Australian Government

Dashboard Impact Analysis (IA) – Superannuation trustee compensation model

Treasury

The proposed policy approach and policy problem addressing

Proposed approach

The proposal establishes a new compensation model requiring superannuation trustees to compensate affected members if an investment option fails and an investment governance failure or breach of financial services law on the part of the trustee wholly or partially contributed to member loss.

The model includes two components: a new ASIC power to direct a trustee to commence a remediation process and a risk-based capital requirement set by APRA. The capital requirement is calibrated to only affect trustees offering higher risk investments and require these trustees to hold capital in reserve for the purpose of compensating members should a failure occur. Trustees would not be required to compensate members for losses caused by ordinary market risk, including underperformance, or where the trustee can demonstrate that it did not breach its obligations.

For trustees, the model strengthens incentives to improve investment governance before failures occur, particularly where investment options expose members to elevated non-market risks. For members, the proposal provides a clearer and more streamlined primary pathway to compensation. Existing compensation pathways would remain available as additional pathways where necessary.

Policy problem

The collapses of the Shield and First Guardian Master Funds highlighted failings in trustee investment governance, including inadequate due diligence and oversight when offering higher-risk investment options to members. Poor investment governance can leave members exposed to low quality investment options with elevated governance risks, and ultimately losses which significantly impact their retirement savings.

The risk of member losses is compounded by fragmented and complex redress pathways for superannuation members when poor investment governance failures lead to losses. These issues are most acute where member losses arise from investment option failures involving multiple entities, including trustees, financial advice licensees, responsible entities of managed investment schemes, and other parties. In these circumstances, affected members may face uncertainty about who is responsible, which pathway to pursue, and whether compensation will be available.

The Shield and First Guardian collapses highlighted these challenges, with losses arising across complex chains of conduct and product performance and no clear allocation of responsibility for compensation. This fragmentation can delay redress, create opportunities for blame-shifting between entities, and increase reliance on the Compensation Scheme of Last Resort.

Summary of impacts and methodology

This policy would require superannuation trustees that offer higher-risk products to maintain capital reserves for the purpose of compensating members when an investment option fails and an investment governance failure or breach of financial services law on the part of the trustee wholly or partially contributed to member loss. This requires affected trustees to incur the cost of training and hiring staff to maintain a capital reserve, seek legal advice when designing their remediation processes, developing processes and train staff to carry out remediation when compensation events arise and uplift their systems and software to facilitate remediation processes. Treasury has estimated the cost of trustees maintaining the capital reserve, training and hiring staff and seeking legal advice to develop and carry out remediation processes when compensation events occur.

Option	Benefits	Other costs	Net impact	Regulatory burden
Proposed: Superannuation Trustee Compensation Model (Risk-based & ASIC Remediation)	Unquantifiable – the proposal aims to strengthen incentives for trustees to improve investment governance and ensure consumers face a more streamlined pathway for compensation. The dollar value benefit of this additional protection and streamlined compensation cannot be estimated	Unquantifiable	Unquantifiable	$88.1m over 10 years
Alternative: Superannuation Trustee Compensation Model (Platform trustee definition & eligible losses)	Unquantifiable. Alternative options have been identified, however the benefits are similarly unquantifiable to above.	Unquantifiable	Unquantifiable	$88.6m over 10 years

Economic and social impacts

<table>
<tr><th>Status quo</th><th>Proposed option</th></tr>
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Assessment of existing economic impacts on:
People

The collapses of the Shield and First Guardian Master Funds affected around 11,000 Australians, with losses of approximately $1.1 billion. Many members are yet to receive compensation.
Existing compensation pathways are complex, fragmented and difficult for members to navigate. Members may have limited confidence that retirement savings will be recovered where losses arise from an investment option failure and are at least partly attributable to trustee investment governance failures.

Businesses

Under the status quo, trustees are not required to hold capital to support compensation for losses which arise from an investment option failure and are at least partly attributable to trustee investment governance failures. This limits the incentive for trustees to strengthen due diligence, monitoring and oversight of higher-risk investment options.

Others

No expected impact on community organisations or regions.

What is likely to happen if the government does nothing?

Members will continue to face complexity and uncertainty in obtaining compensation for large-scale losses arising from investment option failures where trustee investment governance failures have contributed to the loss. Trustee incentives to improve investment governance practices would be unchanged.

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Economic and social impacts on:
People

Member outcomes would be improved by providing a clearer and more direct pathway to compensation (the trustee remediation process) where losses arise from an investment option failure and are at least partly attributable to trustee investment governance failures.
The proposal would support confidence in the superannuation system by improving the likelihood that trustees are able to pay compensation, and by strengthening trustee incentives to improve investment governance.
Some trustees will incur costs from holding capital which may be passed on to members through higher fees. However, these costs are expected to be lower for trustees with robust governance practices. Trustees that do not offer higher-risk investment options will not be affected.
As APRA will apply capital requirements to higher-risk investment options, some trustees may reduce or remove access to those options through their platforms, potentially reducing member choice.

Businesses

The proposal would incentivise trustees to strengthen investment governance, as trustees with stronger governance practices would be expected to face lower capital requirements. Trustees with weaker governance practices, or greater exposure to higher-risk investment options, may face higher capital requirements and additional compliance costs.
Some trustees may respond by reducing the availability of higher- risk investment options, which could reduce the ability of those options to attract investment.

Others

No impact is expected on community organisations or regions. The proposal may also support regulatory oversight by providing clearer mechanisms for surveillance, remediation and enforcement.

Stakeholder views:

Stakeholders broadly supported clearer compensation pathways for situations where trustee governance failures contribute to member losses, including a requirement to hold or demonstrate access to capital. Stakeholders advocated for flexibility in meeting the capital requirement to minimise holding costs.

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Regulatory burden

Status quo	Proposed option
Assessment of any existing compliance and/or delay costs facing: **People** • Under existing arrangements, members are likely to face delay and compliance costs in seeking redress, including through engaging with internal dispute resolution, the Australian Financial Complaints Authority complaints processes or seeking legal advice. **Businesses** • In the event that a trustee offers an investment option that fails, trustees are likely to incur compliance costs in assessing and responding to member complaints. They may also be subject to legal costs. Trustees have the option of initiating and conducting a remediation process. **Others** • No impact is expected on community organisations, or regions. **Stakeholder views:** • Some stakeholders consider that additional obligations on superannuation funds are not required as the existing regulatory framework for superannuation is already comprehensive and robust.	**Change in the regulatory burden for:** **People** • The proposal is expected to have a positive impact on the regulatory burden for members. The introduction of a power for ASIC to direct trustees to commence a remediation process would reduce the need for affected members to take individual action, such as lodging complaints, by requiring trustees to proactively identify affected members and provide redress. • The remediation process, and capital requirement, will support earlier settlement for affected members and improve outcomes relative to recovery through liquidation or other delayed compensation pathways. **Businesses** • The proposal would impose additional obligations on trustees that offer higher-risk investment options. Trustee would incur compliance costs related to setting up and maintaining the capital reserve. In the event of a failure, trustees may also incur costs associated with conducting a remediation process. **Others** • No impact is expected on community organisations or regions. **Stakeholder views:** • Stakeholders indicated a preference for reforms to compensation processes rather than the other regulatory interventions that were consulted on in the 'Enhancing member protections in the superannuation system' consultation paper.

Other considerations and implementation

During consultation on the *Enhancing member protections in the superannuation system* consultation paper, two broad approaches were canvassed:

- A compensation obligation for "Platform Trustees"; and
- An ASIC remediation direction power.

Alternative approach – Compensation obligation for "Platform Trustees"

Under the first option, "Platform Trustees" would have been required to compensate members for "eligible losses" incurred through their platform. Key elements of this approach included:

- <u>Targeted application to Platform Trustees</u> – The compensation model would have only been applied to trustees that met the definition of a 'Platform Trustee'.
- <u>Trustee liability for all "eligible losses"</u> – Trustees would have been liable for financial losses arising from external fraud or theft that resulted in the collapse of an investment product. An independent third party would have the power to determine that an eligible loss had occurred and direct trustees to compensate affected members.

This option was not preferred because it would have linked compensation primarily to the occurrence of an "eligible loss" arising from external fraud or theft, rather than to whether a trustee investment governance failure, breach of obligations or other trustee conduct contributed to member loss. This could have created a broad and potentially disproportionate compensation obligation for platform trustees, including where the trustee's conduct was not sufficiently connected to the loss.

The option also raised natural justice concerns to the extent an independent body could direct compensation before trustee liability had been appropriately assessed. For this reason, the recommended model gives ASIC the power to direct a trustee to commence a remediation process. This allows ASIC to intervene before completing a formal investigation or commencing litigation, while preserving procedural fairness and creating a strong practical incentive for trustees to assess and remediate member losses promptly where trustee failures contributed to the loss.

What success looks like

Success will mean better compensation outcomes for members and stronger trustee investment governance, leading to improved member protections over time. This will be demonstrated where members have a clearer and simpler pathway to compensation following any future investment option failure, and where greater trustee accountability for member losses leads to stronger due diligence, monitoring and oversight of higher-risk investment options by trustees.

Implementation approach

The compensation model will be established through amendments to the superannuation law and, where necessary, ASIC's governing legislation and related financial services legislation. The amendments would create a statutory power for ASIC to direct a trustee to commence a remediation process, and a power for APRA to create prudential standards to give effect to the capital component of the model.

Treasury will consult with industry on draft legislation and APRA will consult on the calibration and implementation of the capital framework. Trustees will be given lead time to build the capital reserves necessary to meet the compensation obligation. ASIC will update internal processes and guidance to support its new remediation direction function. Implementation risk will be managed through consultation with stakeholders and ensuring adequate lead time for industry to meet the new requirements.

Planned evaluation

Treasury, supported by regulators, will monitor the impact of the reforms including any changes in trustee investment governance practices and product offerings, the costs of capital holdings and the incidence of investment option failures (where they are offered through superannuation). In the event of a future failure, Treasury and regulators will assess whether the model delivers improved compensation outcomes for affected members and reduces pressure on other compensation pathways.

Statement of Sufficiency

I confirm that this Dashboard Impact Analysis (IA) prepared for the proposal – **Superannuation trustee compensation model**, meets the requirements set out in the *Australian Government Impact Analysis Framework*.

I confirm that the level of analysis is proportionate to the policy issue being considered.

I note the Dashboard IA provides analysis of the impacts of the proposal using the 7 IA questions and:

- a high-level summary of costs and benefits and an estimate in the change in the regulatory burden, of the policy options under consideration
- high-level analysis of the policy option against the government's key strategic priorities
- a summary of relevant distributional effects and evidence of key stakeholder feedback incorporated into the policy design
- other details required to understand and assess the proposal.

Endorsed by
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Treasury
4 August 2026