Compensation Scheme of Last Resort

KEY MESSAGE

- The Albanese Government has re-introduced legislation to establish a financial services compensation scheme of last resort (CSLR) – the legislation is in substantially the same form as was introduced by the previous government.
- The Government is committed to the scheme's timely establishment so that the scheme can start supporting hundreds of consumers who have been waiting to be compensated for years.
- The Albanese Government has committed to establishing a CSLR and will get the job done.

KEY FACTS AND FIGURES

- On 8 September 2022, the Government introduced legislation to establish the CSLR.
  - The Government is prioritising the CSLR legislation because consumers have been waiting for 5 years for such a scheme - the Ramsay Review recommended the establishment of such a scheme to the previous government in 2017.
- On 28 September 2022, the legislation passed the House of Representatives, and the Senate referred the provisions of the legislation to the Economics Legislation Committee for inquiry and report by 24 October 2022.
  - The Committee received 41 submissions and held a public hearing on 14 October 2022.
- Alongside the introduction of CSLR legislation, the Government has also released for public consultation exposure draft CSLR Regulations. The draft Regulations prescribe reporting requirements, identify persons upon whom a levy will be imposed, and outline the methods that underpin the calculation for the amount of levy payable by leviable persons.

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Contact Officer	s 22	**Contact Number**	s 22
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  - Consultation on the exposure draft Regulations closed on 7 October 2022.

- The CSLR will facilitate the payment of compensation of up to $150,000 to eligible consumers who have received a relevant determination for compensation from the Australian Financial Complaints Authority (AFCA) which remains unpaid.
- Consumers who have an unpaid determination from AFCA relating to one or more of the following financial products and/or services would be eligible for compensation under the CSLR:
  - Personal financial advice;
  - Credit provision;
  - Credit intermediation; and
  - Securities dealing.
- The CSLR is expected to commence from 1 July 2023.
- The CSLR is one of the key outstanding legislative measures from the Banking Royal Commission that remains to be implemented.

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BACKGROUND

- Key Design Specifications
  - The CSLR is designed to provide compensation to consumers who have received a relevant determination in their favour by the Australian Financial Complaints Authority (AFCA), where that determination remains unpaid.
  - Claimants may receive compensation where they have an unpaid AFCA determination in their favour for the following financial services or products:
    - : personal advice on relevant financial products to retail clients
    - : credit provision
    - : credit intermediation
    - : securities dealing to retail clients
  - The Scheme has a compensation cap of $150,000 per AFCA determination. This is broadly equivalent to the £85,000 cap that applies to the UK Financial Services Compensation Scheme.
  - The CSLR is designed to be forward-looking. Eligibility under the scheme has been designed to align with the commencement of AFCA, which commenced operations on 1 November 2018. This is to ensure that consumers who have progressed a complaint with AFCA and received a relevant determination which remains unpaid have access to compensation under the CSLR.
  - Claimants have 12 months to notify AFCA that a determination remains unpaid. The CSLR is a last resort mechanism, and as such the liable entity must be assessed as being unlikely to pay and no other statutory compensation scheme must be available.
  - The Government will contribute towards the costs of the CSLR in its first year of operation, which will ensure the Scheme can commence as soon as possible.

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- Eligible complaints provided to AFCA before the re-introduction of the CSLR Bills on 8 September 2022 will form part of the backlog of complaints that have accumulated with AFCA since its establishment. The costs associated with addressing the backlog will be funded by a one-off levy imposed onto the ten largest financial institutions (excluding health insurers and trustees of supernnuation entities).
  - Financial institutions whose total income for the 2019-20 income year exceeds $6 billion as reported in the Report of Tax Entity Information published by the Australian Taxation Office will have the one-off levy imposed onto them.
- The Scheme will be fully industry funded moving forward through a levy on relevant financial service and credit licensees in subsequent years of the scheme's operation. Relevant entities include those that provide the financial products and/or services prescribed as within scope of the Scheme.
- The levy mechanism includes a $20 million subsector levy cap per levy period, as well as an overall scheme levy cap of $250 million per levy period. This balances the interests of consumers and industry, and provides greater certainty to entities of the maximum amount leviable against them.
- AFCA determinations relating to managed investment schemes (MISs) that remain unpaid will not be eligible for compensation under the CSLR.
- The CSLR will be subject to periodic reviews, which may consider the ongoing appropriateness of its design, including scope.

• <u>Backlog of accumulated complaints</u>

- Accumulated complaints provided to AFCA prior to the date of introduction of the CSLR legislation, being up to 7 September 2022 inclusive, will be funded by Australia's ten-largest financial institutions (excluding health insurers and trustees of supernnuation entities) as measured by total income reported in the 2019-20 Australian Taxation Office (ATO) Report of Tax Entity Information.
- The backlog of accumulated complaints on pause with AFCA has grown significantly since the initial introduction of the CSLR legislation in

Parliament in October 2021. The collapse of Dixon Advisory in January 2022 has resulted in a significant increase in the number of complaints against Dixon received by AFCA, which forms part of the backlog of accumulated complaints.

- On 19 September 2022, the Federal Court imposed a $7.2 million penalty on Dixon Advisory after it found that six Dixon Advisory representatives failed to act in their clients' best interests and failed to provide advice appropriate to their clients' circumstances before providing the advice.
- As of 7 September 2022, the backlog of accumulated complaints is comprised of a total of 1,836 complaints, of which 1,638 are against Dixon Advisory.
- It is not possible at this time to estimate the value of funding required to address the costs associated with the backlog of accumulated complaints. The vast majority of the complaints have not yet been assessed by AFCA, including their validity or likely value of compensation.
- The cost of the backlog of accumulated complaints will be estimated by the CSLR operator, having regard to actuarial principles, as the amount it reasonably believes is required to fund the payment of compensation and AFCA's costs. Each of the ten largest financial institutions will contribute a proportionate amount as measured by their revenue reported for the 2019-20 financial year.
- The cap of $250 million applies to the levy imposed for the backlog of accumulated complaints.

• <u>Ongoing Costs (Annual Levy)</u>

  - An ongoing industry levy will be established to fund the CSLR in a sustainable manner going forward. The ongoing levy will be imposed onto those licensees that are authorised to provide the products and/or services that are in scope for the CSLR. The amount of levy payable by each licensee would be proportionate to its size, with a minimum levy of $100 for all relevant licensees.
  - The annual levy is estimated by the CSLR operator as what it reasonably believes, having regard to actuarial principles, will be the total amount of

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funding required to make compensation payments and cover scheme costs for the upcoming levy period.

- – The levy framework provides mechanisms to address circumstances where the initial estimated levy is expected to be exceeded.

- <u>Senate Committee Consideration of Bills introduced by the Albanese Government</u>
  - – On 28 September 2022, the Senate referred the provisions of a package of Bills, including those that would establish the CSLR, to the Senate Economics Legislation Committee for inquiry and report by 24 October 2022.
  - – A total of 42 submissions were received by the Committee.
    - : Stalkeholders are broadly supportive of the CSLR as proposed by the Bills, however:
      - (i) Industry representatives have proposed that the Bills be amended to reduce their financial exposure under the scheme;
      - (ii) Consumer representatives have proposed that the Bills be amended to raise the level of compensation available under the scheme to align with compensation available under the AFCA scheme, and to expand the scope of eligible products and/or services to align with the scope of the AFCA scheme.
  - – On 14 October 2022, the Committee held a public hearing into the Bills. Representatives from the following organisations appeared and provided evidence in relation to the CSLR provisions:
    - : Financial Services Council (FSC); Australian Banking Association (ABA); Australian Securities and Investments Commission (ASIC); CHOICE; Consumer Action Law Centre (CALC); Australian Financial Complaints Authority (AFCA); and The Treasury.

- <u>Former Government Proposal to Establish a CSLR</u>

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- On 28 October 2021, the former Government introduced into the House of Representatives the Hayne Royal Commission Response No. 3 (2021) package of Bills to establish the CSLR.
  - Under the Bills, consumers who had an unpaid AFCA determination relating to personal advice, credit intermediation, securities dealing, or credit provision will be eligible to receive up to $150,000 in compensation under the CSLR.
- On 11 April 2022, the CSLR bills lapsed at the prorogation of the previous Parliament.

- <u>Senate Committee Consideration of Bills Introduced by Former Government</u>
  - On 25 November 2021, the Senate referred the provisions of these bills to the Senate Economics Legislation Committee for inquiry and report by 15 February 2022. A public hearing was held on 27 January 2022.
    - A key matter considered during the hearing on 27 January 2022 was the exclusion of managed investment schemes (MISs) from the scope of the CSLR. In their submissions to the committee, consumer groups (led by CHOICE), advisers (FPAA, AFA), finance brokers (MFAA) and other associations (CPA, Maurice Blackburn, Law Council of Australia) argued for the inclusion of MISs. Product issuers (ABA, COBA, FSC) and dealers (AFMA) argued for the scope to be maintained as proposed or narrowed to be initially limited to personal advice.
  - On 15 February 2022, the Committee handed down its report regarding its inquiry into the provisions of the CSLR bills. The report contained two recommendations:
    - Committee recommendation (Recommendation 1): The committee recommends the bills be passed.
    - Additional comment from Labor Senators: Labor Senators supported the bills, but recommended that the scope of the CSLR could be expanded to include managed investment schemes.

- <u>Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry</u>

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- In February 2019, the former Government released its response to the Royal Commission, committing to take action on all 76 recommendations contained within the Royal Commission Final Report.
- The Royal Commission recommended that the three principal recommendations to establish a CSLR made in the Supplementary Report of the Ramsay Review should be carried into effect (Recommendation 7.1 — Compensation scheme of last resort). As part of its response to recommendation 7.1 of the Royal Commission, the former Government agreed to establish an industry-funded, forward looking CSLR.

• <u>Ramsay Review – Compensation Scheme of Last Resort</u>

- A CSLR was originally recommended by the Ramsay Review Supplementary Final Report, which the Government released in December 2017.
  - On 20 April 2016, the former Government commissioned the Ramsay Review to make recommendations to improve the existing external dispute resolution framework. The Review Panel comprised of Professor Ian Ramsay (Chair), Julie Abramson and Alan Kirkland. Terms of Reference were released on 8 August 2016.
  - On 3 February 2017, the Government amended the Terms of Reference to require the Panel to provide a separate report on the establishment, merits and design of a last resort compensation scheme and on the merits and issues involved in providing access to redress for past disputes.
- The Supplementary Final Report recommended that an industry-funded, limited and carefully targeted forward-looking CSLR be established.
  - In particular, the Report recommended that a CSLR should be initially restricted to financial advice failures but be scalable if in the future other significant problems emerge.

• <u>Past proposals for a last resort compensation scheme</u>

- The Parliamentary Joint Committee on Corporations and Financial Services' 2009 Inquiry into financial products and services in Australia recommended that the government investigate the costs and benefits of

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differing models of a statutory last resort compensation fund for investors (recommendation 10).

- The 2012 Richard St John report *Compensation arrangements for consumers of financial services* recommended against implementing a compensation scheme of last resort and concluded it would be inappropriate and possibly counterproductive to introduce one (rec. 1).
  - The then Minister for Financial Services and Superannuation, the Hon Bill Shorten MP, commissioned that inquiry and accepted that particular recommendation.
- The Parliamentary Joint Committee on Corporations and Financial Services' 2012 Inquiry into the collapse of Trio Capital did not support a general compensation scheme for self-managed super funds (rec. 1).
- On 21 April 2016, the Australian Bankers' Association announced it would consider setting up a last resort compensation scheme for financial advisers, as part of a Strengthening Community Trust plan.

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KEY FACTS AND FORECASTS

FISCAL & BUDGET

2022-23 October Budget ($b)	2021-22	2022-23 (f)	2023-24 (f)	2024-25 (f)	2025-26 (f)
UCB (% of GDP)	-32.0 (-1.4%)	-36.9 (-1.5%)	-44.0 (-1.8%)	-51.3 (-2.0%)	-49.6 (-1.8%)
Payments (% of GDP)	616.3 (26.8%)	644.1 (25.9%)	665.5 (27.0%)	694.2 (27.1%)	728.6 (27.1%)
Tax Receipts (% of GDP)	536.6 (23.4%)	562.9 (22.7%)	574.3 (23.3%)	590.5 (23.0%)	629.3 (23.4%)
(f) estimates as published in the 2022-23 October Budget.					

Debt ($b)	At 30 Sep 2013	At 31 Jan 2020	Most recent	as at	2022-23 (f)	2025-26 (f)	Peak reported*
Net debt	174.6	430.2	533.5^	31/10/22	572.2	766.8	NA
Gross debt	280.3**	568.1**	886.7^^	25/11/22	927.0	1,159.0	43.1% at 30 June 2026
Government Bond Interest Rate (as at 2022-23 October Budget) *(weighted average borrowing cost for future issuances)*					3.8%		

^Reported monthly from the Australian Government General Government Sector Monthly Financial Statements
^^Face value of Total Australian Govt Securities on Issue (updated weekly)
* The peaks cited here are the end-of-year peaks as at 30 June
** Reported on a dealt basis to include transactions (issuance and buybacks) according to the date the transaction occurred

Expenses (2022-23 October Budget)	2022-23 ($b)	2025-26 ($b)
Social security and welfare	228.8	271.1
Education	46.3	52.0
Health	109.7	111.6
Child Care Subsidy	10.6	14.1
Total Expenses	**650.9**	**731.0**
Defence + ASD funding	49.1 (2.0% GDP)	56.6
Note: expenses (Fiscal balance) rather than payments (UCB) - % about the same. Defence is appropriations		

Receipts (2022-23 October Budget)	2022-23 ($b)	2025-26 ($b)
Individual and other withholding tax	280.1	319.9
Company tax	127.3	125.7
GST	82.5	92.4
Super fund taxes	12.6	22.4
Non-tax receipts	44.4	49.7
Total receipts	**607.2**	**679.0**

ECONOMY

Total size of economy (Nominal GDP) (2021-22): $2.3 trillion

(f) 2022-23 October Budget	Qtr (Jun 22) (%)	Yr (Jun 22) (%)	Annualised (to Jun 22) (%)	2021-22	2022-23 (f)	2023-24 (f)	2024-25 (f)	2025-26 (f)
Annual Real GDP	0.9	3.6	3.6	3.6	3 ¼	1 ½	2 ¼	2 ½
Consumption	2.2	6.0		3.8	6 ½	1 ¼		
Business investment	0.6	1.4		5.2	6	3 ½		
Terms of trade	4.6	7.5		11.8	-2 ½	-20		
Note: Forecasts (f) are from the 2022-23 October Budget.								

Population	Mar-22 (Q)	2021-22 (f)	2022-23 (f)	2023-24 (f)
Population	25.9 million	26.0 million	26.3 million	26.7 million
Population growth (annual) (%)	0.9	1.1	1.4	1.4

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Productivity	Jun-22*		2019-20	2020-21	2021-22	Productivity assumption **
	QoQ	YoY				
Labour productivity (whole of economy) (%)	-1.9	1.1	1.5	1.9	1.1	1.2
Multifactor Productivity (market sector) (%)			0.1	0.2		

Note: Treasury reports productivity metrics on a financial year basis rather than a calendar year basis. *Labour productivity on a quarterly basis is calculated as GDP per hour. This measure often experiences significant fluctuations and does not contain important information on multifactor productivity and contributions to economic growth of key factors. **Average growth rate in labour productivity over the 20 years to 2018-19.

Labour Force	Oct-22	2021-22	2022-23(f)	2023-24(f)	2024-25(f)	2025-26(f)
Number employed	13.6m					
Employment growth (tty, %)	5.9	3.3	1 ¾	¾	1	1 ¼
Unemployment rate (%)	3.4	3.8	3 ¾	4 ½	4 ½	4 ¼
Unemployed	477,600					
Underemployed	836,200					
Underemployment rate (%)	5.9					
Underutilised (No. unemployed or underemployed)	1.31m					
Youth unemployment (%)	7.3					
Participation Rate (%)	66.5	66.6	66 ¾	66 ½		
Employment to population ratio (%)	64.3					

Note: Forecasts (f) are from the 2022-23 October Budget.

Other Indicators	Qtr	Yr	2021-22	2022-23 (f)	2023-24 (f)	2024-25 (f)	2025-26 (f)
WPI (%) (Sep-22)	1.0	3.1	2.6	3 ¾	3 ¾	3 ¼	3 ½
CPI (headline) (%) (Sep-22)	1.8	7.3	6.1	5 ¾	3 ½	2 ½	2 ½
Real wages (%) (Sep-22)*	-0.8	-4.2	-3.5	-2	¼	¾	1
CPI (trimmed mean) (%) (Sep-22)	1.8	6.1					
Monthly CPI indicator (%) (Oct-22)	-	6.9					

Note: Forecasts (f) are from the 2022-23 October Budget.
*Real wages calculated as change in CPI (%) – change in WPI (%).

	Value	Change through the year
RBA Cash Rate Target (November-22)	2.85%	
Household debt (% disposable income) (June-22)	187.5%	
ABS Job Vacancies (August-22)	470,900 (-2.1%)	40.8%

COSTS OF LIVING

Cost of Living	1 December 2022
Wonder White Bread (700g) - Woolworths	$3.90
Full Cream Milk 2L - Woolworths	$3.10
Petrol (Unleaded, Average, Brisbane)*	$1.77/L

*Based on Fuelprice.io prices

	Value as of 29 November 2022	% Change Q3 2022 to Q2 2022	% Change Q3 2022 to Q3 2021	% Change (YTD 2022/2021 CY average)

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Wholesale spot electricity (NEM) ($/MWh)	$129.24/MWh	-21%	202%	167%
Wholesale spot gas prices ($/GJ)	$22.52/GJ	-10%	147%	140%

Gas prices – AEMO. Wholesale spot gas prices comprise of the simple average daily ex-ante Short Term Trading Market prices in Sydney, Adelaide and Brisbane; 6 AM ex-ante price at the Victorian Declared Wholesale Gas Market; and volume weighted average price at the Wallumbilla Gas Supply Hub. YTD prices are updated as of 29 November 2022 and are the average price between 1 Jan to 29 November of each respective calendar year.
Electricity prices – AEMO. Wholesale spot prices are volume-weighted based on region 5-minute spot price and region 5-minute total dispatch demand over the relevant time period. YTD prices are updated as end 29 November 2022, and are the average price between 1 Jan to 29 November of each respective calendar year.

Expenditure class (CPI)	Over Last Year to Sep-22 (%)
Electricity	3.2
Child care	-5.4
Medical and hospital services	2.9
Automotive fuel	18
International holiday travel and accommodation	25.3
New dwelling purchase by owner-occupiers	20.7
Oils and fats	19.3

ESTIMATED MEDIAN HOUSEHOLDS ELECTRICITY BILLS IN THE NATIONAL ELECTRICITY MARKET (NEM)

Region	Estimated median annual bill		Change from April to October	
	April 2022	October 2022	$	%
NEM	$1,295	$1,589	$294	23%
NSW	$1,460	$1,848	$388	27%
SA	$1,520	$1,830	$310	20%
SEQ	$1,290	$1,620	$330	26%
Vic	$1,187	$1,390	$204	17%
Tas	$2,125	$2,500	$375	18%

Note: Estimates are based on preliminary data to 10 October 2022 covering new market offers published on government-run comparator websites (Energy Made Easy and Victoria Energy Compare).
Source: ACCC estimates.

HOUSING & INTEREST RATES

Interest Rates	Current Value (%)	Change from previous month^	Change from previous year^
Weighted average new variable interest rate mortgage – owner occupier (September-22)	4.38	0.42	1.70
Weighted average outstanding variable interest rate, mortgage – owner occupied (September-22)	4.88	0.44	1.87
Weighted average new variable rate small business loan – term (September-22)	5.33	0.37	2.09
Average Credit Card Rate (Standard) (October-22)	19.94	0.00	0.00
Average Credit Card Rate (low) (October-22)	12.62	0.00	0.00

^Percentage point difference

Mortgages	Current Value
Per cent of households owing owner occupied housing debt (2019-20)	36.8%
Number of households in Australia (2019-20)	9.7 million
Estimate households with owner-occupier mortgages (Apr-22)	3.9 million
Average owner-occupier mortgage debt outstanding (Treasury estimate from ABS and APRA data, Apr-22)	$330,000

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Outstanding Loan Balance (Existing borrowers)	Monthly Repayment at 2 Nov 2022 (with 25 years remaining @ retail rate of 5.61%)	Cumulative Increase in Monthly Repayment since 1 May 2022	Increase in monthly repayment, if rates increase by a further:					
			15 basis points	25 basis points	40 basis points	50 basis points	65 basis points	75 basis points
$200,000	$1,241	$307	$18	$30	$48	$61	$79	$92
$300,000	$1,862	$461	$27	$45	$73	$91	$119	$137
$330,000	$2,048	$507	$30	$50	$80	$100	$131	$151
$400,000	$2,483	$615	$36	$60	$97	$121	$158	$183
$500,000	$3,103	$769	$45	$75	$121	$152	$198	$229
$600,000	$3,724	$922	$54	$91	$145	$182	$238	$275
$700,000	$4,345	$1,076	$63	$106	$170	$213	$277	$321
$800,000	$4,965	$1,230	$72	$121	$194	$243	$317	$366
$900,000	$5,586	$1,383	$81	$136	$218	$273	$357	$412

Note: Assumes 25 years left on mortgage, 100% of loan is on variable rates, retail banks pass-through 100% of the cash rate change, and current mortgage rate as at 2 November 2022 is 5.61% (mean April retail variable rate of 2.86%, plus a 275 basis point increase in the cash rate). We estimate that the average existing owner occupier loan is approximately $330,000 (Treasury estimate from ABS and APRA data). The average new owner-occupier loan in August 2022 was $589,000 (ABS).

Impact on savers per year (0.25 basis points)	$20,000	$50,000	$100,000	$250,000
0.25%	$50	$125	$250	$625

Median House Price (CoreLogic) – Detached – November 2022

Australia	Sydney	Melbourne	Brisbane	Adelaide	Perth	Hobart	Darwin	Canberra
$769,220	$1,243,126	$915,005	$798,552	$702,392	$585,989	$740,100	$588,972	$987,450

WAGES

Wages	Annual	Weekly	Hourly	Through the year growth (%)
National Minimum Wage (Jul-22)	$42,255	$812.60	$21.38	5.2
Average weekly total earnings (May-22)	$69,924	$1,344.70	-	3.0
Average weekly Ordinary Time Earnings (May-22)	$92,030	$1,769.80	-	1.9
Median Weekly Earnings (Aug-21)	$62,400	$1,200.00	-	4.3

GOVERNMENT PAYMENTS

Australian Government Payments	Per Fortnight	Annual
Age Pension (*Single – incl. supplements)*	$1,026.50	$26,689.00
Age Pension (*Couple – incl. supplements)*	$773.80 each $1,547.60 combined	$20,118.80 each $40,237.60 combined
Disability Support Pension (*Single – incl. supplements)*	$1,026.50	$26,689.00
Youth Allowance – Other (under 21, living away from home)	$530.40	$13,790.40
JobSeeker Payment (*Single – no children – over 22)*	$668.40	$17,378.40
JobSeeker Payment (*Partnered – over 22) (each)*	$608.70	$15,826.20
Rent Assistance – Single, no children	$151.60	$3,941.60
Rent Assistance – Couple, no children (combined)	$142.80	$3,712.80

Amounts payable depend on assessable income, number of dependents and whether single or in a couple.
Note: Pension figures include both the Energy Supplement and maximum Pension Supplement.

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COMMODITIES AND EXCHANGE RATE

Exchange rates and Commodity spot prices	Updated on 1 December 2022	Assumption Start*	Assumption End*
Exchange Rate (AUD / USD)	0.68	0.65	0.65
Trade Weighted Index	62.1	61	61
Iron Ore (US$/tonne)^	91.8^	91	55
Metallurgical coal (US$/tonne)^	247.5^	271	130
Thermal coal (US$/tonne)^	353.9^	438	60
Tapis (US$/barrel)**	91.5	108	100
North Asia LNG (US$/MMBtu)^	27.0	-	-
Wheat (US$/tonne)**	405.0	-	-
Sugar (US$/LB)**	19.6	-	-

Note: Assumptions are from the 2022-23 October Budget.
*Iron ore and coal prices are assumed to decline from current elevated levels by the end of the December quarter 2022. The Tapis oil price is assumed to decline from recent levels but remain elevated.
^provided by Argus Media (https://www.argusmedia.com/en). The price is for information purposes only (i.e. it is "read only")
**provided by Bloomberg
Note: Iron ore is 62% Fe, FOB; Metallurgical coal is premium hard low-vol, FOB; Thermal coal is 6000k Cal, FOB; Oil is Malaysian Tapis; LNG is Northeast Asia (ANEA); LME is the London Metal Exchange Index; Wheat is US HRW Gulf; and Sugar is raw sugar traded (ICE futures).

TAX

Taxable Income ($)	Current Marginal tax rate (%)	Marginal tax rate from 1 July 2024 (%)
0-18,200	0	0
18,201-45,000	19	19
45,001-120,000	32.5	30
120,001-180,000	37	30
180,001-200,000	45	30
>200,000	45	45

Distribution of Personal Income Tax (2019-20)	% of Personal Income Taxpayers	# of Personal Income Taxpayers	% of Personal Income Tax Paid
Below $18,201	0.7%	85,000	0.1%
$18,201-37,000	18.4%	2.1 million	1.7%
$37,001-$90,000	54.5%	6.2 million	29.8%
$90,001-$180,000	21.6%	2.5 million	36.8%
Over $180,000	4.8%	544,000	31.6%

Company tax thresholds	Rate (%)
Base rate entities (turnover below $50 million)	25
Entities with turnover above $50 million	30

STATE ECONOMIC SUMMARY

Economic Activity	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	AUS
Real GSP growth (2021-22) (%)	1.8	5.6	4.4	5.1	3.1	4.3	4.7	1.9	3.6
GSP (2021-22) ($billion)	697	515	447	129	404	38	31	46	2,309
GSP % of GDP	30	22	19	6	18	2	1	2	
Population (millions) (Mar qtr 2022)	8.1	6.6	5.3	1.8	2.8	0.57	0.25	0.46	25.9

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% of Aus population (Mar qtr 2022)	31	25	20	7	11	2	1	2	[redacted]
Real SFD Growth (Jun qtr 2022) (%)	1.9	1.0	1.0	1.5	0.1	0.6	-0.5	0.6	2.0
Labour Force (October 2022)									
	NSW	**VIC**	**QLD**	**SA**	**WA**	**TAS**	**NT**	**ACT**	**AUS**
Unemployment (%)	3.0	3.6	3.3	4.1	3.6	4.0	3.8	3.2	3.4
Employed people (Million)	4.3	3.5	2.8	0.9	1.5	0.3	0.1	0.2	13.6
Underemployment (%)	5.6	5.7	6.7	6.5	5.6	6.7	5.1	4.4	5.9
Participation (%)	66.3	66.8	66.2	63.4	68.7	61.6	73.6	72.0	66.5
Prices & Wages*									
	SYD	**MEL**	**BNE**	**ADL**	**PER**	**HOB**	**DAR**	**CBR**	**AUS**
CPI (%) (Sep 22)	7.0	7.4	7.9	8.4	6.0	8.6	7.0	6.9	7.3
WPI (%) (Sep 22)	3.1	3.1	3.4	3.3	3.3	3.6	2.5	2.7	3.2
Real Wages (%) (Sep 22)	-3.9	-4.3	-4.5	-5.1	-2.7	-5	-4.5	-4.2	-4.1

*Figures in this table are original

SUPPLEMENTARY INDICATORS

Household consumption	**Change from previous period (%)**	**Change through the year (%)**
Nominal retail sales (Oct-22) (m)	-0.2	12.5
Motor vehicle sales (VFACTS, original) (Oct-22) (m)	-6.7	16.9
ANZ-Roy Morgan Weekly Consumer Confidence (w/e 27 Nov) (w)	1.5^^	-22.9^^
Westpac-MI Consumer Sentiment (index) (Nov-22) (m)	-5.7^^	-27.3^^
Household saving ratio (per cent) (Jun-22) (q)	-2.4^	-3.0^
Dwelling investment		
Real dwelling investment (Jun-22) (q)	-2.9	-4.6
Dwelling finance (owner occupier ex. refinancing) (Sep-22) (m)	-8.2	-18.5
Building approvals (number) (Oct-22) (m)	-6.0	-6.4
CoreLogic Hedonic Home Value Index* (Nov-22) (m)	-1.0	-3.2
Business investment		
Capital expenditure survey (Jun-22) (q)	-0.3	2.0
Nominal corporate GOS** (profits) (Jun-22) (q)	10.0	24.9
Construction work done (Sep-22) (q)	2.2	1.1
NAB business survey – Conditions (net balance) (Oct-22) (m)	-1^^	12^^
NAB business survey – Confidence (net balance) (Oct-22) (m)	-4^^	-23^^
Balance of payments and external sector		
Exports volumes (Jun-22) (q)	5.5	4.9
Import volumes (Jun-22) (q)	0.7	10.0
Trade balance (Sept-22) (m)	-3,780^^	2,393^^
Current account balance (% of GDP) (Jun-22) (q)	2.5^	-0.7^

^ Percentage point difference; ^^ Level difference; *Includes detached houses and other dwelling units.
** This includes both public and private companies.

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CONSUMER AFFAIRS

KEY MESSAGE

- The Government is committed to ensuring strong protections for Australian consumers.

KEY FACTS AND FIGURES

- Strong consumer laws don't just protect consumers – they promote competition, increased productivity and innovation.
- The Government is working collaboratively with the states and territories in this important area and demonstrating the national leadership that is required.
- Legislation to strengthen unfair contract terms (UCT) protections passed the Parliament on 27 October 2022, as Schedule 2 to the Treasury Laws Amendment (More Competition, Better Prices) Bill 2022.
  - The amendments introduce a civil penalty regime prohibiting the use of and reliance on UCTs in standard form contracts. The amendments also expand the class of contracts that are covered by the UCT provisions.
- The Government is also increasing penalties for breaches of competition and consumer law to deter conduct that stifles competition and increases costs to consumers. This also forms part of the More Competition, Better Prices Bill.
  - Maximum penalties for corporations will increase from $10 million to $50 million per breach and from 10 per cent of annual turnover to 30 per cent of turnover for the period the breach took place.
- At the meeting of Consumer Ministers in September 2022, Commonwealth, State and Territory Ministers discussed and agreed on priorities, which include:
  - improved capability and collaboration to combat scams
  - considering reforms to consumer guarantees and supplier indemnification provisions
  - consulting on proposed reforms to address unfair trading practices
  - releasing a discussion paper on travel services to inform ACL learnings across all service sectors following COVID-19.

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CONSUMER AFFAIRS

- The Government is also progressing reforms to the ACL to better recognise overseas product safety standards.
- The Government has appointed an experienced consumer advocate, Ms Catriona Lowe, to be a Deputy Chairperson of the Australian Competition and Consumer Commission for a five-year period starting on 27 January 2023.

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CONSUMER AFFAIRS

BACKGROUND

- The Australian Consumer Law (ACL) commenced in 2011. It provides a single consumer protection law operating as a law of the Commonwealth and of each state and territory. It includes:
  - general protections that create and promote standards of conduct in trade or commerce across the economy, including prohibitions against misleading or deceptive conduct, unconscionable conduct and the use of unfair contract terms; and
  - specific protections against certain unfair practices including false or misleading representations, consumer guarantees and product safety provisions.
- The Government made election commitments to:
  - introduce a set of measures to combat scams and online fraud, including establishing a National Anti-Scam Centre
  - make unfair contract terms illegal so small businesses can negotiate fairer agreements with large partners
  - increase penalties in the *Competition and Consumer Act 2010*
  - establish a 'Super Complaint' function within the Australian Competition and Consumer Commission (ACCC)

Scams – election commitment

- The Government has committed to introducing a range of measures to combat scams, including:
  - establishing a National Anti-Scam Centre (based on the UK's Fusion Cell model)
  - new industry codes (including for banks, telecommunications providers and digital platforms)
  - more funding for identification recovery services
  - a review of penalties

CONSUMER AFFAIRS

- These measures are intended to strengthen the system to better protect consumers, families and small businesses.
- Delivering on this election commitment will require a comprehensive, whole-of-government response.
- Treasury has commenced work with other departments and regulators. Stakeholder roundtables are expected to be held this year.

Scams – statistics

- Scams remain a key consumer concern for the public. So far in 2022, the ACCC's Scamwatch service has received 166,047 reports with more than $425 million in financial losses.
- According to the ACCC, Australians lost over $2 billion to scams in 2021.
- On 4 July 2022, the ACCC released its 'Targeting Scams' report on key trends in scam activity. The data in this report is for the 2021 calendar year.
  - The ACCC received 286,622 scam reports in 2021, with reported losses of $324 million. Reports increased by 33 percent compared to 2020, and financial losses increased by 84 percent.
  - The highest losses reported to all agencies and banks were for investment scams.
  - Scamwatch sent more than 150 disseminations of scam reports on high risk or current scam trends to law enforcement and government agencies. This intelligence assisted state and federal police to investigate and, in some instances, prosecute scammers.
  - Scamwatch shared thousands of telephone numbers provided in scam reports with the telcos and the Australian Communications and Media Authority (ACMA) every week, to assist them to identify scam call traffic and disrupt scammers.
- Consumers concerned about scams should visit the ACCC's website www.scamwatch.gov.au to keep up to date with current scams, report scam activity, and get information about what to do if they become a scam victim.

CONSUMER AFFAIRS

- The Scamwatch website receives thousands of reports each year. The ACCC uses this information to help consumers recognise and avoid scams. The ACCC focuses on education and collaboration as the online and global nature of scams makes it difficult to prosecute scammers and ultimately recover money lost to scams.

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Sustainable Finance and Climate Disclosures

KEY MESSAGE

- Australian businesses need clearer guidance on how to report the climate risks impacting their operations.
- Our Government is working with the regulators to develop a standardised approach to climate disclosures that will ensure reporting is credible and comparable.

KEY FACTS AND FIGURES

- As the world transitions towards net zero, capital markets are increasingly focused on climate-related risks and opportunities.
  - Sustainable debt issuance increased 10x over 2016 - 2021, from $0.14 trillion to $1.6T USD.
- While the Corporations Act currently requires Australian companies to disclose material risks, many of our international peers are introducing more detailed climate risk reporting requirements.
  - New climate reporting requirements have been legislated in the **United Kingdom**, **European Union** and **New Zealand**, among others. The **United States** is also developing an approach.
- Treasury is working closely with Australian regulators, industry and international peers:
  - The **International Sustainability Standards Board** (ISSB) was formed at COP26, and is developing a new global baseline for climate and sustainability disclosures.
  - **ASIC** is a member of the IOSCO Sustainability Technical Experts Group, which will provide input to the ISSB with a view to possible IOSCO endorsement of the ISSB standards.
  - Treasury and the RBA have supported the work of the ISSB through their participation in the **G20 Sustainable Finance Working Group** and the **Financial Stability Board's** climate-related workstream.

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Sustainable Finance and Climate Disclosures

BACKGROUND

- Voluntary reporting: The Corporations Act currently requires Australian companies to disclose material risks, including climate-related financial risks:
  - Financial regulators encourage use of the the voluntary Taskforce on Climate-related Financial Disclosures framework (TCFD) – the leading global framework for climate risk reporting.
- There has been steady Australian uptake of TCFD-aligned climate disclosures.
  - In 2021, 103 of the ASX200 made TCFD-aligned climate disclosures, compared to 11 when the framework was established in 2017.
  - But the TCFD framework is flexible, firm capabilities vary, and Australia's legal framework creates considerable variation in how risks are reported.
  - There are shortcomings with quality, consistency and comparability of disclosures.
- International process: The ISSB will provide a detailed global standard which can be adopted by jurisdictions.
  - ISSB builds on the reporting framework established by the TCFD, and incorporates industry disclosure requirements taken from the Sustainability Accounting Standards Board Standards.
  - On July 27 2022, the CFR provided comment on the ISSB exposure drafts to better adapt these standards to an Australian context.
  - The ISSB has closed for comment on its drafts of its proposed climate and sustainability standards, which it expects to finalise in early 2023.
- Key next steps for Australia are engaging with the ISSB process and carefully assessing the finalised ISSB standards, in the context of the Government's commitment to introduce globally aligned climate reporting requirements.

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Sustainable Finance and Climate Disclosures

- Climate disclosures are part of a wider CFR sustainable finance agenda:
  - On 30 November 2022, APRA published the outcomes of its first Climate Vulnerability Assessment (CVA), which focused on the major banks. The process involved entities estimating the potential physical impacts of a changing climate on their balance sheets, as well as the risks that may arise from the global transition to a low-carbon economy.
    - The participating banks did not face severe stress under the climate scenarios considered. However, the analysis showed that impacts could be more severe for institutions with concentrated exposures to certain regions or industries.
    - The outcomes highlight the importance of proactive climate risk management by financial institutions.
    - CFR agencies will consider whether the CVA process should be expanded, including to the superannuation and insurance sectors.
  - In June 2022, ASIC released an information sheet to help issuers avoid 'greenwashing' when offering or promoting sustainability-related products.
  - Treasury and the RBA are actively participating in the G20's Sustainable Finance Working Group, including to support the development of a more consistent global approach for incorporating transitional industries and investments within sustainable finance frameworks.
- The Government is actively considering opportunities to leverage accelerating global sustainable finance flows to support its Powering Australia policies and help deliver Australia's strengthened emissions reductions goals.

Recent announcements

- ASIC has taken action against listed energy company Tlou Energy Limited for 'greenwashing', fining them to the tune of $53,280 for alleged misleading sustainability-related statements made to the ASX in October 2021. ASIC is continuing its investigations in a number of listed entities, super funds and managed funds.
- On 7 November 2022, the Investor Group on Climate Change was reported to have urged the Treasurer and RBA governor to move quickly to mandate climate disclosures aligned with the ISSB standards.

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Age Pension - Work Bonus and Income Test

KEY MESSAGE

- Following the Jobs and Skills Summit, the Government has announced two measures that support pensioners to help meet labour supply shortages:
  - A temporary $4,000 income bank credit — this will enable pensioners to earn another $4,000 from employment without impacting their pension, helping to alleviate skills shortages.
    - This measure temporarily increases the maximum income bank to $11,800. After the temporary increase period ends, the maximum income bank balance will revert to $7,800.
    - Legislation to give effect to the measure is currently before Parliament, with the Government having introduced an amendment to extend the expiry of the measure from 30 June 2023 to 31 December 2023. This extension will give pensioners more time to start work or increase their hours to take advantage of the $4000 credit.
  - Pensioners will not have to reapply for payments if their employment income exceeds the income limit and reduces their payment to zero, for up to two years, rather than their payment being cancelled after 12 weeks.
    - Pensioners will also be able to keep their Pensioner Concession Card and associated benefits for two years.
    - This measure was an announced but unenacted policy of the previous Government.

KEY FACTS AND FIGURES

- The Work Bonus disregards the first $300 of employment income per fortnight from the income test. The bonus can be carried over up to maximum of $7,800. Combined with the one off $4,000 credit, pensioners can earn up to $11,800 in 2022-23 without affecting their pension payment. On 1 July 2023, the maximum income bank balance will revert to $7,800.
- When combined with the income test free area ($190), **a single retiree with no other income can earn up to $490 per fortnight before their Age Pension is impacted**.

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Date of Update	18 November 2022		

Age Pension - Work Bonus and Income Test

- As at 25 March 2022, there were around 75,700 Age Pension recipients with employment income in the past fortnight, or 3.0 per cent of all Age Pension recipients. Around 96 per cent of Age Pensioners have a full work bonus income bank.

- The total cost of the Work Bonus income credit in the October Budget 2022-23, expiring 30 June 2023, was $46.9 million.
  - Costs for the extension to 31 December 2023 are still being finalised.

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Division responsible	Retirement, Advice and Investment Division		
Date of Update	18 November 2022		

Age Pension - Work Bonus and Income Test

BACKGROUND

How many pensioners will benefit from the work credit?

- All age pensioners, around 2.6 million, will receive the upfront $4000 income credit and will be able to work and earn more before their age pension is reduced.
  - The proposal will also apply to Disability Support Pensioners and Carer Payment recipients over Age Pension age, as well as equivalent Department of Veterans' Affairs pension recipients.

Why is our measure better than the Coalition's suggestion?

- Our measure provides certainty – pensioners know exactly what they are getting up front and how much they can earn. We are providing support in a simple easy to follow manner.
- ***Coalition proposal:*** the Coalition is proposing to double the existing work bonus for age pensioners from $300 per fortnight to $600 per fortnight for 2022-23 and review the merits of extending the policy for future years.

Age Pension means testing

- The Age Pension is asset and income tested to ensure it is targeted to those that need it most.
- Payment amounts also vary according to whether a person is single or in a couple and whether they own their home (the value of the principal place of residence is not included in the means test).
- The income test reduces the pension amount by 50 cents for every dollar over the free area (currently $190 per fortnight for a single pensioner and $336 combined for a couple).
  - The Age Pension income test cut-off for a single is $2,243.00 per fortnight and $3,431.20 per fortnight combined for a couple.
  - If the income is from employment, the Work Bonus allows individuals to earn up to $300 per fortnight without reducing their pension. The bonus can be carried over up to a maximum of $7,800.
- The assets test reduces the pension amount by $3 per fortnight per $1,000 of assets over the free area (currently $280,000 for a single homeowner).

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Age Pension - Work Bonus and Income Test

Other policies that support Age Pensioners in work

- The Senior Australians and Pensioners Tax Offset (SAPTO) ensures eligible senior Australians with incomes up to $33,088 (or $29,783 for each member of a couple) pay no income tax.
- Those aged between 67 and 74 years old inclusive who satisfy the work test (employed for at least 40 hours during a consecutive 30-day period during the year) are also able to access income tax concessions from contributing to super; through salary sacrificing or personal deductible contributions.

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Date of Update	18 November 2022		

Age Pension - Work Bonus and Income Test

KEY MESSAGE

- Following the Jobs and Skills Summit, the Government has implemented two measures that support pensioners to help meet labour supply shortages:

  1) From 1 December 2022, a temporary $4,000 income bank credit — enabling pensioners to earn another $4,000 from employment without impacting their pension, helping to alleviate skills shortages.

     : This measure temporarily increases the maximum income bank to $11,800 until 31 December 2023.

  2) From 1 January 2023, pensioners no longer need to reapply for payments if their employment income exceeds the income limit and reduces their payment to zero, for up to two years. Previously, payments would be cancelled after 12 weeks.

     : Pensioners will also be able to keep their Pensioner Concession Card and associated benefits for two years.

     : This measure was an announced but unenacted policy of the previous Government.

KEY FACTS AND FIGURES

- The Work Bonus disregards the first $300 of employment income per fortnight from the income test. The bonus can be carried over up to a maximum of $7,800.

- Combined with the one off $4,000 credit, pensioners can earn up to $11,800 in 2022-23 without affecting their pension payment. On 31 December 2023, the maximum income bank balance will revert to $7,800.

- When combined with the income test free area ($190), **a single retiree with no other income can earn up to $490 per fortnight before their Age Pension is impacted.**

- As at 30 September 2022, there were around 76,900 Age Pension recipients with employment income in the past fortnight, or 3.0 per cent of all Age Pension recipients.

- The indicative total cost of the Work Bonus income credit is $49.9 million.

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Division responsible	Retirement Advice and Investment Division		
Date of Update	23 January 2023		

Age Pension - Work Bonus and Income Test

BACKGROUND

How many pensioners will benefit from the work credit?

- All age pensioners, around 2.6 million, will receive the upfront $4000 income credit and will be able to work and earn more before their Age Pension is reduced.
  - The proposal will also apply to Disability Support Pensioners and Carer Payment recipients over Age Pension age, as well as equivalent Department of Veterans' Affairs pension recipients.

Other policies that support Age Pensioners in work

- The Senior Australians and Pensioners Tax Offset (SAPTO) ensures eligible senior Australians with incomes up to $33,088 (or $29,783 for each member of a couple) pay no income tax.
- Those aged between 67 and 74 years old inclusive who satisfy the work test (employed for at least 40 hours during a consecutive 30-day period during the year) are also able to access income tax concessions from contributing to super; through salary sacrificing or personal deductible contributions.

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Division responsible	Retirement Advice and Investment Division		
Date of Update	23 January 2023		

Your Future, Your Super Review

KEY MESSAGE

- The Australian Government is committed to strengthening Australia's world class superannuation system, which is why we are considering options to enhance the Your Future, Your Super (YFYS) measures following Treasury's review.

KEY FACTS AND FIGURES

YFYS Review

- The Government is aware of concerns that the YFYS measures have had unintended consequences, such as discouraging certain investment decisions.
- As such the Government tasked Treasury to review the operation of the YFYS measures after the second round of the test for MySuper products took place in August 2022.
- To inform the YFYS review, Treasury undertook an extensive 6-week consultation process seeking stakeholder feedback. The consultation process commenced on 7 September 2022 and submissions closed on 14 October 2022.
  - During the consultation process, Treasury met with a range of stakeholders from across the superannuation sector through bilateral meetings, roundtable discussions, and a technical working group on the performance test.
  - The Government announced the membership of the 12-member technical working group on 20 September 2022, which was comprised of independent economists, academics, investment advisers, and representatives from retail and not-for-profit super funds.
  - Notes of the discussion in the working group meetings have also been published on the Treasury website.
- The Government is currently considering outcomes from the review and expects to make further announcements on next steps in due course.

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Date of Update	30 January 2023		

Your Future, Your Super Review

Deferral of the performance test to trustee-directed products (TDPs)

- The performance test currently applies to MySuper products and was scheduled to be extended to TDPs from 1 July 2022.
- The extension of the performance test to TDPs was paused for 12 months to provide time for the review to take place. This will allow the Government to consider and consult on any changes to ensure that the test is fit for purpose given the significant variety and complexity of these products.

Faith-based products

- In 2022, the Government introduced legislation in Parliament to adjust how faith-based products are treated under the performance test (Schedule 5 of the *Treasury Laws Amendment (2022 Measures No. 3) Bill 2022*).
- These amendments were targeted at the small number of faith-based superannuation funds that face the potential of being penalised for investing in accordance with their religious principles.
  - Members of faith-based products affected by the regulations represent around 1 per cent of superannuation members.
- Schedule 5 to the Bill:
  - Required trustees to ‘self-identify’ and apply to APRA for faith-based product status;
  - Subjected faith-based products to a supplementary test that considers their faith-based investment strategy, if they fail the original test; and
  - Exempted faith based products from the consequences of failure if they pass the supplementary test.
- After engaging with stakeholders during the development of this legislation, the Government removed Schedule 5 from the Bill and will consider these reforms as part of the broader Your Future, Your Super review.
  - The YFYS Review also provides an opportunity to assess the unintended consequences of the performance test benchmarks for other products.

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Your Future, Your Super Review

  - Two notionally faith-based products have failed the performance test: Christian Super failed the 2021 test; and Australian Catholic failed in both 2021 and 2022. Both funds have since merged with better performing funds (Australian Ethical and UniSuper, respectively).

2022 Performance Test Results

- The second performance test applied to 69 MySuper products in August 2022. This found that 5 products failed the test, representing 604,000 member accounts and nearly $28 billion in assets. Of the 5 products which failed:
  - 1 product, Westpac Group Plan MySuper, failed for the first time.
  - 4 products failed for a second consecutive time and have been closed to new members until they pass a subsequent performance test. These products are:
    - AMG MySuper;
    - BT Super MySuper;
    - Energy Industries Superannuation Scheme Balanced (MySuper);
    - ACS Super LifetimeOne (Australian Catholic Superannuation Retirement Fund).
- Since the inception of the performance test in 2021, 14 products have failed. Of these products:
  - 11 products have exited the market or are progressing with mergers
  - 2 products have since passed the 2022 test
  - 1 product failed both tests and can no longer accept new members.

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Date of Update	30 January 2023		

Your Future, Your Super Review

BACKGROUND

YFYS reforms

- The YFYS reforms include the following elements:
  - **Annual performance test** — Holding funds accountable and protecting members by introducing an annual objective performance test. The test aims to protect members from poor outcomes by encouraging funds to lower fees and improve performance to boost Australians' retirement incomes.
  - **Stapling** — Changes to ensure that superannuation accounts follow members (stapling) when they change jobs. This stops the creation of unwanted multiple accounts that reduce retirement savings through duplicate fees.
  - **YourSuper comparison tool** — Empowering members to make better decisions about who manages their retirement savings by delivering the new, interactive, online YourSuper comparison tool.
  - **Best Financial Interests Duty** — Increasing trustee accountability by strengthening obligations to ensure trustees only act in the best financial interests of members and requiring superannuation funds to provide better information regarding how they manage and spend members' money in advance of Annual Members' Meetings.

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Date of Update	30 January 2023		

Victims of Crime

KEY MESSAGE

- The Government considers that it is particularly egregious for convicted criminals to seek to hide assets in superannuation in order to avoid paying compensation to their victims. The Government recently met with the Grace Tame Foundation to discuss this issue and is considering how survivors can be better supported to receive their rightful compensation.

KEY FACTS AND FIGURES

- In June 2022, the Grace Tame Foundation, in partnership with Andrew Carpenter, Fighters Against Childhood Abuse Australia and the Carly Ryan Foundation, launched the *Super for Survivors* campaign.
- The *Super for Survivors* campaign, represented by the Grace Tame Foundation met with the Assistant Treasurer on 16 June 2022 to discuss victims' access to perpetrators' superannuation and presented a joint letter.
- Through the campaign, the Grace Tame Foundation are seeking legislative amendments to ensure that victims and survivors of child sexual abuse are able to access redress from the superannuation of perpetrators.

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Division responsible	Retirement Advice and Investment Division		
Date of Update	19 July 2022		

Victims of Crime

BACKGROUND

Current avenues for victims of crime compensation

- There are three ways that a victim of crime can currently seek compensation from the perpetrator:
  - state and territory statutory compensation schemes (state-funded), where the state pays compensation directly to a victim of crime
  - compensation or restitution orders, handed down as part of the sentencing process in a criminal trial, requiring the perpetrator to pay the victim
  - a victim pursuing civil action against a perpetrator or alleged perpetrator for damages (either following their conviction or in the absence of a conviction).
- The perpetrator's superannuation is protected in each of these processes and may be used by perpetrators as a vehicle to avoid paying compensation to victims.
  - Bankruptcy proceedings may currently be used to 'claw-back' superannuation contributions made by a perpetrator to avoid paying debts, including victims' compensation orders.

Measure announced by previous Government

- The previous Government's measure, which was originally scheduled to commence on 1 July 2020 but did not proceed, included two mechanisms for victims of crime to access their perpetrator's superannuation:
  - the first was for a claw-back mechanism for 'out of character' superannuation contributions made by criminals to shield their assets from use in compensating victims of their crimes; and
  - the second was to allow victims of serious, violent crimes to be able to access a perpetrator's superannuation as compensation, where other assets have been exhausted, subject to appropriate limits and thresholds.
- These mechanisms were canvassed as part of a Treasury consultation paper released from 28 May to 15 June 2018. Treasury received 23 submissions in response to this consultation process, which are publicly available on the Treasury website. Treasury met bilaterally with a number of stakeholders, including representatives from most state and territory justice departments and/or victims of crime commissions, as well as a number of state and federal courts.

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Victims of Crime

- Prior to the Treasury consultation released between 28 May and 15 June 2018, Treasury released a consultation paper from 20 December 2017 to 12 February 2018, which included canvassing whether, and the circumstances in which, a perpetrator's superannuation assets should be available to pay compensation to victims of crime.
  - Treasury received over 60 submissions which are publicly available on the Treasury website, held 10 roundtables and met bilaterally with a number of stakeholders.

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WOMEN AND SUPERANNUATION

KEY MESSAGE

- The Government is committed to improving the economic security of women in retirement and reducing the superannuation savings gap.

KEY FACTS AND FIGURES

- In 2019-20, the median superannuation balance for males **approaching Age Pension age** (60-64) was $180,928 compared with $139,056 for females. This equates to a 23.1 per cent gap between the median male and female superannuation balance.
- In 2019-20, the median superannuation balance for males at or **approaching preservation age** (55-59 years) was $163,180 compared to $112,122 for females. This equates to a 31.3 per cent gap between the median male and female superannuation balance.
- The **gender pay gap** is a key driver of the difference in superannuation balances between men and women. According to the Workplace Gender Equality Agency (WGEA), the national gender pay gap is 14.1 per cent (as at May 2022).
- Another major driver is the **time women take out of the workforce** to undertake unpaid care work. Women are more likely than men to take time out of the workforce to care for children and this interrupts paid employment patterns resulting in lower earnings and lower superannuation contributions.
  - In 2019-20, among parents of children aged five and under, 65.5 per cent of women were in the labour force, compared to 94.4 per cent of men.
  - The labour force participation gap is the largest around childbearing ages where women aged 30-39 are almost three times more likely than men to be not in the labour force – 22 per cent of women were not in the labour force compared to only 8 per cent of men in 2019-20.
  - According to 2020-21 data from WGEA, women account for 88 per cent of all primary carer's leave utilised.

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WOMEN AND SUPERANNUATION

BACKGROUND

Removal of the $450 threshold

- After years of advocacy while in opposition, the Government welcomes the removal of the $450 per month income threshold under which employees do not have to be paid the superannuation guarantee by their employer, which commenced on 1 July 2022. This will improve equity in the superannuation system, in particular for women, who are most likely to be impacted by this threshold due to being more likely to work part-time, in lower-paid industries.
    - The Retirement Income Review estimated that of employees who were affected by the $450 per month threshold in July 2019, 63 per cent (around 200,000) were women. Removing the threshold will help women working a few hours in multiple jobs or balancing re-entering the workforce with caring responsibilities contribute to their retirement savings.

Increases to the superannuation guarantee rate

- The Government will help improve women's economic security in retirement by committing to the legislated SG increases to 12 per cent.
    - The Retirement Income Review found that under a 12 per cent SG rate, most people will either maintain or improve their standard of living in retirement compared to working life, and that a lower SG rate would lead to lower superannuation balances.

Superannuation guarantee and paid parental leave

- Unlike most other leave entitlements, employers are not required to pay the superannuation guarantee (SG) on paid parental leave (PPL). The SG is also not paid on government-funded Parental Leave Pay (PLP).
- The Government has not committed to any changes to pay superannuation on government-funded PPL schemes.
- Paying superannuation on PPL and PLP would improve equity in the superannuation system by reducing some of the impact of child-related career breaks on retirement incomes. It would also signal the value of unpaid care.

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WOMEN AND SUPERANNUATION

- According to the Retirement Income Review, for the median female earner, receiving superannuation on the average period of employer PPL (11 weeks in 2019) increases her balance at retirement by around 0.8 per cent. For the Government-funded PLP (18 weeks), the median female earner increases her balance by 0.17 per cent.
- The WGEA reported that in 2020-21, around 49 per cent of private employers pay superannuation to primary carers on parental leave.

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Downsizer

KEY MESSAGE

- The Government has introduced legislation to expand eligibility for those who can make downsizer contributions to their superannuation to 55 years of age, in line with its election commitment.

KEY FACTS AND FIGURES

- The downsizer program allows eligible older people to make a one-off, post-tax contribution to their superannuation of up to $300,000 per person ($600,000 per couple) from the proceeds of selling their home, outside the usual superannuation contribution caps.
- From 1 July 2022, the eligibility age to make downsizer contributions has been reduced from 65 to 60.
- The Government is legislating its commitment to further expand eligibility to 55 years of age. The changes are included in the Treasury Laws Amendment (2022 Measures No. 2) Bill 2022 (Schedule 5). This further reduction in eligibility age will take effect from the first quarter following passage of legislation.
  - On 21 October 2022, the Australian Greens proposed an amendment in the Senate to the Treasury Laws Amendment (2022 Measures No. 2) Bill 2022 to omit the provisions relating to downsizer.
- The measure is estimated to decrease receipts by $20 million over the forward estimates.
- Since the start of the program, from 1 July 2018 to 30 September 2022, around 48,900 individuals have made downsizer contributions, of which around 77 per cent had superannuation balances of less than $600,000 and around 55 per cent were women. The average accumulated downsizer contribution per individual was around $245,800.
  - Around 59 per cent of those who have used the downsizer scheme have superannuation balances of $300,000 or less.

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Downsizer

BACKGROUND

- Downsizer contributions allow individuals who may otherwise be prevented from making contributions into their superannuation due to their age, work status or contribution cap restrictions to sell their home and make a contribution using the proceeds of the sale.

- The downsizer program provides flexiblity for older people to boost their superannuation savings for retirement. It is aimed at encouraging people to downsize earlier to homes that better meet their needs and free up the stock of larger homes for younger families.

- The Government is progressing this modest change to the eligibility age for the downsizer program in the context of a comprehensive plan to improve housing access and affordability and increase supply.

- Legislation requires an independent review of the operation of the First Home Super Saver Scheme (FHSSS) and downsizer scheme as soon as practicable after June 2019. The Government will consider the legislated review within the context of its broader priorities.

- On 29 September 2022 the Superannuation Legislation Amendment (Broadening Contribution Rules) Regulations 2022 were made. This allows superannuation funds and Retirement Savings Account institutions to accept downsizer contributions under the new eligilbity criteria.
  - These regulations are subject to the commencement of primary legislation.

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PERFORMANCE TEST - FAITH BASED PRODUCTS AND TDP DEFERRAL

KEY MESSAGE

- The Albanese Government is committed to strengthening Australia's world-class superannuation system, which is why we have tasked Treasury to review whether the Your Future, Your Super (YFYS) laws have created unintended outcomes for members. We have also deferred the extension of the annual YFYS performance test beyond MySuper products for 12 months, and introduced legislation to adjust how faith-based products are treated under the test.

KEY FACTS AND FIGURES

- The annual YFYS performance test (the test) for superannuation products is a component of the YFYS reforms legislated in 2021. The test compares a product's returns and fees against benchmarks to determine if it passes (performing) or fails (underperforming).

2022 Performance Test Results

- The second annual performance test applied to 69 MySuper products in August 2022. This found that 5 products failed the test, representing 604,000 member accounts and nearly $28 billion in assets.
- Of the 5 products which failed:
  - 1 product, Westpac Group Plan MySuper failed the test for the first time.
  - 4 products had a second consecutive failure and are now closed to new members until they pass a subsequent performance test. These products are:
    - AMG MySuper;
    - BT Super MySuper;
    - Energy Industries Superannuation Scheme Balanced (MySuper);
    - ACS Super LifetimeOne (Australian Catholic Superannuation Retirement Fund).

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PERFORMANCE TEST - FAITH BASED PRODUCTS AND TDP DEFERRAL

- Since the inception of the performance test, 14 products have failed. Of these products:
  - 4 have already exited;
  - 5 have failed the 2021 performance test, and passed the 2022 performance test;
  - 4 failed both the 2021 and 2022 performance tests; and
  - 1 passed the 2021 performance test, and failed the 2022 performance test.
- The 4 products that failed the test two years in a row can longer accept new members until they pass a future performance test. This will ensure that superannuation members do not join underperforming products, setting them up for a better retirement.
- For the 5 products that failed the 2022 performance test, four funds have committed to exiting ahead of the 2023 performance test.

2021 Peformance Test Results

- The results of the first performance test were released in August 2021. 13 products failed out of the 76 products tested. Out of the 13 failed products, 1 has since closed, 9 have merged or are in the process of merging, and 3 are subject to increased supervision by APRA.

YFYS Review and deferral of test for trustee-directed products (TDPs)

- The Albanese Government is committed to ensuring that the performance test holds trustees to account for the investment performance they deliver and the fees that they charge to members.
- The Government is aware of concerns that the YFYS reforms have potentially created unintended consequences, such as discouraging certain investment decisions.

PERFORMANCE TEST - FAITH BASED PRODUCTS AND TDP DEFERRAL

  - As such the Government tasked Treasury to review the operation of the YFYS reforms after the second round of the test for MySuper products took place in August 2022.
  - As part of the review, Treasury recently undertook an extensive 6-week consultation process seeking stakeholder feedback into the YFYS measures. Submissions closed on 14 October 2022. Treasury is processing submissions and intends to provide advice to Government in the coming weeks.
  - During the consultation process Treasury met with a range of stakeholders from across the superannuation sector through bilateral meetings, roundtable discussions, and a technical working group on the performance test. The Government announced the membership of the technical working group on 20 September 2022.
- The extension of the performance test to TDPs has been paused for 12 months to provide time for the review to take place. This will allow the Government to consider and consult on any changes to ensure that the test is fit for purpose given the significant variety and complexity of these products.

Faith-based products

- Currently, the performance benchmark can potentially penalise faith-based products for avoiding certain investments that fall outside their religious principles, for example, armaments. This could lead to these funds ultimately being closed to new members, denying Australians of faith the option of investing their super in line with their religious beliefs.
  - Two notionally faith-based products have failed the performance test. Christian Super failed the performance test in 2021 and Australian Catholic failed in 2021 and 2022. These funds are currently progressing mergers with other better performing funds (Australian Ethical and UniSuper, respectively).
- The Government has now introduced legislation into Parliament to adjust how faith-based products are treated under the test.

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PERFORMANCE TEST - FAITH BASED PRODUCTS AND TDP DEFERRAL

  - On 28 September, Treasury Laws Amendment (2022 Measures No. 3) Bill 2022 was referred to the Senate Economics Legislation Committee and the Senate Standing Committee for the Scrutiny of Bills. The report from the Senate Economics Legislation Committee is due by 17 November 2022.
  - On 27 October, Treasury Laws Amendment (2022 Measures No. 3) Bill 2022 passed the House of Representatives without amendment.
- The proposed legislation seeks to:
  - Require trustees to ‘self-identify’ and apply to APRA for faith-based product status;
  - Subject faith-based products to a supplementary test that considers their faith-based investment strategy, if they fail the original test; and
  - Exempt faith-based products from the consequences of failure if they pass the supplementary test.
- Exposure draft regulations to support this legislation have been released for public consultation. Draft regulations can be found on the Treasury website and consultation closed on 7 October 2022.
  - Treasury received 8 written submissions from a variety of stakeholders, the majority from industry peak bodies.
- These amendments are targeted squarely at the small number of faith-based superannuation funds that face the potential of being penalised for investing in accordance with their religious principles.
  - Members of faith-based products affected by the regulations represent around 1 per cent of total superannuation members.
  - The YFYS Review will provide an opportunity to assess the unintended consequences that the performance test benchmarks pose for other products.

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PERFORMANCE TEST - FAITH BASED PRODUCTS AND TDP DEFERRAL

BACKGROUND

YFYS reforms

- The YFYS reforms include the following elements:
  - **Annual performance test** — Holding funds accountable and protecting members by introducing an annual objective performance test. The test aims to protect members from poor outcomes by encouraging funds to lower fees and improve performance to boost Australians' retirement incomes.
  - **Stapling** — Changes to ensure that superannuation accounts follow members (stapling) when they change jobs. This stops the creation of unwanted multiple accounts that reduce retirement savings through duplicate fees.
  - **YourSuper comparison tool** — Empowering members to make better decisions about who manages their retirement savings by delivering the new, interactive, online YourSuper comparison tool.
  - **Best Financial Interests Duty** — Increasing trustee accountability by strengthening obligations to ensure trustees only act in the best financial interests of members and requiring superannuation funds to provide better information regarding how they manage and spend members' money in advance of Annual Members' Meetings.

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MILITARY SUPERANNUATION INVALIDITY PENSIONS

KEY MESSAGE

- The Government will shortly introduce legislation to amend the tax treatment of military invalidity pensions impacted by the Full Federal Court decision in *Commissioner of Taxation v. Douglas.* This will ensure that veterans will not pay higher taxes due to the Court's decision and still get to keep benefits from the decision.

KEY FACTS AND FIGURES

- The Douglas decision found that certain veterans' invalidity pension payments in the Defence Force Retirement and Death Benefits (DFRDB) and Military Superannuation Benefits (MSB) schemes are superannuation lump sums for income tax purposes rather than superannuation income stream benefits.

- A draft bill, *Treasury Laws Amendment (Measures for a later sitting) Bill 2022: Taxation of military superannuation benefits* was released for public consultation on the Treasury website between 25 July and 5 August.

  – The draft legislation confirms the lump sum tax treatment for affected members of the DFRDB and MSB schemes. The Government's approach means that affected veterans in the two affected schemes will not only retain the income tax benefits of the Douglas decision, but also benefits of changes in their taxable income, such as Family Tax Benefit entitlements.

  – The Government will also introduce a non-refundable tax offset to prevent any adverse income tax outcomes for affected veterans in the DFRDB and MSB schemes. This will address higher end of year tax liabilities that would have occurred for some of these veterans and enable the ATO and CSC to include the impact of the new offset in determining fortnightly tax withholding, in order to address higher withholding that has occurred for some veterans due to the Douglas decision.

  – These changes will also apply to Spouse and Children's pensions paid to a spouse or child following the death of a member of a DFRDB or MSB scheme affected by the Douglas decision.

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– The draft Bill also retrospectively and prospectively reverses the impact of the Douglas decision in relation to all schemes other than the invalidity benefits and death benefits for beneficiaries of invalidity pensioners paid from the DFRDB and MSB schemes that commence on or after 20 September 2007. This will ensure that payments in all other schemes that may have been within the wider scope of the Court's decision will continue to be taxed as superannuation income stream benefits, which is consistent with the intent of the current superannuation tax law.

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MILITARY SUPERANNUATION INVALIDITY PENSIONS

BACKGROUND

Full Federal Court's decision

- On 4 December 2020, the Full Federal Court handed down its decision for the Douglas case concerning the taxation of military invalidity benefits paid from the DFRDB and MSB Schemes.
- The Court found that military invalidity benefits paid under an invalidity pension that commenced on or after 20 September 2007 from the DFRDB scheme or the MSB scheme are to be taxed as superannuation lump sums and not as superannuation income stream benefits.
  - The successful applicants were Wayne Douglas and Shane Walker. Peter Burns was unsuccessful. No appeals were lodged to the High Court by the ATO or Mr Burns.
  - The Court found also found that benefits paid under an invalidity pension that commenced before 20 September 2007 (and have been continuously paid since that date) are to continue to be taxed as superannuation income stream benefits.

Impacts of decision

- While the Douglas decision provided a positive tax outcome for most affected veterans, it did create adverse taxation impacts for some veterans on a permanent basis. Some others will not be worse off on an annual basis but will have more tax withheld on a fortnightly basis from their pension.
  - This will result in some tax debts owing under the remediation program, and some individuals will have ongoing lower fortnightly pension payments.
- The outcome for individuals as a result of Douglas depends on their personal circumstances. The age of the recipients and size of payments can mean the interaction of the loss of income stream tax offsets and capping of tax rates on lump sums plays out unfavourably.

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- Where any amendments alter an individual's taxable income, there may also be financial impacts to other Commonwealth payments and obligations. The Government's response means this can be factored in by other Government agencies in assessing non-tax Commonwealth entitlements and obligations. The specifics of how this occurs is a matter for those agencies.
  - There can be changes to a veteran's taxable income, as well as tax outcome, as part of the shift in benefit taxation from income stream to lump sum. This is more likely to occur where the veteran has also been able to claim disability benefit status for income tax purposes.

Implementation of the Douglas decision to date

- In December 2020, the ATO commenced a remediation program to correct the tax treatment of past payments for affected veterans from the DFRDB and MSB schemes that arise from the Douglas decision, and assessed 2020-21 income tax returns lodged by affected veterans in line with the Douglas decision.
  - This will continue for 2021-22 income tax returns lodged until legislation is passed. After passage the new offset will be implemented by the ATO.
  - To date, the ATO has completed over 2,500 remediation activities. The ATO continues to review objections by veterans on their past year income tax assessments.
- From July 2021, CSC began applying the ATO's PAYG withholding variation for the affected veterans who CSC assessed would not face higher tax withholding.
  - However, in the absence of amended legislation, CSC was required to apply the withholding rates for all remaining veterans as soon as possible and began doing so from 19 May 2022.

Outcomes of consultation

- During consultation, Treasury received 17 submissions from stakeholders, including from veterans and professional bodies.
- Additionally, Treasury held discussions with various Government agencies, including an inter-agency meeting held on 21 July 2022, and hosted a meeting with veteran representatives on 10 August 2022.

MILITARY SUPERANNUATION INVALIDITY PENSIONS

Pre-decision taxation policy

- The taxation treatment of military invalidity pension payments has been an issue of dispute between the broader military superannuation taxpayer group and the ATO in recent years. The Defence Force Welfare Association has been actively campaigning in this area.
- Prior to the Douglas decision, the taxation treatment of a military invalidity benefit paid from a superannuation fund was treated equally to any other disability superannuation benefit. Notwithstanding, the taxation treatment of disability superannuation benefits, including from military funds, continues to be more concessional for some taxpayers compared to non-disability benefits.
  - For income stream benefits, people below preservation age receive a 15 per cent offset (from their marginal tax rate) if it has been financed from a previously taxed element. The highest tax rate faced is the recipient's full marginal tax rate (with no offset) which occurs when the recipient is under 60 years old and the benefit is financed from a previously untaxed element.
  - For lump sum benefits, any tax-free component applicable is increased based on number of years the recipient was forced to retire early due to disability. However, tax is applied on any other components at rates that can range between 15 per cent and recipient's marginal rate.
- More broadly, longstanding tax settings governing invalidity benefits from superannuation funds maintain that these are not compensation benefits for the purposes of the superannuation and taxation systems, but rather, are benefits paid earlier than retirement because the member is invalid and can no longer work (or work in an occupation for which the member was trained). Hence, taxation applies to such invalidity pension payments, including from the military schemes.

Q&A

How will the new tax offset ensure veterans don't pay more tax?

- The Douglas decision was concerned with the income tax treatment of the invalidity pension benefits from the DFRDB and MSB schemes. As such, the new non-refundable tax offset will ensure veterans do not pay higher tax as a result of the Court's decision.

- The offset will take into account the amount of tax an affected veteran would have paid had the Douglas decision not been delivered. It will ensure that veterans who would pay more income tax in a particular year than if the invalidity pension were to still be treated as a superannuation income stream, would pay the same amount of tax as if the change had not occurred.

What are the impacts for non-tax payments and benefits for veterans from the Government's actions?

- Certain non-tax consequences arise because taxable income is relevant in determining either eligibility for, or the amount of, these payments, such as Family Tax Benefit and child support obligations.
- The Government's response, by allowing the Douglas decision to stand for affected veterans' invalidity benefits, means that reductions in taxable incomes that occur for those veterans who also have disability tax status can be factored in by other Government agencies in assessing non-tax Commonwealth entitlements and obligations. The specifics of how this occurs is a matter for those agencies.
  - The flow-on impacts are particulary relevant for veterans eligible for Disability Superannuation Benefit (DSB) status, as DSB alters the calculation of the tax-free amounts of a lump sum. Therefore, many affected veterans have begun claiming DSB following the Douglas decision, as it lowers their taxable income and increases the amount of payments they can receive.
  - For those Douglas-affected veterans who do not also have disability tax status there is no impact on their taxable incomes, so there is no taxable income change that flows through to non-tax Commonwealth entitlements and obligations from the Douglas decision or the Government's response.

Why are only veterans in the DFRDB and MSB schemes being compensated through the new offset?

- The Douglas decision was concerned with the direct income tax treatment of the invalidity pension benefits from the DFRDB and MSB schemes which commenced on or after 20 September 2007. As such, the Government's commitment is related to that direct income tax change caused by that decision.

- The Full Federal Court made no decisions in relation to other schemes and the ATO has only released a decision impact statement in relation to the two schemes mentioned by the Court. The Government's response only covers the schemes directly referenced by the Court's decision, which was clear that the pre-20 September 2007 benefits from these schemes were still income streams.

- There is no policy rationale for extending the Douglas decision tax treatment and proposed new tax offset to other invalidity schemes and benefits given that they are common law pensions and should be treated as superannuation income streams.

How many veterans are affected?

- The decision applies to the invalidity benefits of around 14,150 veterans in the DFRDB and MSB schemes. Around 350 face higher end of year tax outcomes. The ATO expects these numbers to increase over time as veterans' circumstances change.

How much will this cost the Budget?

- The Government's approach was expected originally to have a cost to the underlying cash balance of $94.5 million over the forward estimates - as estimated at the 2021-22 MYEFO by the previous Government.

- In the 2021-22 MYEFO, the previous Government announced an approach with the following impact on the underling cash balance:

Impact on UCB ($ millions)	2020-21	2021-22	2022-23	2023-24	2024-25
Australian Taxation Office – Receipts	-	-15.0	-25.0	-10.0	-10.0
Related payments ($m)					
Australian Taxation Office	-	11.2	10.4	8.1	4.2
Department of the Treasury	-	0.3	0.2	-	-

MILITARY SUPERANNUATION INVALIDITY PENSIONS

Total - Payments	-	11.5	10.7	8.1	4.2

- In the Pre-Election Fiscal and Economic Outlook, the previous government amended that approach, resulting in the following changes to the UCB:

Impact on UCB ($ millions)	2021-22	2022-23	2023-24	2024-25	2025-26
ATO - receipts	15.0	-15.0	0.0	0.0	0.0
Total	15.0	-15.0	0.0	0.0	0.0

- The Government has adopted the previous Government's approach as amended. However, as a result of the passage of time the following receipt estimates will now be reflected in the new Bill when it is introduced into Parliament. The table also reflects the changes in related payments.

Impact on UCB ($ millions)	2022-23	2023-24	2024-25	2025-26	**Total**
Australian Taxation Office – Receipts	-40.0	-10.0	-10.0	0.0	**-60.0**
Related payments ($m)					
Australian Taxation Office, Department of Treasury (departmental)	10.7	8.1	4.2	0.0	**23.0**
Department of Social Services (act of grace)	14.2	13.9	2.0	1.3	**31.4**
Total - Payments	24.9	22.0	6.2	1.3	**54.4**

- The payments also now include the effect of the October 2022-23 Budget measure that provided $31.4 million (including implementation costs) over the forward estimates period (and $1.1 million per year on an ongoing basis) to provide act of grace payments to address the retrospective impacts of the Douglas decision for child support customers.

Why were some taxpayers worse off because of the Douglas decision?

- The decision means the affected payments should be treated as superannuation lump sums instead of superannuation income streams for tax purposes.

MILITARY SUPERANNUATION INVALIDITY PENSIONS

- Relevant factors that determine the tax treatment of benefits include the person's age, the nature of the benefit (e.g., disability or otherwise), the amount of the benefits, the tax components that make up the benefits and any taxation offsets that might apply to those components.
  - For example, for over 60s with lower value non-disability benefits, the loss of the 10% untaxed element income stream offset may result in a less favourable tax outcome.
  - Other taxpayers may find they use up all their low-rate caps that apply to lump sum benefits, and the taxation rates that apply thereafter are higher than the average rate applied to an income stream.

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Superannuation Guarantee Compliance

KEY MESSAGE

- The Government is committed to ensuring all Australians retire with adequate retirement savings, which is why we have no tolerance for employers who shortchange their workers by not paying them their superannuation entitlements. The Government has made commitments to include a right to superannuation in the National Employment Standards and to set public targets for the recovery of unpaid superannuation.

KEY FACTS AND FIGURES

- In 2021-21, the Australian Taxation Office (ATO) checked the records of over 15,500 employers for unpaid superannuation, of which over 12,200 led to a superannuation liability being raised.
- In 2021-22, the ATO paid out $645.4 million in previously unpaid superannuation to employees as a result of their enforcement and recovery activities.
- In 2019-20, the latest ATO estimates, the superannuation guarantee gap before ATO compliance activities was 5.9 per cent of all superannuation guarantee liabilities, or 4.9 per cent after compliance activities. The net gap of 4.9 per cent means that around $3.4 billion in superannuation guarantee payments remained unpaid after ATO compliance activities.

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Superannuation Guarantee Compliance

BACKGROUND

Government commitments

Including the superannuation guarantee (SG) in the National Employment Standards (NES)

- The Government will legislate to include a right to the SG within the National Employment Standards which will give Australian workers the power to pursue their unpaid superannuation as a workplace entitlement.
  - Employees currently do not have legal standing to pursue underpayment of superannuation unless it's specifically included in their employment contract. This means they need to rely on the ATO to recover unpaid SG.
- The inclusion of the SG in the National Employment Standards was recommended by the Senate Inquiry into unlawful underpayment of employees' (Recommendation 10).
  - The Inquiry report, ‘Systemic, sustained and shameful: unlawful underpayment of employees' remuneration’, was released on 30 March 2022.

Setting public targets for the recovery of unpaid superannuation

- The Government made a public commitment to set recovery targets for unpaid SG for the ATO and is currently working with the Treasury and ATO to develop these targets.

ATO recovery procedures

- Individuals can lodge a SG employee notification to tell the ATO their employer has not paid superannuation entitlements, paid late, or paid to the incorrect fund.
  - When an employee lodges an unpaid superannuation notification with the ATO they receive regular updates on the progress of their complaint through a series of letters. The updates advise the employee on the progress the ATO has made with the investigation of their complaint and/or what steps are being taken to recover the unpaid superannuation from their employer.

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- The ATO has legal responsibility and power to detect non-compliance and enforce employers' SG obligations. The ATO has the authority to:
  - Issue director penalty notices to recover SG from insolvent businesses and security bonds for high-risk employers;
  - seek court-ordered penalties in the most egregious cases of non-payment, including up to 12 months jail for employers who are repeatedly caught but fail to pay SG liabilities; and
  - inform all affected employees about their actions to recover unpaid super and display contribution information on MyGov.
- The continued rollout of Single Touch Payroll (STP) is making it easier than ever for employers to comply with their SG obligations. STP reduces the regulatory burden on business and transforms compliance by aligning payroll functions with regular reporting of taxation and superannuation obligations.
- STP phase two requires employers to report on ordinary time earnings for all employees, that is the employee income which attracts SG. STP phase 2 had a mandatory start date for employers of 1 January 2022 and the ATO is expected to have oversight of all employer reported ordinary time earnings data relevant to SG payments from the 2022-23 year onwards.

Payment frequency of superannuation

- While employers are required to pay employees' wages at least on a monthly basis, they are only required to pay their employees' superannuation quarterly.
  - The majority of employers pay SG more frequently than quarterly. In 2020-21, 78 per cent of all superannuation guarantee amounts were paid monthly, or more frequently (weekly or fortnightly).

Industry Super Australia estimates of unpaid superannuation

- Industry Super Australia (ISA) estimate that unpaid super affects more than a quarter of employees, costing each affected worker an average of $1,700 per year. They claim that in 2018-19, a total of $5 billion in SG was not paid, and that over each of the preceding six years, unpaid SG has totalled at least $4.5 billion per annum.
- ISA's estimates differ from the ATO's as the former relies on a bottom-up approach whereas the latter uses a top-down approach to calculate the SG gap.

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– ISA use a bottom-up approach whereby they rely on a sample of tax data (the ATO's 2 per cent file) to estimate the SG gap and the number of employees impacted.

– The ATO uses a top-down approach to estimating the SG gap by comparing actual SG contributions for a year with the theoretical required SG contributions for that year.

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Annual Members' Meeting Notices

KEY MESSAGE

- The Government is promoting meaningful transparency by ensuring super fund members receive simple and clear information with the Annual Members' Meeting (AMM) notice.

KEY FACTS AND FIGURES

- Superannuation funds are required to provide certain information with AMM notices.
- This disclosure is designed to assist members in preparing questions ahead of the meeting.
- The question and answer process in the meeting remains the primary method for members to obtain relevant information.
- On 2 September 2022, the Superannuation Industry (Supervision) Amdendment (Annual Members' Meetings Notices) Regulations 2022 (the Regulations) were registered.
- The Regulations amend the expenditure information provided with the AMM notice to:
  - remove itemised disclosure for certain expenditure but retain itemised disclosure of political donations;
  - remove double-counting where an amount could be classified as both promotion expenditure and a political donation;
  - reduce content restrictions on the one-page summary of aggregate expenditure; and
  - align the definition of 'related party' with the Australian Accounting Standards.
- The changes apply to meeting notices issued from 9 September 2022 for a year of income ending on or after 30 June 2022.

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- The Government's approach ensures members are provided with summarised information that better aligns with the purpose of the AMM notice disclosures and addresses stakeholder feedback on practical implementation issues with the previous requirements.

ADDITIONAL INFORMATION

- Public consultation on draft regulations occurred from 15 July 2022 to 28 July 2022.
- Treasury received 10 written submissions (see Background).
  - Superannuation industry organisations were supportive of the proposed changes which would reduce the original regulatory burden.
  - Some stakeholders did not support the changes on the basis that they would reduce transparency for members.
  - Several stakeholders highlighted that there may be other instances of double-counting expenditure (in addition to the double-counting of political donations which the exposure draft sought to address).
- In response, the Government has retained itemised disclosure of political donations, and permitted the inclusion of contextual information with the one-page summary of aggregate expenditure, to improve clarity for members.

Itemised Disclosure

- The Regulations remove the requirement for itemised disclosure for the following categories of expenditure:
  - promotion, marketing and sponsorship expenditure;
  - payments to industrial bodies; and
  - 'related party' payments.
- Funds will continue to be required to disclose an itemised list of 'political donations'.
  - There is no change to the definition of 'political donations'.

Annual Members' Meeting Notices

  - 'Political donations' are defined by reference to 'gift' in Part XX of the *Commonwealth Electoral Act 1918 (the CEA).* It captures gifts made to political parties, significant third parties and associated entities as also defined by the CEA.

- There is still the requirement to disclose aggregate political donations, promotion expenditures, payments to industrial bodies, and 'related party' payments.

- There is no change to disclosure of remuneration details.

- This disclosure to members is separate to APRA's regulatory oversight of these matters.

Double-Counting

- The Regulations include a technical clarification to ensure amounts that could be classified as both 'promotion, marketing or sponsorship' expenditure, and 'political donations' are disclosed under the political donations category.

- Restrictions on including contextual information to support the disclosure of aggregate expenditure have been reduced. This will improve the clarity of the disclosure for members, particularly where expenditure is required to be disclosed in multiple categories.

- The different categories of expenditure disclosed with the AMM notices are not intended to be an exhaustive or mutually exclusive list of all fund expenditure. Each category should be considered separately.

Definition of related party

- The Regulations update the definition of 'related party' to align with the definition in the Australian Accounting Standards.

  - Many funds voluntarily publish their financial statements on their website. This created a situation where two separate disclosures for payments to a 'related party', yield different values.

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- The definition in the Australian Accounting Standards is also the basis for reporting related party transactions in annual financial reports such as those prepared by companies, registered schemes and disclosing entities as required under the Corporations Act 2001.
- The amendments are expected to reduce the regulatory burden on superannuation funds as the revised definition of 'related party' is already used for the purposes of financial reporting. Publication costs are also expected to be lower.

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Annual Members' Meeting Notices

BACKGROUND

- AMMs are an opportunity for fund members to hear from the trustee's board of directors and executives and ask questions about important topics such as fund performance and operations.
- The requirement to hold an AMM was introduced by the *Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Act 2019*, which received Royal Assent on 5 April 2019.
- The AMM notice disclosure requirements were significantly extended by the *Superannuation Industry (Supervision) Amendment (Your Future, Your Super – Improving Accountability and Member Outcomes) Regulations 2021*, registered on 5 August 2021.
- The next meeting notices for most superannuation funds are required to be sent to members before 31 December 2022.
  - There are approximately 10 funds who operate on an amended tax year who may have issued meeting notices under the requirements prior to the changes.
- List of submissions received:
  - Australian Institute of Superannuation Trustees
  - Association of Superannuation Funds of Australia
  - CPA Australia and Chartered Accountants Australia and New Zealand
  - Financial Services Council
  - Industry Super Australia
  - Law Society of NSW
  - Mills Oakley
  - Senator Andrew Bragg
  - The Hon Stuart Robert MP
  - Super Consumers Australia

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Superannuation lending

KEY MESSAGE

- The superannuation wars have been won and now we need to win the peace.
- We see a larger role for superannuation in investing in nation building and national priorities to grow the economy, create jobs and help more people — like investments in cleaner, cheaper energy and new housing — while also delivering in shareholders' and members' best financial interests.
  - This is not about mandating investment that is not in fund members interests – its about unlocking capital for profitable projects that can deliver value to fund members.
- [Treasurer's Investor Rountable] This will bring together super funds, banks, venture capital and other institutions to discuss opportunities in areas including energy, housing, government co-investment and impact investments.
  - We are still working through the details of the roundtable but it is generating a lot of interest.
- [Jobs Summit – immediate action] Widen the remit of the National Housing Infrastructure Facility, making up to $575 million available to invest in social and affordable housing. The funding can be used to partner with other tiers of government and social housing providers, and to attract private capital including from superannuation funds
- [Jobs Summit – further work] The Government will work with investors, including superannuation funds to leverage greater private capital into national priority areas, including housing and clean energy

KEY FACTS AND FIGURES

- The growth: the pool was $148b three decades ago, now it's $3.4 trillion.
  - By 2060 – Australian super pool will be two-and-half-times the size of the Australian economy.
- The size of Australia's superannuation assets is 30% bigger than Canada's in per cent of GDP terms.
  - Top three in pension assets (only behind Iceland and Netherlands) despite being the 13th biggest economy.
- More paid out each year in super than pensions, taking pressure of budgets.

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Superannuation lending

  - Super is providing more than $80b a year in retirement incomes – we pay out $60b in pensions.

- Infrastructure investment's gone from 3.7 percent of super assets to 6.6 percent in the last eight years, but housing's only gone from 7.4 to 8.5 percent.

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