Australian Government
The Treasury

Impact Analysis

Ban on advertising of superannuation funds during employee onboarding

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In the spirit of reconciliation, the Treasury acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

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Executive Summary

In October 2023, the *Securing Australians' Superannuation* consultation paper consulted on the proposal to pay superannuation on the same day as salary and wages. It also incorporated proposals to develop an onboarding service, include stapling on the choice of fund form, and ban advertising during onboarding. An Impact Analysis for the initial elements of the *Securing Australians' Superannuation* proposal was completed in May 2023.

The superannuation 'choice of fund' requirements determine the fund to which an employer must make superannuation contributions. Default fund settings have been designed to ensure that an employee who does not make a choice of fund is allocated to a balanced and cost-effective MySuper product. 'Stapling' requirements, introduced in 2021, changed the choice of fund requirements with the aim of preventing the creation of duplicate accounts. If a new employee does not make a choice of fund, the employer must check whether they have an existing 'stapled' fund. Together, the stapling and default fund settings protect members who may be disengaged or may not be sufficiently informed to make a choice of fund.

A 2022 Treasury review found that due to implementation issues, employers had begun avoiding stapling by encouraging employees to make an active choice of fund. This led to some employers making greater use of onboarding service providers which offer free or discounted software that presents employees with advertised funds during the onboarding process.

Onboarding software offers many benefits to employers by integrating multiple employment solutions in one place. Some onboarding service providers offer their software for free or at a discount, likely because they generate revenue from superannuation funds to advertise their products during onboarding. These services have recently become more popular, with around 2.5 million Australians onboarded through these services each year.

There is concern from some superannuation funds and other stakeholders, including superannuation consumer advocates, that advertising superannuation products at the critical point of onboarding can cause consumer harm, either through the creation of duplicate accounts or by employees selecting unsuitable products.

Many employees are inherently vulnerable to being influenced at the point of commencing employment. Advertising during onboarding may confuse or pressure employees into making uninformed decisions, opening inappropriate products and unintentionally creating duplicate accounts with a detrimental impact on their retirement savings. As of 30 June 2023, around 23% of superannuation members (around 4 million Australians) held two or more superannuation accounts, leading them to pay multiple sets of fees and insurance premiums. To the extent that onboarding software undermines the stapling regime, superannuation members are missing out on up to $280 million per year in increased savings.

The Australian Securities and Investments Commission (ASIC) has raised concerns over the role of onboarding service providers in the selection of superannuation funds for new employees. Because the employee makes an active choice (as opposed to being defaulted into a product), they are potentially missing out on the protections of the default regime and, even if an employee selects the employer's default fund, they join the fund as a choice member. This may impact on their ability to take advantage of certain benefits that apply to default members (e.g. lower insurance premiums and coverage for pre-existing conditions).

Some providers argue that advertising during onboarding saves members money because it is a cheaper way to gain new members to a fund relative to alternative ways of advertising (such as general sponsorship). However, to the extent that funds are required to engage in advertising during onboarding to remain competitive, this advertising may simply result in increased churn in the industry for little benefit relative to the current merit-based default system, with key beneficiaries being the providers who receive advertising revenue.

In a 2023 investigation, Super Consumers Australia (SCA) found that a major employee onboarding service provider had used dark patterns, choice architecture, and fine print disclosures to steer new employees toward advertised funds.

The existing regulatory framework is insufficient to prevent this behaviour. Financial advice laws and general consumer protections either do not extend to this type of conduct or are insufficient to prevent it. In the absence of Government action, the number of duplicate accounts and employees choosing inappropriate products will likely continue to grow.

In October 2023, Treasury consulted on a ban on advertising of superannuation funds during onboarding. Treasury held roundtables and bilateral meetings with affected stakeholders. Stakeholders had a range of views on a ban. Some superannuation funds and other stakeholders supported a ban, whilst other funds and most onboarding service providers opposed any ban.

A ban on advertising is expected to result in a reduced number of duplicate superannuation accounts and fewer members being confused or pressured into opening superannuation products that do not reflect their needs. Through a ban, employees are expected to benefit by between $16 million to $280 million in increased savings from fewer duplicate accounts, and between $17 million to $117 million per year from avoiding being influenced into joining underperforming products.

However, a ban may cause some onboarding service providers to stop providing an onboarding service, increasing administrative costs for employers who would have to find alternative arrangements. If all onboarding services ceased entirely, the cost to employers would be up to $234 million per year in increased onboarding costs. Alternatively, onboarding service providers will recoup the lost revenue from employers, which could cost employers as a whole at least $8.6 million per year. There are also expected to be one-off regulatory burden costs to onboarding providers (between $40,000 to $180,000) and superannuation funds (between $440,000 to $2.6 million) to comply with the ban.

Some providers argue that a ban would close off a cost-effective advertising option for individual superannuation funds seeking to increase their membership base. However, a ban may in fact reduce advertising expenditure for the entire industry if no fund is permitted to advertise in this way.

As an alternative to the ban, a more limited ban (only allowing advertising of MySuper products that are subject to, and pass, the annual performance test) was proposed in consultation and considered in this Impact Analysis. This option would permit onboarding service providers to continue to obtain revenue from advertising, and employers can continue to benefit from these services, although they may collectively pay about $4.8 million more than under the status quo.

Other costs of this option include one-off regulatory burden costs to onboarding providers (between $40,000 to $180,000) and superannuation funds (between $440,000 to $2.6 million) to comply with the limited ban. Additionally, superannuation funds would also incur ongoing costs, estimated to range between $440,000 and $880,000 per year for ongoing monitoring to ensure compliance with the limited ban.

Nevertheless, this option would protect employees from joining underperforming products, with employees estimated to benefit by between $17 million to $117 million per year.

While a limited ban does not protect against unintentional duplicate accounts, this could be mitigated to some extent by allowing employers to show stapled fund details to their employees during onboarding, reducing their likelihood of unintentionally creating duplicate accounts. This is estimated to benefit employees by between $3.3 million to $56 million per year in increased savings from fewer duplicate accounts. While changes to the stapling provisions of the *Superannuation Industry (Supervision) Act 1993* to allow employers to show stapled fund details to employees for them to actively choose would occur under both Options 1 and 2, we consider that onboarding service providers are only likely to take advantage of this new use case for stapling under Option 2. This is based on the assumption that having some revenue still available from advertising would mean greater scope and incentive for making this innovation.

On balance, the preferred option is a limited ban on advertising, which will still largely protect consumers and allow onboarding service providers to continue advertising and provide their services to employers. To the extent it can be quantified, a limited ban is estimated to provide between $20 million to $167 million per year in ongoing net benefits.

Background

The default system of superannuation fund allocation is a longstanding safety net for disengaged employees, ensuring that an employee who does not make another choice is defaulted into a cost effective and balanced MySuper product. In addition, stapling is intended to ensure that an employee's superannuation account follows them when they change jobs. The objective is to reduce the creation of multiple unintended superannuation accounts so that people no longer pay multiple sets of fees and insurance premiums, therefore increasing retirement savings.

When an employee commences a job, their employer must provide them with a 'standard choice form' to obtain their superannuation fund details. If the employee does not choose a fund, the employer is required to check with the Australian Taxation Office (**ATO**) whether the employee has an existing fund (known as the 'stapled' fund). If the employee does not have a stapled fund, an employer is required to pay contributions to the employer's default fund.

In 2022, the Your Future, Your Super review[1] found that the stapling process created an administrative burden for employers during onboarding. Under legislation, the ATO needs to be satisfied that an employer-employee relationship exists before returning stapled fund details.[2] However, employers can find it difficult to establish the employment relationship using existing methods. For example, an employment relationship can be established via a Single Touch Payroll pay event by the employer, but some employers' onboarding software needs the employee's superannuation fund details before being able to generate the first Single Touch Payroll pay event.

As a result, some employers are seeking to avoid stapling by requiring that new employees actively choose a fund during onboarding. This incentive has led to an increase in the use of onboarding software by some employers, a subset of which presents employees with funds that have paid to be advertised. These practices can be problematic as they can confuse or pressure employees to make decisions without time or sufficient information, open inappropriate products and unintentionally create duplicate accounts.

In October 2023, Treasury consulted on changes to address these issues in the *Securing Australians' Superannuation* consultation paper,[3] which proposed a requirement to pay superannuation on the same day as salary and wages. It also incorporated proposed reforms to the choice of fund, stapling and default fund requirements. One of the proposed reforms was a ban on advertising superannuation products during onboarding, on the basis that this would ensure that employees are not being influenced into choosing products which have paid to be advertised, may be unsuitable, and may unintentionally lead to duplicate accounts.

[1] The Treasury, *Review of Your Future, Your Super Measures*, Treasury website, 2022.
[2] Section 355-25(1) of Schedule 1 of the *Taxation Administration Act 1953* (Cth).
[3] https://treasury.gov.au/consultation/c2023-436950.

1. What is the policy problem you are trying to solve and what data is available?

Given superannuation is a compulsory and universal system, it is important that employees can choose the fund to which their superannuation contributions are paid. However, retirement outcomes are not served by employees making uninformed or disengaged choices about their superannuation fund. Where employees are uninformed or disengaged, the system provides protections through the stapling and default regimes. Advertising of superannuation funds during onboarding can confuse or pressure employees to make uninformed decisions, open inappropriate products and unintentionally create duplicate accounts.

Onboarding software

Around 2.9 million people start a new job every year[4] and many of them are onboarded through software that advertises superannuation funds. Onboarding software is frequently offered as part of a broader payroll, human resources and benefits platform. These platforms offer many benefits to employers because they integrate multiple employment solutions in one place. According to MYOB (an onboarding service provider), onboarding software saves businesses an average of 1.4 hours per employee onboarded and is used by 23% of employers.[5]

About 2.5 million new employees are onboarded using onboarding software per year (Appendix A). Onboarding service providers argue that their services offer a critical moment for employees to engage with their superannuation. According to a survey by Employment Hero, 82% of respondents were considering switching funds in the future, with job change noted by 24% as a key trigger.[6]

Some onboarding service providers offer their software to employers for free, or at a discount, with small and medium enterprises (**SMEs**) as their target market. This is likely made possible because they generate revenue from superannuation funds to advertise their products during onboarding. In effect, superannuation fund members could be seen as cross-subsidising onboarding services used by employers.

About 325,000 people per year are estimated to join a superannuation fund advertised through onboarding software (Appendix A).

Problems associated with advertising during onboarding

Advertising allows superannuation funds to engage with their members or compete to attract new members and is generally a positive characteristic of the superannuation system.

[4] ABS 2023, Job mobility (available at: https://www.abs.gov.au/statistics/labour/jobs/job-mobility/feb-2023).
[5] MYOB submission, p. 22 (available at https://treasury.gov.au/consultation/c2023-436950), and *Business Monitor Report January 2024,* MYOB, p. 8.
[6] Employment Hero submission, p. 13 (available at https://treasury.gov.au/consultation/c2023-436950).

However, superannuation advertising during onboarding can lead to members selecting inappropriate products. New employees are inherently vulnerable to being influenced at the point of commencing employment, because they may:

- feel compelled or rushed to choose an advertised fund (on the mistaken belief that this is a requirement from their employer)
- perceive superannuation onboarding requirements as compulsory (when legally it is always an option not to exercise choice and have contributions made to a stapled or default fund)
- not understand that remaining with their existing fund is an option.

This would be analogous to advertising bank accounts during onboarding when employees are prompted to provide their banking details to receive wages.

Promoting high-fee and underperforming products through this form of advertising gives those funds an opportunity to acquire members without needing to provide comprehensive information about their products.[7] As noted by e-Payday, promoted superannuation funds may not provide the best returns and may have a significant advertising spend (relative to other funds which do not engage in this form of advertising).[8] Conflicts of interest also arise as software companies can advertise their own superannuation products or have undisclosed commercial arrangements.[9] As noted by Tanda, prominent 'create new fund' options make it easier for employees to progress their onboarding than researching and manually joining a fund or locating existing details.[10]

The cost of advertising to superannuation fund members more broadly is unclear. On the one hand, some providers argue that advertising during onboarding saves members money because it is a cheaper way for an *individual* fund to gain new members (relative to alternative ways of advertising such as general sponsorship).[11]

On the other hand, if this form of advertising is as effective as noted by Employment Hero and MYOB, over time all funds may have little choice other than to advertise through these platforms to compete for new members or even maintain their market position. Should this occur, the total cost of onboarding advertising for the superannuation *industry* may increase, along with churn of members between funds. In this situation there may be little benefit to members relative to the current merit-based default system, other than for the providers who receive the advertising revenue.[12]

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[7] Tanda submission, p. 2 (available at https://treasury.gov.au/consultation/c2023-436950).
[8] e-Payday submission (available at https://treasury.gov.au/consultation/c2023-436950).
[9] Tanda submission, p. 2 (available at https://treasury.gov.au/consultation/c2023-436950).
[10] Tanda submission, p. 2 (available at https://treasury.gov.au/consultation/c2023-436950).
[11] MYOB submission, p. 22; Employment Hero submission, pp. 18-19 (available at https://treasury.gov.au/consultation/c2023-436950).
[12] A similar point is made by the Tanda submission, p. 2 (available at https://treasury.gov.au/consultation/c2023-436950). Treasury does not have comprehensive data in relation to the quantum of advertising payments.

In a 2023 investigation, SCA found that a major employee onboarding service provider used dark patterns, choice architecture, and fine print disclosures to steer new employees towards advertised funds.[13] A dark pattern is a design technique which pressures or deceives consumers to take action.

One of the advertised funds identified by SCA was a high-fee fund owned by an onboarding service provider, which opened in 2020. The fund claimed in its promotional materials to have 100,000 members. The master trust to which this fund belongs had about 23,000 members in June 2020, and this had grown to about 90,000 members in June 2023.[14] It was the fastest growing fund in the industry in 2022-23 by number of members. In 2020-21, this fund's returns were lower than the industry average, and it charged fees which were 30% higher than the overall industry average.[15]

Hostplus, SCA and the Institute of Financial Professionals Australia (**IFPA**) argued that the techniques used by the onboarding service provider (dark patterns, choice architecture, and fine print disclosures) are widespread across this form of advertising, and it is likely that consumers are being funnelled into other inappropriate funds (that is, funds that are less likely to meet the needs of a consumer than a default MySuper product).

ASIC has analysed this issue and noted concerns to Treasury over the role that onboarding service providers may have in the selection of superannuation funds for new employees.[16] ASIC's main concerns were that superannuation funds are able to pay to replace the merit-based selection of default funds from authorised MySuper products by paying for higher profile, and that these services sidestep the stapling regime. ASIC expressed the view that the existing regulatory framework is insufficient to prevent this behaviour:

- The conduct of onboarding service providers does not appear to fall within the definition of personal advice.
- General consumer protections, such as the prohibition on misleading or deceptive conduct, may not be contravened by these advertisements.

Other financial services licensing and regulatory requirements either do not extend to these providers or are not sufficient to protect against the conduct which is of concern.

Undermining the stapling and default regimes

These practices also undermine important legislated protections available through the stapling and default regimes.

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[13] See https://www.choice.com.au/money/financial-planning-and-investing/superannuation/articles/onboarding-and-super.
[14] Treasury analysis of Australian Prudential Regulation Authority, *Quarterly Superannuation Statistics*.
[15] Australian Prudential Regulation Authority, Superannuation Heatmap 2020-21 (https://www.apra.gov.au/superannuation-heatmap-archived-documents-and-information).
[16] Written answer to Question on Notice No. 167, 2023-24 Budget Estimates, Economics Committee, Treasury Portfolio.

Duplicate accounts lead to multiple sets of fees and insurance premiums, with a negative impact on retirement incomes. In a 2018 report, the Productivity Commission found that if there were no unintended multiple accounts, members would have been collectively better off by about $2.6 billion a year.[17] According to the ATO, as of 30 June 2023, there were about 4 million people holding two or more superannuation accounts (out of 22.2 million member accounts).

While some members may intentionally have multiple accounts for good reason, many members are unintentionally paying multiple sets of fees, including insurance premiums, which can significantly erode superannuation balances over time.

Stapling was introduced to stop the creation of millions of unintended multiple accounts and was estimated to benefit members by $2.8 billion over 10 years ($280 million per year) by avoiding duplicate fees and lost returns.[18] Therefore, to the extent that onboarding software undermines the stapling regime, superannuation members are missing out on up to $280 million per year in increased savings.

Under stapling, if an employee makes no choice of fund, they are automatically stapled to their existing superannuation account when they move jobs so that their superannuation follows them. However, advertising during onboarding undermines stapling by encouraging employees to make an active choice, meaning that stapling does not occur.

The default (MySuper) regime also protects members by ensuring that, in the absence of choice or an existing fund, employees are placed in their employer's default fund. Default funds have greater regulatory protections and may have beneficial arrangements, such as discounts or modified insurance arrangements. The default fund requirement does not apply if an employee chooses another fund. If an employee joins an employer's default fund by choice, they do so as a choice member, and may miss out on certain benefits (e.g. lower insurance premiums and coverage for pre-existing conditions) received by default members. Advertising during onboarding therefore adds to consumer harm by making it less likely that an uninformed or disengaged employee will be defaulted.

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[17] *Superannuation: Assessing Efficiency and Competitiveness* (Productivity Commission, 21 December 2018), https://www.pc.gov.au/inquiries/completed/superannuation/assessment/report, p 520.
[18] Treasury, Your Future, Your Super, Budget 2020-21, p. 9 (available at https://treasury.gov.au/sites/default/files/2020-10/p2020-super_0.pdf).

2. What are the objectives, why is government intervention needed to achieve them, and how will success be measured?

The objective of the policy options outlined in this Impact Analysis is to protect superannuation members from making uninformed decisions, opening inappropriate products and unintentionally creating duplicate accounts. This involves preventing behaviour that undermines the stapling and default fund regimes, leading to consumer harm. The compulsory nature of superannuation means there is a strong case for greater regulatory oversight to protect consumers from being pressured during onboarding into inappropriate products or opening unintentional duplicate accounts.

Without government intervention, consumer harm is expected to continue. As outlined above, about 2.5 million new employees are onboarded using onboarding software per year. About 325,000 of these employees are estimated to join an advertised superannuation fund (Appendix A).

Some onboarding service providers may modify their behaviour without government intervention. For example, MYOB currently has a code of conduct, which its platform has voluntarily adopted. MYOB's code, amongst other things, prohibits advertising of products which have failed the annual Australian Prudential Regulation Authority (**APRA**) performance test and requires that any fees received by the platform for advertising be disclosed. However, the effectiveness of a code of conduct relies on being broadly adopted by all onboarding service providers and being strictly enforceable.

Success will be measured by fewer people joining superannuation products with below average performance or above average fees and by only performing MySuper products being advertised. Success will also be measured by a reduction in duplicate accounts over time. Around 23% of superannuation members (around 4 million Australians) held two or more superannuation accounts on 30 June 2023.[19] While it may be reasonable for people to hold more than one account (such as for specialised insurance-in-super products), many of these are likely to be unintended duplicate accounts. Relatedly, success will be measured by the additional retirement savings received by members from avoiding these duplicate accounts. To the extent that advertising during onboarding undermines stapling, members could benefit by up to $280 million per year in increased superannuation savings.[20]

In the *Securing Australians' Superannuation* consultation paper (October 2023), the Government consulted on the proposal to pay superannuation on the same day as salary and wages. It also incorporated proposed reforms to the choice of fund, stapling and default fund requirements. In addition to consulting on the ban on advertising, the Government also consulted on the following proposals:

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[19] ATO 2024, Super data: Trend towards single accounts (available at: https://www.ato.gov.au/about-ato/research-and-statistics/in-detail/super-statistics/super-accounts-data/super-data-lost-unclaimed-multiple-accounts-and-consolidations/trend-towards-single-accounts).

[20] Treasury, Your Future, Your Super, Budget 2020-21, p. 9 (available at: https://treasury.gov.au/sites/default/files/2020-10/p2020-super_0.pdf).

- To establish a new digital ATO service to allow employers to confirm the right super fund details and retrieve a stapled fund, if available.
- To include stapling on the choice of fund form, allowing an employee to instruct their employer to complete a stapled fund request and use the results to pay their superannuation contributions.

A number of stakeholders supported these proposals, on the basis that they would strengthen the stapling provisions and ensure that they operate as intended. These measures are complementary to the proposed ban on superannuation advertising during onboarding.

There are barriers to the success of the proposal outlined in this Impact Analysis. These include timing and resource constraints associated with the ban. ASIC will be responsible for enforcing the ban. The Government will work with ASIC to ensure that it has the capability, resources and time to enforce the ban.

3. What policy options are you considering?

Status quo: No Government intervention

In the absence of Government intervention, onboarding service providers will continue to be able to advertise superannuation products as part of onboarding. This will have benefits, as onboarding software integrates multiple employment solutions in one place. It saves employers time and money: according to data presented by MYOB, onboarding software saves businesses an average of 1.4 hours per employee onboarded.[21] However, allowing the status quo to continue will mean that consumer harm will continue, including through employees continuing to make uninformed decisions, open inappropriate products, and unintentionally create duplicate accounts.

The following policy options are being considered.

Option 1: Ban on advertising of superannuation funds during onboarding

Under this option, trustees would be prohibited from advertising superannuation funds during the choice of fund process. Employers could continue to provide information about the default fund. Employees would remain free to make any choice of fund. A ban would likely be enforced by ASIC, with an appropriate penalty (in line with others in the *Superannuation Industry (Supervision) Act 1993* (Cth) or the *Australian Securities and Investments Commission Act 2001* (Cth)) applying for contravening the ban. In order to ensure compliance, ASIC would respond to misconduct and breach reports in the course of its routine compliance and enforcement work, and conduct targeted surveillance of onboarding practices subject to available resources.

Option 2: Limited ban on advertising of superannuation funds during onboarding

To limit the consumer harm associated with superannuation fund advertising, a more limited ban on advertising could be enacted. This could prohibit the advertising of some funds which do not meet certain criteria. For example, funds could be prohibited if they: are not MySuper products; have failed (or not been assessed by) the annual APRA superannuation performance test; or are related to the onboarding service provider. This would allow providers to continue advertising, whilst also reducing consumer harm.

A limited ban on advertising alone may not reduce the occurrence of duplicate accounts, as employees would still be presented with advertising at the point of onboarding. However, a limited

[21] MYOB submission, p. 22 (available at https://treasury.gov.au/consultation/c2023-436950).

ban could be imposed in combination with adjustments to stapling policy to reduce the number of unintentional duplicate accounts.

Stapling

Under both options 1 and 2, changes are proposed to stapling. Under the current law, where an employee does not exercise choice of fund, before an employer is allowed to create a default account for that employee they must check with the ATO if the employee has an existing stapled fund. The changes proposed to stapling would make it clear that using the ATO's stapling service in the case of no choice of fund is mandatory, however employers would be allowed to use the ATO's service to provide details to an employee of their stapled fund at the time they are making a choice. For the employers who choose to do this, it will be easier for employees to nominate their existing super fund when starting a new job. By showing employees their stapled fund details, many are expected to avoid unintentionally creating duplicate accounts.

Alternative proposals

During consultation, some stakeholders argued for a code of conduct to apply across onboarding service providers, or a requirement for providers to hold an Australian Financial Services Licence or comply with design and distribution obligations, as an alternative to the ban. These two alternative proposals were not considered to be viable:

- Although a voluntary code of conduct may limit consumer harm (for example, by prohibiting advertising of underperforming funds), it relies on being broadly adopted by all onboarding service providers and being strictly enforceable.
- Introducing a licensing or regulatory regime would likely allow advertising of all funds, and therefore would continue to carry a risk of consumer harm. However, it would be difficult to target such a regime because it would apply to conduct, not a market segment. The regulation of payroll services more broadly would be a major regulatory intervention, not tailored or proportionate to the consumer harm which is of concern.

4. What is the likely net benefit of each option?

This section of the Impact Analysis details the costs and benefits of both options. Quantitative impacts are estimated where possible using ranges (low to high) reflecting uncertainty (see Appendix A for methodologies and assumptions used to generate estimates). Qualitative evidence is also provided.

The net benefit of each option is assessed by comparing the quantitative impacts as well as analysing the direction and significance of qualitative impacts. A decision rule of the greatest net benefit (including qualitative impacts) is used to identify the best option.

Status quo: No Government intervention

Employees: In the absence of Government intervention, employees and superannuation fund members will continue to face costs. Employees will be at risk of harm from making uninformed decisions, opening inappropriate products, and unintentionally creating duplicate accounts.

As outlined above, around 2.9 million people start a new job every year and many of them are onboarded through software that advertises superannuation funds.[22] About 325,000 people are estimated to join an advertised fund each year through onboarding software (Appendix A).

Employees that are onboarded through software are at potential risk of being induced through manipulative choice architecture and dark patterns to join superannuation funds at a critical moment when they are particularly vulnerable to influence (behaviour highlighted by SCA, Hostplus and e-Payday). As noted by Tanda, SCA and Hostplus, this can involve advertising high-fee and underperforming funds.

As onboarding software generally involves members making an active choice, employees are potentially missing out on the protections of the default and stapling regimes.

The default (MySuper) regime protects members by ensuring that, in the absence of choice or an existing fund, employees are placed in their employer's default fund which has greater regulatory protections and may have beneficial arrangements, such as discounts or modified insurance arrangements. If an employee joins an employer's default fund by choice, they do so as a choice member, and may miss out on any benefits (e.g. lower insurance premiums and coverage for pre-existing conditions) received by default members.

Stapling was introduced to stop the creation of millions of unintended multiple accounts. As employees are encouraged into making an active choice, more are expected to open new superannuation funds and fail to consolidate older ones. As noted by Tanda, prominent 'create new fund' options make it easier for employees to progress their onboarding than researching and manually joining a fund or locating existing details.[23]

Onboarding service providers argued that onboarding advertising enhances employee engagement with superannuation. For example, MYOB stated that a new employee spends 17.9 minutes on

[22] ABS 2023, Job mobility (available at: https://www.abs.gov.au/statistics/labour/jobs/job-mobility/feb-2023).
[23] Tanda submission, p. 2 (available at https://treasury.gov.au/consultation/c2023-436950).

average researching before selecting an advertised fund on its platform, which it argues indicates that the employee is researching and gaining an understanding of superannuation products.[24]

Employers: Onboarding software saves employers time and money. According to data presented by MYOB, onboarding software saves businesses an average of 1.4 hours per employee onboarded.[25] It is often provided for free or at a low cost.

Superannuation funds: The cost of advertising to superannuation fund members more broadly is unclear. On the one hand, some providers argue that advertising during onboarding saves members money because it is a cheaper way for an *individual* fund to gain new members relative to alternative ways of advertising (such as general sponsorship).[26]

On the other hand, if this form of advertising is as effective as noted by Employment Hero and MYOB, over time all funds may have little choice other than to advertise through these platforms to compete for new members or even maintain their market position. Should this occur, the total cost of advertising for the superannuation *industry* may increase, along with churn of members between funds. In this situation there may be little benefit to members relative to the current merit-based default system, other than for the providers who receive the advertising revenue.[27]

Option 1: Ban on advertising funds during onboarding

Costs

Onboarding service providers: There are at least 5 key providers of which Treasury is aware from its consultation. Compared to the status quo, these providers would lose revenue generated from advertising superannuation funds during onboarding. This would cause providers to absorb the cost of superannuation onboarding services, alter their business model, or cease providing superannuation onboarding services.

Treasury does not have comprehensive information from the onboarding service providers about the amount of revenue generated by superannuation fund advertising. However, Treasury is aware of at least $8.6 million in superannuation fund advertising expenditure being paid to onboarding providers for 2022-23, based on publicly available disclosures (Appendix A). However, as outlined below, if a ban is implemented, this revenue is expected to be recouped from employers by charging for the service.

Large entities, such as MYOB, Employment Hero and Tanda, offer onboarding as part of a broad range of services for SMEs, including HR, payroll, recruitment, and other business management services. As a result, the loss of revenue generated from superannuation advertising during onboarding is not expected to impact their viability. For example, it has been reported that Employment Hero receives

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[24] MYOB submission, p. 22 (available at https://treasury.gov.au/consultation/c2023-436950).
[25] MYOB submission, p. 22 (available at https://treasury.gov.au/consultation/c2023-436950).
[26] MYOB submission, p. 22; Employment Hero submission, pp. 18-19 (available at https://treasury.gov.au/consultation/c2023-436950).
[27] A similar point is made by the Tanda submission, p. 2 (available at https://treasury.gov.au/consultation/c2023-436950).

about 5% of its revenue from superannuation advertising on its platform.[28] A ban would cause providers to absorb the cost of superannuation onboarding services, alter their business model (such as by passing the costs onto employers), or cease providing superannuation onboarding services.

Other providers, such as SuperChoiceForm and Beam (owned by Australian Retirement Trust), have a narrower offering of superannuation onboarding and payments services. These entities may be more reliant on superannuation advertising, and a ban could make them more likely to alter their business model (such as by passing the costs onto employers) or impact their viability.

The regulatory burden of a ban is estimated to be a one-off cost of between $40,000 to $180,000 for the 5 onboarding service providers based on changes to business processes, including updating software and other administrative costs, noting that costs will vary depending on implementation (Appendix A).

There is no cost associated with the adjustments to stapling as the policy allows for a different use of the ATO's stapling service, it is not mandatory.

Employers: Over 300,000 employers currently use onboarding software.[29] Employers might have to start paying, or pay more, to access superannuation onboarding services, as the cost would no longer be cross-subsidised by superannuation fund members. To the extent that onboarding service providers are able to recoup the lost revenue from employers, this could cost employers at least $8.6 million per year (Appendix A). However, the cost increase is expected to be limited given competition between providers and because the costs would be spread across many employers.

Alternatively, employers may need to switch to a different onboarding service provider or cease to have access to digital superannuation onboarding services. MYOB estimated that its entire onboarding platform saves payroll and HR staff 1.4 hours per new employee on average.[30] Based on this figure, if all onboarding services ceased entirely (which is not expected to occur, as outlined above), the cost to employers would be up to $234 million per year (Appendix A).

Superannuation funds: As noted above, a ban on advertising during onboarding and the associated cost to members is unclear and, given this uncertainty, has not been included in the estimated net benefits for either option. Some onboarding providers argued that superannuation funds would need to advertise through other methods, which may be less efficient. For example, MYOB estimated that a ban would cost funds over $120 million per year in additional marketing costs, assuming the fund intended to acquire an equivalent number of members.[31] Other stakeholders argued that fund members are expected to benefit from any reduction in advertising expenditure. As noted by SCA, 'Super fund marketing has a direct impact on the fees a fund charges, so in effect employers are able to reduce business costs on the backs of people's retirement savings.'[32] Tanda similarly noted that

[28] The Australian, *Employment Hero CEO accuses Hostplus of overreach after the fund calls for his departure*, 14 March 2024. Treasury does not have comprehensive data in relation to the quantum of advertising payments.
[29] Based on Employment Hero submission, p. 3 (available at https://treasury.gov.au/consultation/c2023-436950).
[30] MYOB submission, p. 22 (available at https://treasury.gov.au/consultation/c2023-436950).
[31] MYOB submission, p. 23 (available at https://treasury.gov.au/consultation/c2023-436950).
[32] SCA submission, p. 11 (available at https://treasury.gov.au/consultation/c2023-436950).

‘Advertising just adds to the costs of running a superannuation fund. This is a bad outcome for employees when these costs are inevitably passed on via fees.’[33]

The regulatory burden of a ban is estimated to be a one-off cost of between $440,000 to $2.6 million across all superannuation funds based on updating business processes, noting that costs will vary depending on implementation (Appendix A).

Benefits

Employees: A ban on advertising during onboarding would protect about 325,000 people from the potential harm experienced under the status quo.

Compared to the status quo, a ban would mean that advertising during onboarding would no longer undermine the default fund regime and its associated protections. This would avoid vulnerable employees being confused or pressured into joining an inappropriate superannuation fund during onboarding, particularly underperforming or high-fee funds. A ban on advertising is estimated to save employees between $17 million to $117 million per year from avoiding being influenced into joining underperforming products (Appendix A). This is calculated using conservative assumptions: that between 5% to 15% of people who join an advertised fund earn net investment returns 50 basis points below the MySuper average; and using the average weekly earnings for employees aged 20 years and under as well as across all age groups.

Advertising would also no longer undermine the stapling regime. This would reduce the likelihood of creating unintentional multiple accounts and the associated costs. To the extent that advertising during onboarding undermines stapling, members could benefit by up to $280 million per year in increased superannuation savings (based on Treasury estimates of the benefits of stapling) (Appendix A). Even if just 5% of people onboarded through software join an advertised fund and create a duplicate account (based on figures provided by MYOB), those employees would save $16 million per year if they did not create a duplicate account (Appendix A).

In addition, a ban would prevent conflicts of interest, whereby a software company advertises their own superannuation products – behaviour highlighted by Tanda and Hostplus. It would also benefit superannuation fund members more broadly as they will no longer cross-subsidise onboarding services for employers by paying for advertising.

Option 2: Limited ban on advertising funds during onboarding

Costs

Onboarding service providers: This option would permit onboarding service providers to continue to obtain some revenue from advertising, but it would be less than under the status quo. For example, if advertising were limited to MySuper products that were subject to, and had passed, the annual superannuation performance test, then about 45% of Registrable Superannuation Entities could

[33] Tanda submission, p. 2 (available at https://treasury.gov.au/consultation/c2023-436950).

continue advertising and therefore onboarding providers may lose about 55% of revenue generated this way (Appendix A). Further, Treasury understands that most Registrable Superannuation Entities that currently advertise offer MySuper products. Therefore, it is unlikely that providers would cease to offer onboarding services.

As under Option 1, the regulatory burden of a limited ban is estimated to be a one-off cost of between $40,000 to $180,000 for the five onboarding service providers based on changes to business processes, including updating software and other administrative costs, noting that costs will vary depending on implementation (Appendix A).

There is no cost associated with the adjustments to stapling as the policy allows for a different use of the ATO’s stapling service, it is not mandatory.

Employers: Allowing onboarding service providers to continue advertising is expected to allow employers to continue to use onboarding software, as under the status quo. Therefore, there would be no cost to employers from the loss of time saved by payroll and HR staff to onboard new employees. However, employers might have to start paying, or pay somewhat more compared with the status quo, to access superannuation onboarding services. This is because the cost may no longer be fully cross-subsidised by superannuation fund members. To the extent that onboarding service providers are able to recoup the lost revenue from employers, this could cost employers about $4.8 million per year (Appendix A). However, to the extent that onboarding service providers absorb the cost of lost revenue, there would be no impact on employers.

Superannuation funds: A limited ban on advertising during onboarding would limit the ability for some funds to advertise if they do not meet the criteria. However, as noted above, the impacts of advertising are unclear.

The regulatory burden of a limited ban is estimated to be a one-off cost of between $440,000 to $2.6 million across all superannuation funds based on updating business processes, noting that costs will vary depending on implementation (Appendix A). All funds are also expected to have an ongoing cost of between $440,000 to $880,000 assuming they require ongoing monitoring to ensure compliance with the limited ban.

Benefits

Employees: A limited ban on advertising would reduce some of the consumer harm associated with advertising compared to the status quo.

Similar to Option 1, a limited ban on advertising is estimated to save employees between $17 million to $117 million per year from being influenced into joining underperforming products (Appendix A).

Under Option 2, some employees would continue to be at risk of creating duplicate accounts as a result of advertising. However, the limited ban in combination with the adjusted stapling policy is expected to reduce the number of employees unintentionally creating duplicate accounts. Assuming that 20% of employees will see their existing account as an available option during onboarding and avoid creating duplicate accounts, members could benefit between $3.3 million to $56.0 million per year (Appendix A).

It has been assumed that the benefits from the change to the stapling provisions would only accrue under Option 2. This is because under this option, onboarding service providers will still be allowed to advertise some superannuation products and retain this significant revenue stream. It has been assumed based on the consultation with onboarding service providers that with this additional revenue retained they will be more likely to make changes to their product to innovate and provide the best possible user experience for employees onboarding, including presenting them with the details of their existing super fund.

Summary

Option 1: Ban	Option 2: Limited ban
<u>Costs</u>	<u>Costs</u>
Onboarding providers would lose 100% of revenue from advertising superannuation funds during onboarding. Risk that some of the providers cease offering onboarding services or otherwise impose costs on employers. The regulatory burden of a ban is estimated to be a one-off cost of about $40,000 to $180,000 in total for the five onboarding service providers.	**Onboarding providers** may lose about 55% of revenue generated from advertising superannuation funds during onboarding. The regulatory burden of a ban is estimated to be a one -off cost of between $40,000 to $180,000 for the five onboarding service providers.
Employers as a whole may face between $8.6 million to $234 million per year in increased onboarding costs.	**Employers** as a whole may pay from nothing to about $4.8 million more for onboarding services.
Super fund regulatory burden is estimated to have a one-off cost of between $440,000 to $2.6 million across all funds based on updating business processes.	**Super fund** regulatory burden is estimated to have a one-off cost of between $440,000 to $2.6 million across all funds based on updating business processes. All funds are also expected to have an ongoing cost of between $440,000 to $880,000 per year for ongoing monitoring to ensure compliance with the limited ban.
<u>Benefits</u>	<u>Benefits</u>
Employees are estimated to benefit by between $17 million to $117 million per year from avoiding being influenced to join underperforming products.	**Employees** are estimated to benefit by between $17 million to $117 million per year from avoiding being influenced to join underperforming products.
Employees are estimated to benefit by between $16 million to $280 million per year in increased savings from fewer duplicate accounts.	**Employees** are estimated to benefit by between $3.3 million to $56 million per year in increased savings from fewer duplicate accounts.
<u>Net benefit</u>	<u>Net benefit</u>
Between $24 million[34] to $163 million[35] per year in ongoing net benefits. Between $480,000 to $2.8 million in one-off regulatory burden costs.	Between $20 million[36] to $167 million[37] per year in ongoing net benefits. Between $480,000 to $2.8 million in one-off regulatory burden costs.

[34] Calculation: ($33m ongoing benefits low range) – ($8.6m ongoing costs low range) = $24m net benefit (rounded)
[35] Calculation: ($397m ongoing benefits high range) – ($234m ongoing costs high range) = $163m net benefit (rounded)
[36] Calculation: ($20.3m ongoing benefits low range) – ($0.4m ongoing costs low range) = $20m net benefit (rounded)
[37] Calculation: ($173m ongoing benefits high range) – ($6m ongoing costs high range) = $167 net benefit (rounded)

5. Who did you consult and how did you incorporate their feedback?

Treasury consulted on the proposed ban in October and November 2023 as part of the *Securing Australians' Superannuation* consultation. Treasury held three roundtables and multiple bilateral meetings with interested stakeholders.

Treasury received the following non-confidential submissions (published on Treasury's website)[38] in relation to the proposed ban:

- Five superannuation funds (Rest, UniSuper, Hostplus, Aware and Australian Retirement Trust)
- Six professional bodies and consumer advocates (Digital Service Providers Australia New Zealand (**DSPANZ**), the Financial Services Council, the Association of Superannuation Funds of Australia, IFPA, the Super Members' Council of Australia and SCA)
- Three professional services firms (BDO, Vialto Partners and Mercer)
- One fund administrator (Link Group)
- One trade union (Shop, Distributive and Allied Employees' Association)
- One clearing house (SuperChoice)
- Five payroll and digital service providers (e-Payday, Ozedi, Payroll Edge, Workr and Aurion)
- One individual, and
- Four onboarding service providers (MYOB, Employment Hero, Tanda and SuperChoiceForm).

Treasury received mixed feedback on the proposed ban on advertising during onboarding.

On the one hand several stakeholders supported a ban – BDO, Ozedi, Payroll Edge, Rest, SCA, IFPA, Hostplus, Tanda, UniSuper, Vialto Partners and e-PayDay. These stakeholders expressed concern that onboarding service providers are designing automated systems that adopt dark patterns to encourage selection of featured funds, which may be inappropriate. They were also concerned that this behaviour undermines the stapling and default fund regimes, potentially leading to a proliferation of duplicate accounts and consumer harm. These stakeholders argued that a complete ban is necessary to protect consumers. Some stakeholders submitted that if a ban on advertising is to be introduced, it should exclude providing information about default funds (which is the intention of Option 1).

On the other hand, several stakeholders were strongly opposed to a ban – DSPANZ, Wrkr, Aware, Australian Retirement Trust, Employment Hero, SuperChoiceForm and MYOB. The main reasons raised were that advertising is important to inform consumers about available products and that onboarding offers a critical moment for employees to engage with superannuation choice. According to a survey by Employment Hero, 82% of respondents were considering switching funds in the future, with job

[38] https://treasury.gov.au/consultation/c2023-436950.

change noted by 24% as a key trigger. MYOB stated that a new employee spends 17.9 minutes on average researching before selecting an advertised fund on its platform, which it argues indicates that the employee is researching and gaining an understanding of superannuation products.

Stakeholders also argued that onboarding software avoids the inadvertent creation of duplicate accounts. Employment Hero and MYOB also stated that advertising during onboarding is a more efficient means of advertising for super funds.

6. What is the best option from those you have considered and how will it be implemented?

When compared to the status quo, both options are estimated to provide a similar range of net benefits:

- Option 1 provides between $24 million to $163 million per year in ongoing net benefits.
- Option 2 provides between $20 million to $167 million per year in ongoing net benefits.

On balance, Option 2 is preferred (the limited ban on advertising) because it will protect employees while also limiting cost to industry.

Under Option 2, employees are estimated to benefit by between $17 million to $117 million per year by avoiding underperforming products. They are also estimated to benefit by between $3.3 million to $56 million per year in increased savings from fewer duplicate accounts.

Under this option, onboarding service providers are likely to continue offering onboarding software and employers can still benefit from these services, although they may collectively pay about $4.8 million more than under the status quo. Super funds can also continue to compete for new members by advertising during onboarding, assuming it is in the best financial interest of members.

In comparison, Option 1 is expected to yield higher benefits for some, but at higher cost to others.

Under Option 1, employees are estimated to benefit by between $16 million to $280 million in increased savings from fewer duplicate accounts. They are also estimated to benefit by between $17 million to $117 million per year from avoiding underperforming products.

However, this option also incurs significant costs. Onboarding service providers will either have to adapt their business model or cease to offer onboarding services. If all onboarding services ceased entirely, the cost to employers would be up to $234 million per year in increased onboarding costs. Alternatively, onboarding service providers will recoup the lost revenue from employers, which could cost employers as a whole at least $8.6 million per year.

Under both options, there are also expected to be one-off regulatory burden costs to onboarding providers (between $40,000 to $180,000) and superannuation funds (between $440,000 to $2.6 million). Under Option 2, super funds are collectively also expected to have an ongoing cost of between $440,000 to $880,000 for ongoing monitoring to ensure compliance with the limited ban.

To implement the limited ban, legislative design will be worked through, including appropriate public consultation and consideration of the interaction of the limited ban on advertising with changes to the design of superannuation choice architecture introduced as part of the Payday Super measure (due to be implemented on 1 July 2026).

Once implemented, Treasury will continue working with ASIC to monitor the effectiveness of the limited ban.

Implementation risks in relation to the limited ban include that there may be complexity in monitoring the effectiveness of the limited ban, including due to limitations on data about employee choice.

These risks can be managed through identifying diverse data sources and conducting appropriate stakeholder consultation.

7. How will you evaluate your chosen option against the success metrics?

There will be an ongoing assessment of Option 2's efficacy through a monitoring and evaluation plan.

The monitoring and evaluation plan will focus on the following key evaluation questions:

Key evaluation questions		Relevant data
1.	Did the limited advertising ban achieve its intended outcome of reducing consumer harm through inappropriate products or unintentional multiple accounts?	ATO data in relation to duplicate accounts. APRA data, including statistical collections in relation to underperforming funds and member numbers.
2.	What were the immediate and ongoing costs of the limited advertising ban on onboarding service providers, employers, or others?	Consultation with stakeholders, particularly onboarding service providers and employer groups. Questions for consultation could include: • (For onboarding service providers) Has the limited ban on advertising during onboarding affected your ability to offer onboarding services? • (For employers) Has the limited ban on advertising affected the cost, or your ability to use, onboarding services?
3.	Were there any other unintended impacts of the limited advertising ban?	Treasury could seek industry feedback. Wider stakeholder consultation and correspondence could also be undertaken. Questions for consultation could include:

		• Have you been impacted by the limited ban on advertising during onboarding? • How has the limited ban on advertising during onboarding affected you?
4.	How well was the limited advertising ban implemented? Are there any improvements that could be made to the design or delivery of the limited advertising ban?	Consultation with ASIC, onboarding service providers, employer groups, and superannuation funds. Questions for consultation could include: • Has the implementation of the limited ban on advertising during onboarding been effective? Could any improvements be made?

The monitoring and evaluation plan will be undertaken 12 months after implementation, and on a periodic basis subsequently.

Treasury will undertake this monitoring and evaluation, as well as will continue working with regulators (such as ASIC, who will likely be responsible for enforcement of the limited ban), to monitor its effectiveness in reducing uninformed decisions and preventing the opening of inappropriate products and unintentional multiple accounts, including through surveillance. ASIC's enforcement of the limited ban will be funded through the industry levy.

Status of the IA at each major decision point

Decision point	Timeframe	Status of the IA
Consultation undertaken	October – November 2023	Undeveloped

Appendix A – Assumptions and calculations

Number of employees onboarded through onboarding services

About 2.5 million new employees are estimated to be onboarded using onboarding software per year. This was calculated as follows:

- MYOB state they onboard 1 million new employees every year.[39]
- SuperChoiceForm and Employment Hero state they onboard 40,000 new employees a month (totalling 480,000 people per year each).[40]
- Tanda state that more than 250,000 Australian employees are managed via its platform.[41]
- The number of employees onboarded was not available for Beam. It is assumed to onboard about half the number of employees per year as SuperChoiceForm or Employment Hero – 240,000 people per year.

Number of members joining an advertised fund each year

We have estimated using available evidence and assumptions that about 325,000 people per year join a superannuation fund advertised through onboarding software. This was calculated as follows:

- MYOB state that about 16% of new employees onboarded join an advertised fund – about 160,000 members per year.[42]
- Employment Hero state that about 9% of employees onboarded choose a new advertised account – about 43,000 people per year.[43]
- The proportion of employees joining an advertised superannuation fund through onboarding software was not available for SuperChoiceForm, Tanda or Beam. It was assumed that about 13% (the average of Employment Hero and MYOB) of new employees onboarded join an advertised fund. Therefore, this amounted to:
  - 60,000 people for SuperChoiceForm (13% of 480,000 people)
  - 31,250 people for Tanda (13% of 250,000 people)
  - 30,000 people for Beam (13% of 240,000 people).

[39] MYOB submission, p. 14 and p. 21 (available at https://treasury.gov.au/consultation/c2023-436950).
[40] SuperChoiceForm submission, p. 1 and Employment Hero submission, p. 2 and p. 28 (available at https://treasury.gov.au/consultation/c2023-436950).
[41] Tanda submission, p. 2 (available at https://treasury.gov.au/consultation/c2023-436950).
[42] MYOB submission, p. 17 (available at https://treasury.gov.au/consultation/c2023-436950).
[43] Employment Hero submission, p. 13 (available at https://treasury.gov.au/consultation/c2023-436950).

Cost to employers if onboarding services ceased or charged for their services

The cost to employers if onboarding services were to cease entirely is estimated to be up to $234 million. This was calculated as follows:

- Cost is based on onboarding every employee requiring an average 1.4 additional work hours without onboarding software.[44]
- This work is assumed to be conducted by employees at the hourly earnings rate of $39.00 by clerical and administrative workers.[45] A work-related labour costs multiplier of 1.75 has been used[46] to estimate the cost per hour of $68.25.

Approximately 2.5 million new employees are assumed to be onboarded using onboarding software per year (see above). As an alternative to onboarding services ceasing entirely, it is possible that onboarding services will continue to operate, but instead recoup superannuation fund advertising revenue from employers for using their services. It is difficult to calculate the likely cost to employers of this alternative, as the amount which would be charged is not known. However, Treasury calculated that superannuation funds paid at least $8.6 million in advertising expenditure to onboarding service providers in 2022-23. This was based on desktop research of publicly available data disclosed by superannuation funds for their annual member meetings. As disclosure was not available for all superannuation funds, and some onboarding service providers are related parties of superannuation funds, this should be treated as a lower estimate.

For a limited ban, it is assumed that employers could continue to receive about 45% of revenue based on the number of Registrable Superannuation Entities that could continue to advertise (see below). Therefore, to the extent that onboarding service providers are able to recoup the lost revenue from employers, this could cost employers about $4.8 million per year (55% of $8.6 million).

Benefit from reduction in duplicate accounts

In 2020, the Government estimated that stapling would result in 2.1 million fewer unintended duplicate accounts over 10 years, leading to about $2.8 billion in savings for employees, by avoiding duplicate fees, insurance, and lost earnings across that time.[47]

Therefore, to the extent that advertising during onboarding undermines stapling, members could benefit by up to $280 million per year in increased superannuation savings.

Even if just 5% of people onboarded through software join an advertised fund and create a duplicate account (based on figures provided by MYOB),[48] those employees would save $16 million per year if they did not create a duplicate account, calculated as follows:

- According to figures provided by MYOB, 5% of people onboarded through software join an advertised fund and create a duplicate account. The total number of employees who use

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[44] MYOB submission, p. 22 (available at https://treasury.gov.au/consultation/c2023-436950).
[45] ABS, Employee Earnings and Hours, Average hourly total cash earnings, January 2024.
[46] Office of Impact Analysis, Regulatory Burden Measurement Framework, February 2024.
[47] *Your Future, Your Super* factsheet, https://archive.budget.gov.au/2020-21/.
[48] MYOB submission, p. 19 (available at https://treasury.gov.au/consultation/c2023-436950).

onboarding software is 2.5 million (see above), meaning that about 123,000 employees are joining an advertised fund and creating a duplicate account per year.

- This was multiplied by a cost of $133.33 for holding unintended duplicate accounts, calculated as $2.8 billion in savings from stapling divided by 2.1 million people unintended duplicate accounts.

The limited ban in combination with the adjusted stapling policy is expected to reduce the number of employees unintentionally creating duplicate accounts. Assuming that 20% of employees will see their existing account as an available option during onboarding and avoid creating duplicate accounts, members could benefit between:

- $56 million per year (calculated as 20% of 280 million per year above).
- $3.3 million per year (calculated as 20% of $16 million per year above).

Regulatory burden costs of a ban

It is assumed that onboarding service providers will face initial start-up compliance costs of removing either all advertising (Option 1) or some advertising (Option 2) from their products. It is anticipated that there will not be ongoing compliance costs as obligations not to advertise all or certain products during onboarding could rest on superannuation fund trustees, depending on implementation.

The one-off cost to onboarding service providers to comply with a full or limited ban is estimated to range between $40,000 to $180,000. This was calculated as follows:

- The work to update websites, software and processes is assumed to be conducted by two to three employees over the course of one to three weeks, depending on the size and complexity of the onboarding service providers. (The actual time required may be lower. One onboarding service provider, Employment Hero, was able to change its software within a short timeframe in March 2024.)[49]
- This work is assumed to be conducted by employees at the hourly earnings rate of $60.60 for professional workers.[50] A work-related labour costs multiplier of 1.75 has been used[51] to estimate the cost per employee of $106.05.
- Cost is expected to affect each of the five onboarding service providers and is a total figure, not a figure for each provider.

The one-off cost to superannuation funds to update processes to comply with a full and limited ban is estimated to range between $440,000 to $2.6 million. This has been calculated as follows:

- The work to change advertising strategy, cancel contracts, update systems and create appropriate policies is assumed to be conducted by two to four employees over the course of two weeks.

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[49] The Australian, *$2bn start-up hands win to industry super,* 14 March 2024.
[50] ABS, Employee Earnings and Hours, Average hourly total cash earnings, January 2024.
[51] Office of Impact Analysis, Regulatory Burden Measurement Framework, February 2024.

- This work is assumed to be conducted by employees at the hourly earnings rate of $60.60 for professional workers.[52] A work-related labour costs multiplier of 1.75 has been used[53] to estimate the cost per employee of $106.05.
- As data on the percentage of funds who use onboarding service providers is not available, it is assumed that the cost will affect between 25% to 75% of the 111 APRA-regulated superannuation funds as at June 2023.[54]

It is assumed that superannuation funds will also face ongoing costs to comply with a limited ban, in addition to the one-off cost stated above. For a limited ban, the ongoing cost is estimated to range between $440,000 to $880,000. This has been calculated as follows:

- The work to conduct due diligence to ensure funds meet specific criteria which enable them to advertise is assumed to be conducted by one to two employees over the course of one week.
- This work is assumed to be conducted by employees at the hourly earnings rate of $60.60 for professional workers.[55] A work-related labour costs multiplier of 1.75 has been used[56] to estimate the cost per employee of $106.05.
- The ongoing cost is expected to affect each of the 111 APRA-regulated superannuation funds as at 30 June 2023.

Savings from avoiding joining poorly performing products

The cost to members being in underperforming products is estimated to be between $17 million to $117 million per year from avoiding being influenced to join underperforming products. This was calculated using ranges of inputs as follows:

- A starting annual salary of $24,362 (for employees 20 years and under) and $77,470 (for employees of all ages), which is the average weekly total cash earnings multiplied by 52 weeks per year.[57] The lower bound is a conservative assumption that takes into account both full and part-time employees of the age group that likely has the most first-time employees.
- Assumed conservatively that the base median wage would grow at the average ordinary time earnings for all employees (2.6%).
- Assumed an average superannuation member balance for under 25 year olds of $6,253.[58]
- Assumed an average 9-year annualised net investment return of 6.29% and total fees and costs of 0.23% for a representative member balance of $50,000 for the year to September 2023.[59]

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[52] ABS, Employee Earnings and Hours, Average hourly total cash earnings, January 2024.
[53] Office of Impact Analysis, Regulatory Burden Measurement Framework, February 2024.
[54] APRA, Quarterly Superannuation Product Statistics, February 2024.
[55] ABS, Employee Earnings and Hours, Average hourly total cash earnings, January 2024.
[56] Office of Impact Analysis, Regulatory Burden Measurement Framework, February 2024.
[57] ABS, Employee Earnings and Hours, Average hourly total cash earnings, January 2024.
[58] APRA Quarterly Superannuation Industry Publication, Table 7, January 2024.
[59] APRA, Quarterly Superannuation Product Statistics, February 2024.

- Compared this scenario to one where the product performs 50 basis points below the average rate of return.
- Modelled superannuation balances over ten years.
- Discounted for the 30-year average consumer price index of 2.7%.[60]
- Accounted for 15% taxation.
- Used a conservative assumption that between 5% to 15% of the approximately 325,000 members who accessed a product through advertising, join underperforming products.

Proportion of MySuper products that pass and are subject to the annual performance test

If advertising were limited to MySuper products that were subject to, and passed, the annual superannuation performance test, then about 45% of Registrable Superannuation Entities could continue advertising.[61] One MySuper product failed the 2023 performance test.

[60] ABS, Consumer Price Index, January 2024.
[61] APRA Quarterly Superannuation Industry Publication, Table 2, January 2024.