



Curtin University

In Whose Best Interests

Superannuation

Current Developments

- **Productivity Commission Draft Report:**
 - 29 May 2018: Superannuation: Assessing Efficiency and Competitiveness
- **Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry**
 - 6 August – 17 August 2018: Round 5: Superannuation
 - Revised Closing Submissions: 28 August 2018
 - Interim report due late September



Legislation currently before Parliament:

Superannuation (Objective) Bill 2016

- Enshrining the objective of superannuation into legislation

Superannuation Laws Amendment (Strengthening Trustee Arrangements) Bill 2017

- Require at least 1/3 of directors to be independent directors

Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Bill 2017

- Improved disclosure and strengthen oversight by APRA

Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 2) Bill 2017

- Limit default funds in industrial awards

Treasury Laws Amendment (Protecting Your Super. Package) Bill 2018

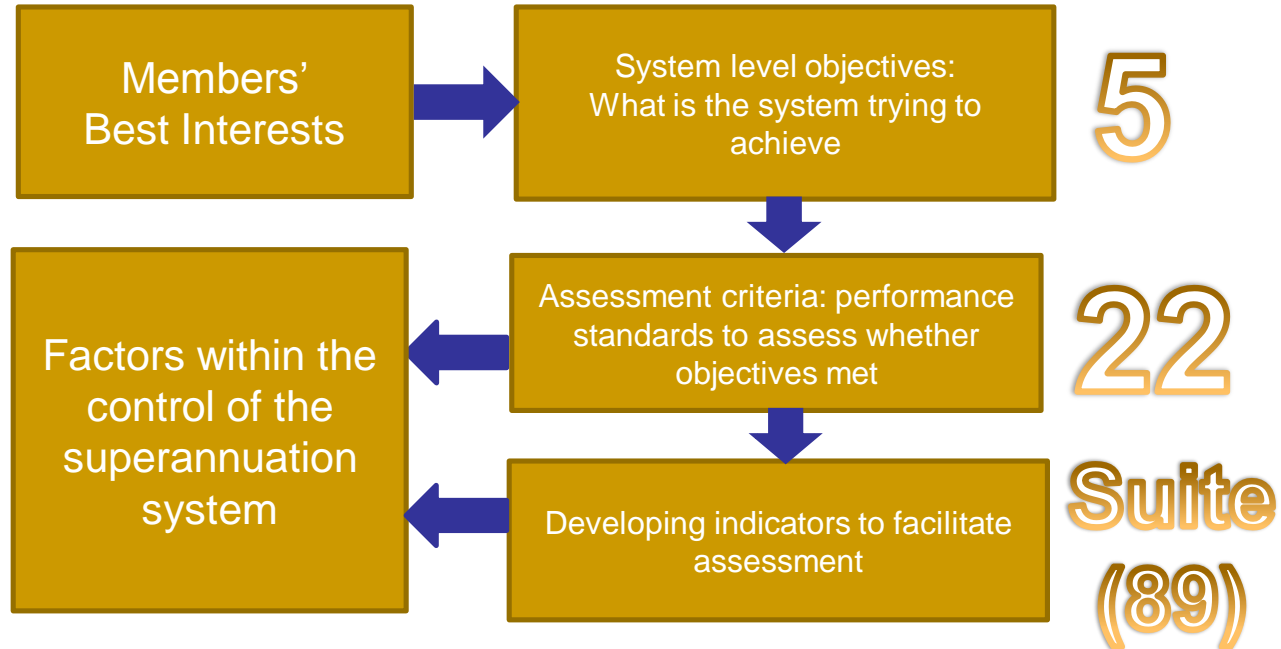
- Budget measures re fees & Insurance to protect low balances



Productivity Commission Inquiry

Stage 1: How to assess competitiveness and efficiency

- 25/11/2016
- focus of competition on improving outcomes for members
- Structural assessment: market conditions
- Outcomes assessment: conduct and outcomes



Stage 3: Assessing Efficiency and Competitiveness

Draft Report May 2018

Terms of Reference

- Costs, Fees and Net Returns
Insurance in superannuation
- Default fund members
- Independent Directors
- The broader financial sector

Legislative Proposals

- 2018-19 Budget Measure
Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018
- *Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 2) Bill 2017*
- *Superannuation Laws Amendment (Strengthening Trustee Arrangements) Bill 2017*
- *Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Bill 2017*



Royal Commission

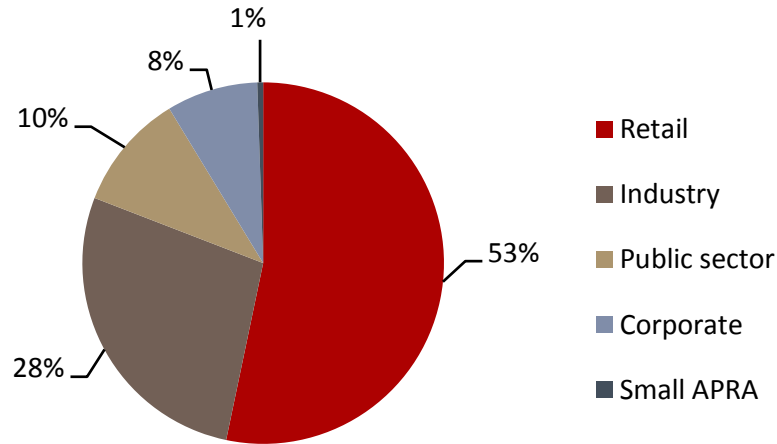
- Round 2: Financial Planners
 - Inappropriate advice re superannuation investments
- Round 5: Superannuation
 - Fees for No Service/Deceased Accounts
 - Delaying transition to MySuper Products / Discouraging rollovers
 - Distributions from reserves & tax credits
 - Inadequate oversight of outsourced functions
 - Advertising and Hospitality (Industry Funds)
 - Breaches of Corporations Act eg Product Disclosure Statements
- Round 6: Insurance
- Interim report due 30 September



Competition in the Sector

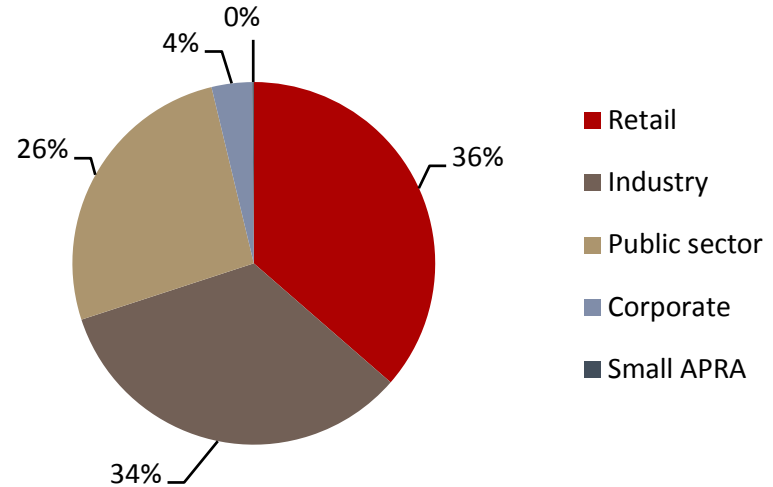
share of assets held by APRA-regulated superannuation funds

2007



Excludes SMSF Assets: 27% of total superannuation assets

2017

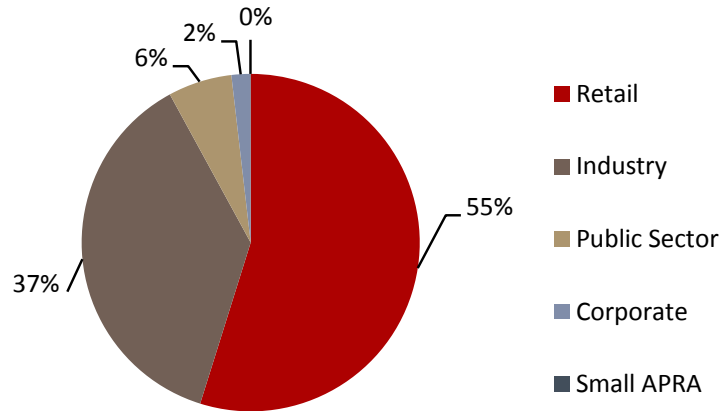


Excludes SMSF Assets: 28% of total superannuation assets

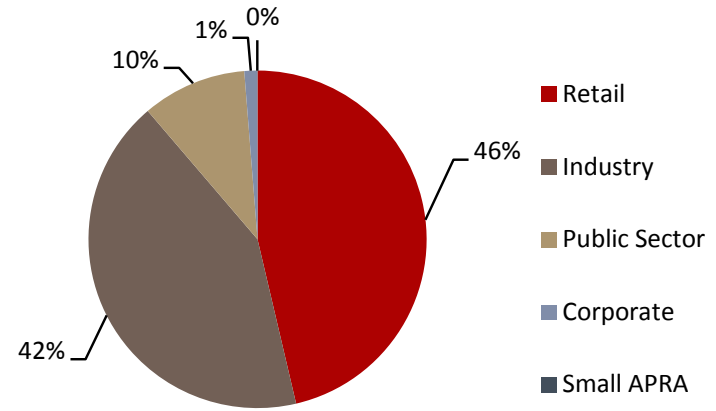
Australian Prudential Regulation Authority, *Statistics: Annual Superannuation Bulletin June 2017* (28 March 2018)
In *Consumer interactions with the superannuation industry* Background Paper 22 Royal Commission into
Misconduct in the Banking, Superannuation and Financial Services Industry

accounts held by APRA-regulated superannuation funds

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MySuper

- Designed as a low fee default alternative
 - Fees on Retail MySuper Funds comparable to Industry Funds
- Creates competition at entry level
 - 25 Retail Mysuper Products (25% accounts)
 - 40 Industry Mysuper Products (63% accounts)
- Default Funds
 - Up to 2/3 employees
 - Leads to multiple funds
- Opt-out insurance

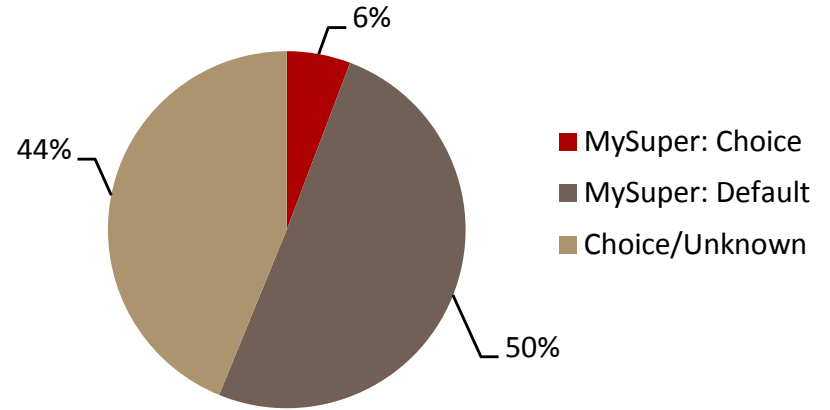


Chart 5: Share of member accounts by type, as at 30 June 2017

Erosion of Balances: Insurance & Fees

- Trustee required to consider insurance s.52(7) SISA
 - MySuper: opt-out
 - Choice funds: opt-in
 - Limited to life, TPD, income protection
- Productivity Commission Report
 - Insurance & Fees erode balance in superannuation
 - Duplicate MySuper accounts multiply erosion
 - Recommendations: opt-out insurance for people below 25
 - Research report due October
- *Treasury Laws Amendment (Protecting Your Super. Package) Bill 2018*
 - Opt-out insurance
 - Fee protection for low balance accounts
 - ALP Announcements 19 September



Regulatory Capture

- Sector regulated by APRA, ASIC, ATO (SMSFs)
 - Confusion over roles? APRA = prudential regulation, ASIC = regulation of conduct
- APRA: Prudential standards: Principles-based Outcomes-focused
 - “forward looking and consultative” “works with the trustee for resolution”
 - APRA “did not want to intervene in ASIC’s process” re fees for no service
 - 1 enforceable undertaking, no civil proceedings re superannuation in past 10 years:
 - Trio Capital
- ASIC: Enforceable undertakings
 - “Not many, if any” proceedings in superannuation space
 - Seeking expanded powers: eg disgorgement
 - (Refer closing submissions to Round 5 of the Royal Commission)
- Too Big to Fail?
 - Fear of destabilising sector
 - 'culture of subservience to the big banks'?,

Independent Directors

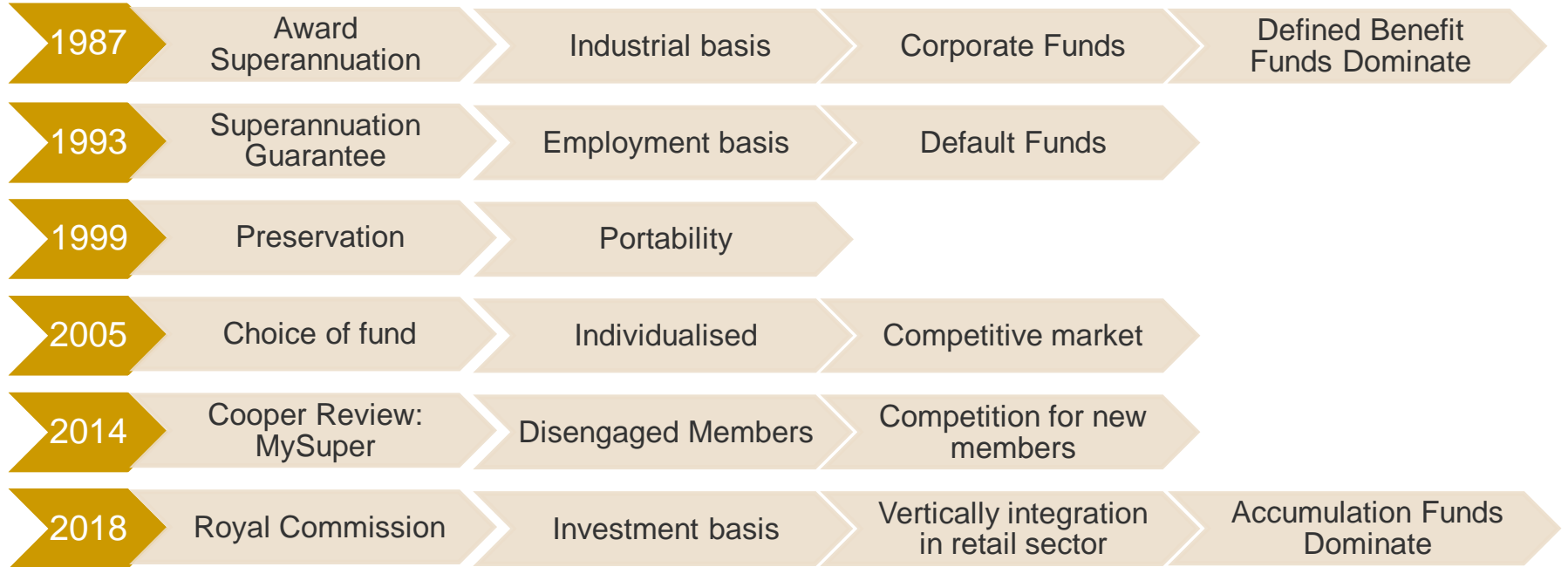
- *Super. Laws Amendment (Strengthening Trustee Arrangements) Bill 2017*
 - Implement Murray Financial Services Inquiry Recommendation: 1/3 independent Directors
 - Equal representation rules apply to employer sponsored funds
 - May still appoint independent directors
- **Productivity Commission Draft Finding 9.2**
 - Best practice governance for superannuation trustee boards would involve a 'critical mass' (at least one third) of independent directors. However, ensuring boards have processes in place to recruit highly skilled and experienced directors is at least as important as the number of independent directors.
- **How should this principle apply to the retail sector?**

Competition: Default Funds

- No active choice by employee or
- Under Industrial Agreement
 - [s.32C](#) *Superannuation Guarantee (Administration) Act 1992*
 - About 20% employees have no choice of fund
 - Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 2) Bill 2017*
 - Prospective application to agreements entered into after 1 July 2018
 - Does not address No Active Choice
- Productivity Commission: Best In Show:
 - Pick-list of 10 best performing funds
 - Expert Panel
- Technological advances in matching: ATO Single Touch Payroll
 - Electronic TFN + superannuation choice forms



Development of the market



Policy questions

The ***primary objective of the superannuation system*** is to provide income in retirement to substitute or supplement the age pension.

Superannuation (Objective) Bill 2016

- Is superannuation an industrial relations or a social welfare policy?
- Is superannuation a deferred investment asset or a future income stream?
- Should superannuation holdings be treated as part of the financial market or should they be quarantined, and how could that be achieved?
- Do we have the right balance between public funding and private savings for retirement?

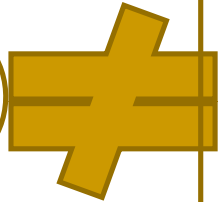


Case Study from Royal Commission

Mr & Mrs McDowall



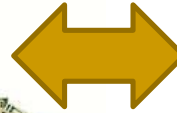
\$200,000



Westpac



Krish Mahadevan



SMSF



\$2m



\$26,976 pa