



Workers Can't Afford Regulatory Failure

Submission by the Australian Council of Trade
Unions to Treasury's Consultation Paper,
*Enhancing oversight and governance of managed
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Introduction

Since its formation in 1927, the Australian Council of Trade Unions (ACTU) has been the peak trade union body in Australia. There is no other national confederation representing Australian unions. Together with its affiliate unions, the ACTU represents over 1.7 million trade union members around Australia who work across a broad spectrum of industries and occupations in both the public and private sectors.

The Australian trade union movement led the campaign to establish superannuation to provide workers with dignity in retirement. Through industrial action, bargaining and advocacy at both the Australian Conciliation and Arbitration Commission and the High Court, the union movement won the introduction of superannuation for many workers. The ACTU and affiliates were instrumental to the creation of the Accord which introduced universal superannuation through the legislation of the Superannuation Guarantee (SG) by the Keating Labor Government.

In the 30 years since the establishment of universal, employer-paid, vested and portable superannuation, the ACTU and affiliates remain dedicated to ensuring that all workers live and retire in dignity. To do so, unions remain active contributors to the superannuation system. Member-representative trustee directors, nominated by the ACTU and affiliates, ensure that members' interests are the priority of superannuation funds and that these funds return all profits generated to members.

The collapse of Managed Investment Schemes (MIS) Shield Master Fund and First Guardian Master Fund destroyed \$1 billion in Australians' savings and demonstrated catastrophic failures in Australia's regulatory architecture. These predatory products were able to be sold to workers through Australian Prudential Regulation Authority (APRA)-regulated Trustees despite APRA having extensive data showing significant historic, current and emerging risks.

Workers cannot afford a regulator which has detailed information yet fails to intervene to safeguard their retirement savings. Workers deserve a regulator which prioritises member outcomes through diligently overseeing the areas of greatest risk to members.

Consultation Remit

A key proposal of the consultation paper is to expand the Australian Securities and Investments Commission's (ASIC) access to superannuation data already collected by APRA. This is an acknowledgment that APRA possessed critical data but failed to act to prevent member harm.

Given that the MISs which triggered this consultation were provided to workers through APRA-regulated Trustees - and APRA is responsible for overseeing the governance and risk management of these Trustees and their offerings and receives extensive data on the inflows into the MISs they offer - the collapse of Shield and First Guardian generate questions as to APRA's regulatory approach.

Therefore, the area of primary concern is not how APRA can more easily share its data with another regulator but why APRA failed to act on this data itself. Any reform proposals which do not address why the prudential regulator failed to act on the data it had, and the necessary processes to ensure this failing does not reoccur, leave workers exposed to ongoing harm.

APRA's Visibility of Platform Trustees and Platform Inflows

APRA's Superannuation Data Transformation (SDT) project significantly expanded the quantity, quality and granularity of information it receives from superannuation funds. The regulator states:

“APRA undertook a multi-year project to upgrade the breadth, depth and quality of its superannuation data collection. APRA's Superannuation Data Transformation (SDT) project delivered better industry practices and improved member outcomes by significantly enhancing the comparability and consistency of reported data. The project made it easier to scrutinise and reliably compare fund and product performance, especially in the choice segment of the market.”¹

Relevant to this matter, APRA requires Trustees to provide it with data on:²

- Financial position (SRS 320.0 and SRS 320.1)
- Financial performance (SRS 330.0, SRS330.1 and SRS330.2)
- Expenses and Investment and Transaction Fees and Costs (SRS 332.0)
- RSE Licensee Financial Statements (SRS 340.0)
- Fees (SRS 540.0)
- Liquidity (SRS 551.0)
- Securities Subject to Repurchase and Resale and Securities Lending and Borrowing (SRS 552.0)
- Investment Exposure Concentrations and Valuations (SRS 553.0)
- RSE Licensee Profile (SRS 604.0)
- RSE Structure (SRS 605.0)
- RSE Profile (SRS 606.0)
- RSE Business Model (SRS 607.0)
- Membership Profile (SRS 610.0 and SRS 610.2)
- Changes in Membership Profile (SRS 610.1)
- Member Accounts (SRS 611.0)
- Product Dashboard (SRS 700.0)
- Fees and Costs (SRS 706.0)
- Conditions of Release (SRS 710.0)
- ABS Statement of Financial Position (SRS 720.0)
- Financial Statements (SRS 800.0)
- Investments and Investment Flows (SRS 801.0)
- Fund Profile (SRS 802.0)

According to APRA, the data it receives from Trustees had shown it that:

- Platform inflows were growing rapidly with platform investments comprising 28.1% of choice assets at \$396.6 billion.³

¹ [APRA's Superannuation Data Transformation | APRA](#)

² [Prudential and Reporting Standards for Superannuation | APRA](#)

³ [Quarterly Superannuation Industry publication | APRA](#)

- Inflows into Shield and First Guardian ballooned between 30 June 2021 to 30 June 2024 whereby:⁴
 - Diversa funds in First Guardian increased by 1431% from \$17.7 million to \$271 million
 - Total member assets in First Guardian, including Diversa, went from \$24.7 million to \$480.8 million
 - Member assets in Shield went from \$0 to \$501 million through Equity Trustees and Macquarie

APRA's Visibility of Diversa Trustees

In addition to watching the rapid and unexplained explosion of Shield and First Guardian, APRA knew that one of the platform Trustees offering First Guardian, Diversa Trustees, had serious governance and risk management failings.

As a result of Diversa's own Third Party Review in January 2023, APRA was made aware of governance issues at Diversa and imposed additional licence conditions requiring Diversa to conduct another independent review. In announcing these additional license conditions, APRA noted "The additional licence conditions also seek to codify recommendations of a third party review of Diversa's operating model, which included **matters relating to governance, risk management, and outsourcing and oversight**" (emphasis added).⁵

APRA's Regulatory Failings

Failure to Act on Clear Data

From its own data, APRA knew that platform products were expanding rapidly, including through Trustees it knew had demonstrated governance and risk management failings. Despite this, APRA provided evidence to Senate Estimates to suggest that it did not take action until after ASIC had done so. In answer to a Question on Notice by Senator Sharma, APRA stated:

"With respect to ASIC advising APRA of their work relating to Shield Master Fund (Shield), as noted in SBE388 [SQ25-000928] ASIC's formal investigation into Shield began in November 2023. Initial enforcement discussions between ASIC and APRA regarding Shield took place in December 2023, about a month after ASIC's investigation commenced. With respect to ASIC advising APRA of their work relating to First Guardian Master Fund (First Guardian), as noted in SBE388 [SQ25-000928] the initial discussions between the regulators commenced in August 2024. ASIC's formal investigation into First Guardian began in September 2024. APRA was advised of the formal investigation into Diversa and Netwealth regarding First Guardian in December 2024."⁶

⁴ APRA Answer to Senate Estimates Question on Notice, A0380

⁵ [APRA imposes additional licence conditions on Diversa Trustees | APRA](#)

⁶ APRA Answer to Senate Estimates Question on Notice, A0372

Failure to Prioritise Prudential Risk

In evidence to Senate Estimates, APRA advised that between 2021 and 2025, it issued 124 statutory notices relating to trustee expenditure and only 10 relating to platform onboarding and monitoring.⁷ This means that APRA directed over ten times the resources towards fund expenditure than it did towards the prudential risks of Shield and First Guardian which went on to destroy \$1 billion of Australians' life savings.

APRA's inaction is despite the regulator increasing its budget surplus in 2024-2025 "by \$45.1 million to \$82.7 million"⁸ and despite ASIC prohibiting investment into Shield in February 2024⁹ and First Guardian's responsible entity prohibiting investment in May 2024.¹⁰

APRA's misallocation of supervisory resources meant APRA focused on peripheral matters instead of protecting workers from poorly governed, predatory providers' high-risk products. These choices represent a profound failure to prioritise the genuine risks facing superannuation members.

Recommendations

The Government's commitment to strengthening regulatory oversight of predatory actors within the superannuation system is welcome, but must:

- Note that APRA possessed data on the risks related to Shield, First Guardian and Diversa Trustees prior to the collapse of Shield and First Guardian but did not act;
- Require a detailed explanation of why APRA did not act on this information, including how APRA assessed risks associated with the Trustees that hosted Shield and First Guardian, whether internal supervisory frameworks and escalation mechanisms were adequate and what prevented intervention;
- Strengthen transparency around regulatory resource allocation, supervisory actions and responses to emerging risks;
- Ensure that regulators prioritise member outcomes and the areas of greatest risk to members' retirement savings; and,
- Consider that for-profit Trustees and MISs, such as Shield and First Guardian, siphon workers' retirement savings into the pockets of shareholders, directly reducing the retirement outcomes of members.

Conclusion

Workers built Australia's superannuation system and rightly expect regulators to protect their life savings. The prudential regulator failed to act on the extensive data it was receiving on the risks within Diversa Trustees, Shield and First Guardian and this failure resulted in the destruction of \$1 billion in Australians' savings. Proposals to provide ASIC with data that APRA already possesses is an acknowledgement that APRA failed to monitor and prevent visible risks to members. To prevent

⁷ APRA Answer to Senate Estimates Question on Notice, A0380

⁸ [APRA Annual Report 2024-25.pdf](#)

⁹ [Shield Master Fund | ASIC](#)

¹⁰ [First Guardian Master Fund | ASIC](#)

further harm to members, reforms must focus on improving supervisory performance. Workers deserve a retirement income regulator which they can trust to safeguard their life savings.

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