Life Act to ensure insurers and customers can communicate easily and in a technology neutral manner.

Cost Impact	Low to Medium	Urgency	Medium Term

GENERAL

23. ANNUAL COMPANY INCOME TAX RETURNS

Issue
Large Australian public companies are still required to submit annual company income tax returns.

The ATO has a good understanding of a company's tax profile and expected taxable income/tax payments year round through companies voluntarily signing the ATO Annual Compliance Agreement (ACA) or the otherwise compulsory Pre-Compliance Review (PCR).

These requirements means that companies are obliged to disclose material transactions, events or new products to the ATO on a quarterly basis with the effect that the ATO is effectively undertaking real time monitoring of the tax affairs of large companies. From 1 January 2014 large public companies are required to pay monthly tax instalments, giving the ATO further insight into the expected annual taxable income of a company on a monthly basis.

Along with being subject to external audit (which includes relevant tax disclosures), these requirements mean annual company tax returns are now largely redundant because the ATO receives the information currently contained in the annual tax return in various 'instalments' during the year.

Proposed Solution
Not having to produce an annual tax return would save significant time and reduce duplication of information provided to the ATO. Information currently contained in the annual company tax return could be easily provided through a large public company providing:

- a detailed profit & loss account which has been subject to external audit;
- a schedule of reconciling items from the detailed profit & loss account to the final taxable income; and accessing other schedules such as depreciation on request.

Other information which is disclosed on separate schedules to the income tax return such as related party overseas transactions could be readily provided through the provision of branch accounts, subsidiary accounts, inter-company eliminations etc.

Cost Impact	Medium	Urgency	Short to Medium Term

24. FATCA – IGA IN PLACE TO MINIMISE ADDITIONAL REPORTING OR DUPLICATION OF EFFORT

Issue

The opportunity is currently available for the Government during its negotiations with the US over an Inter-governmental agreement ("IGA") for the Foreign Account Tax Compliance Act (FATCA) to ensure that no additional reporting or compliance burden is imposed on an Australian company unless absolutely necessary.

A similar opportunity will arise for the Government as it determines the start date for Australia to exchange tax information under the G20 Common Reporting Standard.

Background

Any information that is already provided to statutory bodies or regulators (i.e. RBA, APRA, ATO) should be utilised for FATCA reporting processes (i.e. withholding tax information already provided to ATO). The ATO should be the body responsible for collating information and responding to the US Internal Revenue Service (IRS), specifying any additional information required from those subject to FATCA that it does not currently have. Care needs to be taken that any such information does not breach privacy regulations.

Proposed solution

The ATO should act as the primary information provider for liaison with the US IRS. It should be able to provide the IRS with details of all payments made to individuals or participating Foreign Financial Institutions (FFIs) or Non-Financial Foreign Entity (NFFEs) that have shown the relevant indicia for reporting purposes. In the event that further information is needed, the ATO should communicate with the Australian financial institution to arrange for such information to be provided directly to it.

Significant potential future costs such as the reconfiguration of systems to provide existing information in a new format directly to the IRS could be avoided, although it is likely that for many organisations such costs will already have been incurred. An immediate response would enable such systems work to be wound-down and prevent future costs being incurred as such systems are modified and operated, including any additional staff.

Cost Impact	Medium to High	Urgency	Immediate

REGULATORY OVERREACH

GENERAL

25. APRA DATA REPORTING REQUIREMENTS FOR ADI'S, INSURERS AND SUPERANNUATION FUNDS ARE ONEROUS AND NO SUBJECT TO ADEQUATE COST/BENEFIT ANALYSIS

Issue
We are concerned that the regulators are significantly increasing data reporting requirements for Approved Deposit-taking Institution (ADIs), insurers and superannuation trustees without regard for cost implications and flow on impacts to clients and members. In addition the prudential regulatory / supervisory benefit of this information is unclear.

Background
Thousands of data fields are required to be delivered to our regulator and this has increased markedly for ADI's and insurers over the past decade.

Example
APRA is actively pursuing its prudential regulatory reform agenda which includes the supervision of conglomerate groups (Level 3 framework), Basel III, the Financial Claims Scheme and the Stronger Super reforms. This has meant high volumes of change, with associated high volume of "new" reporting requirements and in many cases large systems investments and enormous resource implications.

For superannuation, there has been a tenfold increase via the recent issuance of enhanced APRA reporting requirements. The Stronger Super reforms and enhanced APRA reporting have introduced the concept of a Select Investment Option. The intent was to capture the most significant investment options of an RSE and report them to APRA.

The G100 is concerned about the burden of investment reporting requirements (both current and proposed) that are being imposed on RSE Licensees under the enhanced APRA Reporting requirements in relation to Select Investment Options and potentially Choice investment options.

We are also concerned about the capacity of entities to source and collate what is a substantially increased level of information (that in many cases is being sourced from third parties, such as fund managers) in a significantly shortened time frame (based on calendar days rather than business days).

Proposed Solution
The following recommendations would assist in improving outcomes:

- increase the accountability of regulators (particularly APRA) with regards collection of information and data from regulated entities. Regulators should be obliged to undertake a cost/benefit analysis prior to imposing reporting (or other significant) obligations on industry;

- regulators should be subject to similar governance as that required of Government when implementing major regulatory change e.g. they should have to produce a RIS and weigh the cost of implementation against potential benefits;

- criteria need to be developed to control the volume and relevance of information provided. These criteria should be determined with Government and industry collaboration (including with the relevant industry bodies to prevent "extreme" regulation and ensure reporting is relevant and not excessive;

- where unreasonable cost burdens are identified in relation to particular data items APRA consider solutions including reducing the frequency of reporting for data items and extinguishing the requirements;

- to assist ADI's increase the efficiency and reliability of the reported data, we believe it would be appropriate to align the basis of consolidation, and reporting elements for the financial-based returns to be consistent with an ADI's primary financial statements.

- greater clarity and transparency is required in respect of how the existing data set is used and transformed by the end users, and the level of interaction between the agencies in explaining the data sets. For example, one ADI recently received a large number of queries from the RBA wanting to reconcile historical data reported in the ARF 330 – Statement of Financial Performance return to the Annual Financial Statements, notwithstanding that the basis of preparation is different;

- the volume and method in which routine and ad hoc queries are raised by APRA and other agencies needs to be reviewed. The level of queries received on certain returns appears to be disproportionate to the risk profile of the returns submitted. Consistent with requirements in the US, an Australian Regulator should be required to estimate the average burden hours pre response / request sent to each entity ('Paperwork burden' initiative);

- a number of inconsistent definitions exist across the reporting and prudential framework, and whilst the Plain English Taxonomy may address these over time, the review of this will be an extensive exercise and number of fundamental reporting principles as outlined above need to be addressed for it to be a truly effective aid to reporting.

These recommendations should address both current and new reporting requirements, in the following way:

Existing data already provided – we recommend that the Government prioritise the review of the 'ADI Data Collection' exercise commenced in 2011 by APRA. This exercise addresses efficiency, frequency, consistency and relevance and is critical to driving the change.
New regulatory change – New volumes of data and reporting information to be produced needs to be relevant. Government to enforce strict reporting controls on volume of information, commercial relevance, and risk consideration.

Cost Impact	High Cost	Urgency	Immediate to Short Term

26. EXCESSIVE REQUIREMENTS FOR EXECUTIVE REMUNERATION – TOO COMPLEX FOR SHAREHOLDERS

Issue
Corporations Act and associated ASIC Guidance on annual reporting requirements, particularly for reporting on executive remuneration is excessive.

Background
The remuneration report in its current format is lengthy and difficult to understand along with being time consuming to prepare. In 2014, the remuneration report will include the related party disclosures that previously formed part of the notes to the financial statements which could make it more difficult to follow. Generally, the reporting requirements on remuneration need to be simplified, particularly the reporting tables listing the remuneration for key management personnel, so they can be more easily understood by customers and shareholders. For example, a PWC survey of the remuneration reports of ASX 35 listed companies revealed the following about remuneration reports:

- an average length of 21 pages with the longest being 39 pages:
- comprised 14% of the Annual report;
- contained a glossary of 30 items;
- included 20 tables; and
- contained the largest number of footnotes with 98 footnotes in one report.

Governance Australia (formerly Chartered Institute of Secretaries Australia) reported that it is not unusual for statutory remuneration reports....to be largely unpenetrable to the lay reader.

Proposed solution
Industry encourages the government not to revisit the draft legislation on remuneration reporting disclosures introduced by the previous government. The proposed changes in the lapsed Bill would have made remuneration reporting even more difficult.

Reduced effort and time to prepare the reports and clearer expectations about what needs to be included in it. Simplifying the remuneration report would allow customers and shareholders to more easily read and understand it. Also, simplified reporting would reduce management time and effort spent explaining to shareholders the content of the remuneration report due to its complexity.

Cost Impact	Medium	Urgency	Immediate

27.VARIATIONS TO SUBSTANTIAL SHARE HOLDINGS – CORPORATIONS ACT (Part 6C.1)

Background
The substantial holding provisions in the Corporations Act ("Act") require disclosure by persons that have a substantial holding in a listed entity (S671B). A person will have a substantial holding in a listed entity if they, together with their associates, have a relevant interest in 5% or more of a listed entity. Accordingly, a substantial holder must disclose their holding to the ASX within two business days of becoming aware of the information and, subsequently, when there has been a change of 1% or more in their holding. Mostly, the ownership is held on behalf of clients by a financial institution.

There have been recent changes by ASIC to their interpretation of the rules regarding substantial shareholding notices. In June 2013, ASIC released updated and consolidated guidance in respect of substantial holding notices (ASIC Regulatory Guide 5 – Relevant interests and substantial notices ("RG5").

RG5 requires a financial institution and other listed entities to provide a far greater level of detail in disclosure, including the listing of individual trades, with little, if any appreciable upside for any party.

This granular, transactional level data creates a significant administrative and cost burden in producing the notices for little market or regulatory benefit.

In most cases the requirement has resulted in financial institutions preparing voluminous data and submitting notices up to 100+ pages from the previous average of 15-20 pages. Minor variations in share holdings and routine trading activity now trigger a significant compliance burden. This level of detail and associated cost goes beyond what is reasonable and proportionate to ensure market integrity and informed trading.

Financial institutions question the value of being required to provide such granular data and does not believe an appropriate balance is being achieved between an informed market and the costs and level of disclosure. Direct costs for this change are incurred for the preparation of notices and unquantifiable indirect costs for improving internal systems to produce the level of granularity required in the reporting process. Removing this additional burden would require changes to the ASIC guidance contained in Regulatory Guide (RGS).

Proposed Solution

Recommend the Government incorporate this item in its deregulation agenda and start an immediate dialogue with ASIC urging an alternative approach to Regulatory Guide 5.

Cost Impact	Medium	Urgency	Immediate

28. PARENT ENTITY FINANCIAL STATEMENTS

Background

A requirement to prepare full set of parent entity financial statements is a Corporations Act requirement. An amendment to the Act in 2010 that permitted parent entities are AFS licensees to either continue to include full parent entity financial statements in their group financial reports or separately provide these statements to ASIC.

APRA did not accept this approach and advised regulated entities (Sept 2010) that they must continue to present parent financial statements and notes in a group's annual financial report rather than only providing it to ASIC.

Proposed Solution

Remove APRA's requirement to ensure regulated entities keep including parent financial statements in their group's annual financial reports. This will result in a significant reduction of effort with respect to additional disclosures. Further articulating these issues will be required. What are these accounts actually used for, who looks at them etc. There is appetite for getting rid of parent accounts altogether (ASIC and APRA) but we feel that even eliminating the APRA requirement would ease significant burden. These accounts will then remain submitted to ASIC, so APRA will always have access to it.

Cost Impact	Low	Urgency	Immediate

SUPERANNUATION

29. ACCCRUED DEFAULT AMOUNT ABROGATION OF MEMBER RIGHTS AND COST OF TRANSFER

Issue

Accrued default amounts (ADA) are required to be transferred to MySuper by 30 June 2017. Where transfers relate to balances in choice products they are likely to directly abrogate member's exercised right to choice of investment or fund. Many of these members may be worse off or lose rights to which they are contractually entitled under arrangements with their existing fund. These rights and benefits include:

- insurance benefits due to reduced insurance cover or underwriting restrictions in the new fund
- asset allocations consistent with member direction
- investment returns derived on the basis of these allocations
- access to a range of product features and services that may not be replicated in MySuper

The members who lose these rights and benefits will predominantly be members who are satisfied with their current superannuation fund arrangements. There is significant cost in transitioning these members into MySuper products based on previous successor fund transfer processes.

Background

The definition of ADAs was challenged by industry and amended prior to the passing of the relevant legislation by the previous Government. Whilst the final definition is an improvement on the original drafting, unintended consequences remain, particularly for choice members in retail superannuation funds.

As currently drafted, the ADA definition captures a significant number of choice members who have selected a Choice Fund and have nominated the current default as their investment option.

Proposed solution

While one option would be to require members of Choice Funds to opt-in to the transfer of the ADA to MySuper rather than the current process of requiring the member to opt-out' the preferred method is to amend the legislation for an additional exception to the ADA definition. Specifically, we recommend that s20B(3) be amended to provide a further exception in relation to members who have provided a direction to a trustee to invest in the current default option of a fund that is not a standard employer-sponsored fund (Choice Fund) as defined in the SIS Act. Industry's specific amendment to s20B(3) follows:

> *'Such an amount is not an accrued default amount:*
>
> *...*
>
> *(e) if the trustee of a fund that is not a standard employer-sponsored fund is satisfied on reasonable grounds that the member has given the trustee, or trustees, a direction in relation to an investment option (including the option which under the current governing rules of the fund would be the investment option for a new member if no investment direction were given) under which the asset (or assets) of the member are invested or to be invested in the fund.'*
>
> *The effective commencement date should be 1 January 2013.*

We believe that:

- this proposed amendment will not compel a trustee to undertake further analysis of its members to confirm that an investment direction has been provided if it is not practical for them to do so; and
- the proposed approach will not interfere with any existing identification and transfer processes undertaken by the industry to date.

This should assist in levelling the playing field (for funds other than employer sponsored funds) by reducing the impost of material implementation costs to move choice members to MySuper products including the likelihood of dealing with a large number of Superannuation Complaints Tribunal (SCT) complaint cases post transfer. It will also reduce the cost of identifying and regularly reporting ADA member balances to APRA.

Cost Impact	Medium	Urgency	Immediate

30. SUPERANNUATION TRANSPARENCY – PRODUCT DASHBOARDS AND PORTFOLIO HOLDINGS DISCLOSURE

Issue

The current regulations prescribe obligations for trustees to provide the following disclosures to members:

- **product dashboards to members in choice products**

  The intent of the product dashboard is to provide a concise, easily understood comparative tool for individuals to compare products. This is achievable where the products being compared are relatively uncomplicated and have a high level of commonality, such as MySuper products, but is not so with other choice options and particularly with superannuation wrap platforms and legacy products.

  The sheer number of dashboards that would be produced in the industry would detract from their effectiveness.

- **portfolio holdings disclosure**

  Factors such as cost, efficiency, intellectual property and investor access must be considered in developing any portfolio holding disclosure regime. In the previous Government's draft Regulations, portfolio holdings disclosure was proposed to occur in both an aggregated and disaggregated form. This means that superannuation trustees would be required to publish a table of portfolio holdings at a "whole of investment option" level across each underlying investment vehicle, but also publish the contents of each underlying vehicle (such as managed investment schemes). We understand that this approach is not used in other markets with portfolio holdings disclosure.

We appreciate that details of the transparency regime are being worked through by Government and industry has responded to the Assistant Treasurer's superannuation discussion paper mentioned above. Many of our recommendations are deregulatory in nature and industry has long-standing positions outlining how regulatory burden can be reduced in favour of more efficient and appropriate disclosures to assist superannuation members.

Background

The superannuation transparency requirements formed part of the previous Government's Stronger Super package of reforms. On 28 November 2013 the Assistant Treasurer released a discussion paper 'Better regulation and governance, enhanced transparency and improved competition in superannuation' which seeks feedback on the Government's superannuation-related election commitments, including fund governance, transparency and competition in modern awards. This consultation will inform the development of possible legislation.

The paper poses a number of key questions including:

- How to complete the outstanding aspects of the current regime, specifically:
  - to what extent the choice product dashboard should reflect the MySuper dashboard regime; and
  - which model of portfolio holdings disclosure is most appropriate.

Proposed Solution

Examples of measures that will reduce unnecessary disclosure and save significant costs include:

- not applying product dashboard requirements to choice products;
- removing the requirement to publish product dashboards in periodic statements;
- base the portfolio holdings disclosure regime on what is the best for the majority of members rather than prescribing costly look through disclosures;
- where disclosures are required, it should be incumbent on ASIC, APRA and Treasury to ensure that relevant requirements are aligned. For example, where requirements are duplicative, ASIC and APRA should be able to share information rather than having trustees report the same information twice; and
- each disclosure requirement should be properly consumer tested and, where necessary, redesigned to make it more comprehensible and usable for consumers.

Cost Impact	Medium	Urgency	Immediate

MODERNISATION OF REGULATION

31. PRODUCT RATIONALISATION – INCREASING EFFICIENCIES AND REDUCING COSTS FOR PRODUCT PROVIDERS AND CLIENTS/MEMBERS

Issue

Appropriate product rationalisation mechanisms will enable financial service providers to provide more efficient and up-to-date products and services to consumers and avoid on-going operational risk and cost associated with the maintenance of legacy products and systems. This will inevitably result in better client outcomes including lower fees and access to more modern, superior product sets.

Background

- In June 2007 the Government released a Product Rationalisation Proposals Paper.
- In April 2008 a Government Advisory Panel on Product Rationalisation was established, including representatives from APRA, ASIC, Treasury and industry.
- In December 2009 then Minister for Financial Services and Superannuation released a Product Rationalisation of Managed Investment Schemes and Life Insurance Product Proposals Paper. The paper specifically excluded

superannuation from consideration on the basis that existing successor fund transfer (SFT) processes were adequate.

Proposed Solution

The G100 believes that it is an appropriate time for Government (including APRA and ASIC) to re-engage with industry to further develop the product rationalisation proposals. For completeness, superannuation should be included in any further review and cross-sector rationalisation should be examined to enable the rationalisation of life insurance company issued superannuation into modern superannuation products.

This was recommended by the Productivity Commission in their Annual Review of Regulatory Burdens on Business: Business and Consumer Services in 2010. Recommendation 2.7 indicated that Treasury should resolve any outstanding issues associated with legacy products and then implement the product rationalisation mechanism for managed investment schemes and life insurance policies as soon as possible.

Cost Impact	Medium	Urgency	Medium Term

32. PRODUCTIVITY COMMISSION RECOMMENDATIONS: ANNUAL REVIEW OF REGULATORY BURDEN 2006 AND 2010

Issue

Following public consultation the Productivity Commission (PC) released its research report on regulatory burden, incorporating recommendations for changes in the regulation of financial services and insurance on 12 October 2010. Previously (3 December 2009) the PC released an issues paper, "Annual Review of Regulatory Burdens on Business: Business and Consumer Services" which noted that financial and insurance services (Division K) were covered as part of the 2010 review"

The PC report contains recommendations to address both:

- micro/regulation specific issues – current inefficiencies in financial services and insurance regulation and change that is required to improve efficiency in order to benefit both industry and consumers; and

- macro/consultation and framework issues – recent examples of poor consultation from government and regulators were analysed and recommendations made to improve the process and framework for regulatory consultation in the future.

Background

The PC is asked to conduct ongoing annual reviews of the burdens on business arising from the stock of Government regulation and following consultation is to report on those areas in which the regulatory burden on business should be removed or significantly reduced as a matter of priority and options for doing so. The PC made a number of recommendations regarding financial and insurance services, most of which the previous Government failed to implement.

The PC recommendations present an opportunity for the Government given their express focus on deregulation and efficiency.

Proposed Solution
The Government commit to implementing the PC recommendations. Topics and recommendations of particular interest include:

- Binding death nominations
  PC recommendation: The Australian Government should amend the Superannuation Industry (Supervision) Regulations 1994 to permit non-lapsing binding death nominations.

- Releasing superannuation benefits for departing temporary residents
  PC recommendation: The Australian Taxation Office and the Department of Immigration and Citizenship should examine options that give departing temporary residents the ability to submit their applications for Australian superannuation payments before the time of their departure, rather than after they have left Australia.

- Superannuation splitting
  PC recommendation: The Attorney-General's Department should explore options with stakeholders to standardise the instructions to superannuation trustees made on the dissolution of marriage.

- Superannuation confirmation letters
  PC recommendation: The Australian Government should amend the Corporations Act 2001 and associated regulations so that superannuation fund members must make a specific request to receive transaction confirmation letters.

- Administration of powers of attorney
  PC recommendation: An implementation timetable for the project to improve the effectiveness of mutual recognition of powers of attorney between jurisdictions should be made publicly available by the Standing Committee of Attorneys-General as soon as possible.

Cost Impact	Low to Medium	Urgency	Medium Term

33. UPDATED DISCLOSURE REGIME – CONSISTENCY, COST AND CONFIDENTIALITY OF PUBLISHED INFORMATION PROVIDED TO CONSUMERS

Issue

1. Product issuers and advisers are providing similar generic information but consumers can obtain this information from several sources. For example, certain information disclosed in Product Disclosure Statements (PDS) could potentially be disclosed centrally via a centralised government (or government agency) website.

2. Technology use has not kept pace with what the market and consumers need (or desire). Too much disclosure is still "pushed" to clients rather than "pulled" from central electronic databases and websites (at a Government or provider level). Consideration of what information is critical vs. what is available with regular reminder is required.

3. Should the data reported to regulators be made publicly available or instead used for other purposes such as informing the regulators prudential supervision.

Proposed Solution
The Government consider these policy matters as part of their broader consultations in relation to modernising disclosure.

Cost Impact	Low to Medium	Urgency	Short Term

34.REGISTER OF CURRENT LAW

Issue
The provision of an up-to-date central repository of key areas of the law would increase efficiency in the administration of complex legislative instruments across the industry. Currently' industry either performs this aggregation in-house or firms fund the production separately. This is neither efficient nor cost effective.

Solution
Establish a public central electronic database with appropriate hyperlinks incorporating consolidated law, regulator guidance, class order relief and other relevant instruments. This is something that could conceivably be outsourced by government.

There are numerous private solutions currently available in the market however this comes at great cost to industry and it would create efficiency and reduce cost burden if there was centralised public access.

Cost Impact	Low	Urgency	Medium Term

35.KEEPING REGULATOR GUIDANCE CURRENT

Issue
Regulators should regularly review, update and discard obsolete regulatory guides.

Guidance documents issued by regulators are essential tools to assist industry compliance with the requirements.

However, guides are often released only weeks before the commencement date of law leaving industry insufficient time to absorb and apply the final guidance. Moreover, as industry implements a new requirement additional issues and questions which require further guidance often arise.

Proposed Solution
Ensure Regulatory Guidance is formally reviewed and updated on a timely basis and at least every five years.

Cost Impact	Low	Urgency	Medium to Long Term