



Treasury Laws Amendment (Your Future, Your Super—Addressing Underperformance in Superannuation) Regulations 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 05 August 2021

David Hurley
Governor-General

By His Excellency's Command

Josh Frydenberg
Treasurer

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
	<i>Superannuation Industry (Supervision) Regulations 1994</i>	2

1 Name

This instrument is the *Treasury Laws Amendment (Your Future, Your Super—Addressing Underperformance in Superannuation) Regulations 2021*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	6 August 2021

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Superannuation Industry (Supervision) Act 1993*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Superannuation Industry (Supervision) Regulations 1994

1 Subregulation 1.04(2)

Omit “section 20B or Part 2C”, substitute “section 20B, Part 2C or Part 6A”.

2 After paragraph 2.38(2)(e)

Insert:

(ea) if both of the following circumstances exist:

- (i) APRA has given the trustee or trustees of the entity a notification of a determination under subsection 60C(2) of the Act that the requirement in subsection 60D(1) of the Act has not been met for a Part 6A product offered by the entity, in relation to a financial year;
- (ii) APRA had not given the trustee or trustees a notification of another determination under subsection 60C(2) of the Act that that requirement had not been met for the Part 6A product, in relation to the previous financial year;

a description of those circumstances.

3 Before regulation 4.01

Insert:

4.01A Covenants in governing rules of superannuation entity—trustee’s determination and benchmarks

MySuper products

- (1) For the purposes of subparagraph 52(9)(a)(i) of the Act, subregulation (2) specifies a benchmark in relation to a MySuper product.
- (2) The benchmark is the requirement in subsection 60D(1) of the Act having been met for the product in relation to the most recently ended financial year.

Choice products

- (3) For the purposes of subparagraph 52(9)(a)(ii) of the Act, subregulation (4) specifies a benchmark in relation to a choice product that is a Part 6A product.
- (4) The benchmark is the requirement in subsection 60D(1) of the Act having been met for the product in relation to the most recently ended financial year.

4 After Part 9AA

Insert:

Part 9AB—Annual performance assessments etc.

Division 9AB.1—Preliminary

9AB.1 Definitions

In this Part:

actual return has the meaning given by regulations 9AB.11 and 9AB.12.

administration fee cap, of a Part 6A product in relation to a financial year, means the Part 6A product's fee cap (for the administration fee type of fee) in relation to the end of the financial year, as reported to APRA in accordance with the applicable fees standard.

administration fee flat amount, of a Part 6A product in relation to a financial year, means the Part 6A product's dollar amount (for the administration fee type of fee) in relation to the end of the financial year, as reported to APRA in accordance with the applicable fees standard.

administration fee percentage, of a Part 6A product in relation to a financial year, means the Part 6A product's percentage of member balance (for the administration fee type of fee) in relation to the end of the financial year, as reported to APRA in accordance with the applicable fees standard.

asset allocation standard means:

- (a) the *Financial Sector (Collection of Data) (reporting standard) determination No. 13 of 2015*; or
- (b) an analogous legislative instrument that is in force before or after the determination mentioned in paragraph (a).

assumed annual fee has the meaning given by regulation 9AB.17.

assumed rate of tax has the meaning given by regulation 9AB.17.

benchmark RAFE, for a Part 6A product in relation to a financial year, has the meaning given by regulation 9AB.16.

benchmark return has the meaning given by regulations 9AB.13 and 9AB.14.

covered asset class has the meaning given by regulation 9AB.17.

fees standard means:

- (a) the *Financial Sector (Collection of Data) (reporting standard) determination No. 41 of 2015*; or
- (b) an analogous legislative instrument that is in force before or after the determination mentioned in paragraph (a).

indirect cost ratio, of a Part 6A product in relation to a financial year, means the Part 6A product's indirect cost ratio in relation to the end of the financial year, as reported to APRA in accordance with the applicable fees standard.

investment fee cap, of a Part 6A product in relation to a financial year, means the Part 6A product's fee cap (for the investment fee type of fee) in relation to the

end of the financial year, as reported to APRA in accordance with the applicable fees standard.

investment fee flat amount, of a Part 6A product in relation to a financial year, means the Part 6A product's dollar amount (for the investment fee type of fee) in relation to the end of the financial year, as reported to APRA in accordance with the applicable fees standard.

investment fee percentage, of a Part 6A product in relation to a financial year, means the Part 6A product's percentage of member balance (for the investment fee type of fee) in relation to the end of the financial year, as reported to APRA in accordance with the applicable fees standard.

investment performance standard means:

- (a) the *Financial Sector (Collection of Data) (reporting standard) determination No. 40 of 2015*; or
- (b) an analogous legislative instrument that is in force before or after the determination mentioned in paragraph (a).

lifecycle Part 6A product has the meaning given by regulation 9AB.3.

lifestage weight has the meaning given by regulation 9AB.4.

lookback period, for a Part 6A product in respect of a financial year, has the meaning given by regulation 9AB.6.

net investment return, of a Part 6A product in relation to a quarter, means the Part 6A product's net investment return in relation to the quarter, as reported to APRA in accordance with the applicable investment performance standard.

net return, of a Part 6A product in relation to a quarter, means the Part 6A product's net return in relation to the quarter, as reported to APRA in accordance with the applicable investment performance standard.

performance measure, for a Part 6A product for a financial year, has the meaning given by subregulation 9AB.10(3).

representative administration fees and expenses or RA FE:

- (a) for a standard Part 6A product in relation to a period, means the sum of the following:
 - (i) the Part 6A product's representative member administration fees and costs in relation to the period, as reported to APRA in accordance with the applicable investment performance standard;
 - (ii) the Part 6A product's representative member administration-related tax expense/benefit in relation to the period, as reported to APRA in accordance with the applicable investment performance standard;
 - (iii) the Part 6A product's representative member advice fees and costs in relation to the period, as reported to APRA in accordance with the applicable investment performance standard;
 - (iv) the Part 6A product's representative member advice-related tax expense/benefit in relation to the period, as reported to APRA in accordance with the applicable investment performance standard; and
- (b) for a lifecycle Part 6A product in relation to a period and a lifestage, means the sum of the following:

-
- (i) the Part 6A product's representative member administration fees and costs in relation to the period and the lifestage, as reported to APRA in accordance with the applicable investment performance standard;
 - (ii) the Part 6A product's representative member administration-related tax expense/benefit in relation to the period and the lifestage, as reported to APRA in accordance with the applicable investment performance standard;
 - (iii) the Part 6A product's representative member advice fees and costs in relation to the period and the lifestage, as reported to APRA in accordance with the applicable investment performance standard;
 - (iv) the Part 6A product's representative member advice-related tax expense/benefit in relation to the period and the lifestage, as reported to APRA in accordance with the applicable investment performance standard.

standard Part 6A product: a Part 6A product is a **standard Part 6A product** if it is not a lifecycle Part 6A product.

strategic asset allocation has the meaning given by regulation 9AB.5.

9AB.2 Meaning of *Part 6A product*—trustee-directed products

- (1) For the purposes of paragraph 60B(b) of the Act, subregulation (2) identifies a trustee-directed product as a class of beneficial interest in a regulated superannuation fund.
- (2) A class of beneficial interest in a regulated superannuation fund is a **trustee-directed product** in the fund if:
 - (a) there is no beneficial interest in the class that is a superannuation interest (within the meaning of the 1997 Tax Act) that supports a superannuation income stream that is in the retirement phase; and
 - (b) the investment strategy, for the class of beneficial interest, of the trustee of the fund:
 - (i) requires the class of beneficial interest to have strategic asset allocations to more than one covered asset class; and
 - (ii) if there are only 2 such strategic asset allocations—requires each of those strategic asset allocations (expressed as a percentage) to the class of beneficial interest to exceed 10%; and
 - (c) a beneficiary of the fund cannot require any trustee of the fund to alter an amount attributable to the beneficiary to be invested in a particular covered asset class; and
 - (d) none of the exceptions in subregulations (5), (6) and (7) applies.
- (3) For the purposes of paragraph (2)(b), in determining a strategic asset allocation to a covered asset class, assume that the class of beneficial interest is a Part 6A product.
- (4) For the purposes of subparagraph (2)(b)(i), treat 2 covered asset classes for a quarter as being one covered asset class for the quarter if the only difference between the descriptions of those classes in the table in regulation 9AB.17 relating to the quarter is that:
 - (a) the description of one of those classes contains the word “hedged”; and

- (b) the description of the other class contains the word “unhedged”.

Exceptions

- (5) The exception in this subregulation applies if all the members of the fund who hold the class of beneficial interest in the fund are defined benefit members.
- (6) The exception in this subregulation applies if the assets of the fund that are invested in respect of the class of beneficial interest are invested only in one or more of the following:
 - (a) a life policy under which contributions and accumulated earnings may not be reduced by negative investment returns or any reduction in the value of assets in which the policy is invested;
 - (b) a life policy under which the benefit to a member (or a relative or dependant of a member) is based only on the realisation of a risk, not the performance of an investment;
 - (c) an investment account contract the only beneficiaries of which are a member, and relatives and dependants of a member.
- (7) The exception in this subregulation applies if:
 - (a) the trustee of the fund does not engage in any activity relating to the management of investments in respect of the class of beneficial interest; and
 - (b) each entity that manages investments in respect of the class of beneficial interest is not a connected entity in relation to the trustee of the fund; and
 - (c) the trustee of the fund does not engage in any activity relating to setting of strategic asset allocations to the class of beneficial interest; and
 - (d) each entity that sets strategic asset allocations to the class of beneficial interest is not a connected entity in relation to the trustee of the fund.

9AB.3 Meaning of *lifecycle Part 6A product*

- (1) A Part 6A product is a ***lifecycle Part 6A product*** if:
 - (a) the investments supporting the Part 6A product are divided into categories; and
 - (b) each such category of investments is referable to a lifestage of the Part 6A product.
- (2) Subregulation (3) applies in relation to a Part 6A product in respect of a financial year (the ***current year***) if the Part 6A product was a lifecycle Part 6A product (disregarding paragraph (3)(a)) at any time in the lookback period for the Part 6A product in respect of the current year.
- (3) For the purposes of applying this Part to the current year:
 - (a) treat the Part 6A product as a lifecycle Part 6A product throughout that lookback period; and
 - (b) treat the Part 6A product as having one lifestage in relation to each quarter that satisfies both of the following requirements:
 - (i) the quarter is in that lookback period;
 - (ii) the Part 6A product was not a lifecycle Part 6A product (disregarding paragraph (a)) at the end of the previous quarter.

Note 1: For the purposes of applying this Part to the current year, the Part 6A product will be in the class specified in subregulation 9AB.9(3) in relation to the current year.

Note 2: For the purposes of applying this Part to the current year, the Part 6A product will have a lifestage weight of one in relation to each quarter in the lookback period and the lifestage mentioned in paragraph (b).

- (4) Paragraph (3)(b) does not apply in relation to the quarter mentioned in subparagraph (3)(b)(i) if APRA has made a determination under subregulation 9AB.14(10) that:
- (a) specifies the Part 6A product; and
 - (b) specifies the superannuation entity that offers the Part 6A product; and
 - (c) specifies 2 quarters, the later of which is the quarter mentioned in subparagraph (3)(b)(i) of this regulation.
- (5) For the purposes of subparagraph (3)(b)(ii), if the previous quarter is before the first quarter (the **initial quarter**) in relation to which the trustee of the superannuation fund offering the Part 6A product reported to APRA, in accordance with the applicable investment performance standard, a net return of the Part 6A product, treat the reference in that subparagraph to the previous quarter as being a reference to the initial quarter.

9AB.4 Meaning of *lifestage weight*

- (1) The ***lifestage weight*** of a Part 6A product, in relation to a quarter and a lifestage, is:
- (a) the market value at the end of the previous quarter of all investments supporting the Part 6A product that are referable to the lifestage; divided by;
 - (b) the market value at the end of the previous quarter of all investments supporting the Part 6A product that are referable to a lifestage of the Part 6A product.
- (2) For the purposes of subregulation (1), if the previous quarter is before the first quarter (the **initial quarter**) in relation to which the trustee of the superannuation entity offering the Part 6A product reported to APRA, in accordance with the applicable investment performance standard, a net return of the Part 6A product, treat the references in subregulation (1) to the previous quarter as being references to the initial quarter.

9AB.5 Meaning of *strategic asset allocation*

- (1) A Part 6A product's ***strategic asset allocation*** in relation to a quarter to a covered asset class in relation to the quarter is the Part 6A product's benchmark asset allocation in relation to the quarter to the covered asset class, as reported to APRA in accordance with the applicable asset allocation standard.
- (2) For the purposes of subregulation (1), if a benchmark asset allocation to a covered asset class does not identify an asset domicile type for the covered asset class:
- (a) if the benchmark asset allocation does *not* identify a currency hedging ratio for the covered asset class, or identifies a currency hedging ratio of zero for the covered asset class:

- (i) treat half of the amount of that benchmark asset allocation as identified with an Australian domicile type; and
 - (ii) treat half of the amount of that benchmark asset allocation as identified with an international domicile type; and
 - (iii) treat a currency hedging ratio of zero as identified with the international domicile type; and
 - (b) if the benchmark asset allocation does identify a currency hedging ratio for the covered asset class:
 - (i) treat half of the amount of that benchmark asset allocation as identified with an Australian domicile type; and
 - (ii) treat half of the amount of that benchmark asset allocation as identified with an international domicile type; and
 - (iii) treat all of the amount of that currency hedging ratio as identified with the international domicile type.
- (3) For the purposes of subregulation (1), if a benchmark asset allocation to a covered class:
- (a) identifies the international domicile type with the covered asset class; and
 - (b) does *not* identify a currency hedging ratio for the covered asset class;
- treat a currency hedging ratio of zero as identified with the international domicile type.
- (4) For the purposes of subregulation (1), if a benchmark asset allocation to a covered asset class does not identify an asset listing type for the covered asset class:
- (a) treat half of the amount of that benchmark asset allocation as identified with a listed type; and
 - (b) treat half of the amount of that benchmark asset allocation as identified with an unlisted type.

APRA's determination that information relates to particular concepts in asset allocation standards

- (5) Subregulation (6) applies if it is not possible to work out a Part 6A product's strategic asset allocation to a covered asset class in relation to a quarter because it is not clear whether particular information relevant to that strategic asset allocation relates to a particular concept in an asset allocation standard.

Note: It may be possible to work out the strategic asset allocation under subregulations (2) to (4).

- (6) For the purposes of this regulation, treat the information as relating to a particular concept in an asset allocation standard if a determination under subregulation (7):
- (a) specifies:
 - (i) the Part 6A product; and
 - (ii) the superannuation entity that offers the Part 6A product; and
 - (iii) the covered asset class; and
 - (iv) the asset allocation standard; and
 - (v) the quarter; and
 - (b) states that the information relates to the concept in the asset allocation standard.

-
- (7) For the purposes of subregulation (6), APRA may make a determination, in writing, that:
- (a) specifies:
 - (i) a Part 6A product; and
 - (ii) the superannuation entity that offers the Part 6A product; and
 - (iii) a covered asset class; and
 - (iv) an asset allocation standard; and
 - (v) a quarter; and
 - (b) states that specified information relates to a specified concept in the asset allocation standard.
- (8) APRA must give a notice of the determination to the trustee of the superannuation entity specified in the determination. The notice must:
- (a) be in writing; and
 - (b) include a copy of the determination.

Reporting other than on a quarterly basis

- (9) Subregulation (10) applies in relation to a quarter (the **current quarter**) if:
- (a) an asset allocation standard requires a Part 6A product's benchmark asset allocation in relation to a reporting period (within the meaning of that standard) to be reported to APRA; and
 - (b) that reporting period:
 - (i) is not a quarter; but
 - (ii) starts during the current quarter; and
 - (c) no asset allocation standard requires the Part 6A product's benchmark asset allocation in relation to a different reporting period that starts:
 - (i) during the current quarter; and
 - (ii) after the start of the reporting period mentioned in paragraph (a); to be reported to APRA.
- (10) For the purposes of working out the Part 6A product's strategic asset allocation in relation to the current quarter to a covered asset class in relation to the quarter, treat:
- (a) a reference in this regulation to the Part 6A product's benchmark asset allocation, in relation to the quarter, to the covered asset class as being a reference to the Part 6A product's benchmark asset allocation, in relation to the reporting period mentioned in paragraph (9)(a), to the covered asset class; and
 - (b) a reference in subparagraph (6)(a)(v) or (7)(a)(v) to a quarter as being a reference to the reporting period.

9AB.6 Meaning of *lookback period*

- (1) The ***lookback period*** for a Part 6A product in respect of a financial year means the period that:
- (a) starts on the later of the following:
 - (i) the start of the first quarter in relation to which the trustee of the superannuation entity that offered the Part 6A product reported to

APRA, in accordance with the applicable investment performance standard, a net return of the product;

- (ii) the 1 July that is 7 years before 1 July in the financial year; and
- (b) ends on 30 June in the financial year.

Note: The lookback period will be 8 financial years, unless subparagraph (a)(i) applies.

- (2) For the purposes of subparagraph (1)(a)(i), in determining the first quarter mentioned in that subparagraph, disregard a quarter if:
 - (a) there was not, for the entire duration of the quarter, at least one beneficiary holding the Part 6A product; or
 - (b) the superannuation entity was not, for the entire duration of the quarter, offering the Part 6A product as potentially generating returns.

9AB.7 Specified circumstances and provisions where multiple Part 6A products treated as one Part 6A product—subsection 60G(1) of Act

- (1) For the purposes of subsection 60G(1) of the Act, subregulations (2) and (3) of this regulation specify:
 - (a) a kind of circumstances; and
 - (b) provisions of Part 6A of the Act in relation to that kind of circumstances.

Note: Subsection 60G(2) of the Act provides that in those kinds of circumstances, for the purposes of those provisions, 2 or more Part 6A products are treated as being one Part 6A product.

- (2) This subregulation specifies the kind of circumstances that exist where:
 - (a) a determination under subregulation (4) is in force in relation to 2 or more Part 6A products; and
 - (b) APRA has given notice of the determination in accordance with subregulation (6).
- (3) This subregulation specifies all the provisions of Part 6A of the Act (apart from section 60G) in relation to the kind of circumstances specified in subregulation (2).

APRA's determination

- (4) For the purposes of paragraph (2)(a), APRA may make a determination, in writing, in relation to 2 or more specified Part 6A products offered by one or more specified regulated superannuation funds, if APRA considers that making the determination is appropriate in the circumstances.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (5) For the purposes of APRA making a determination under subregulation (4) in the period:

- (a) starting on 15 August in a financial year; and
- (b) ending on 31 August in the financial year;

APRA may, in working out whether the making of the determination is appropriate in the circumstances, assume that the information available to it on that 15 August is the only information that is relevant to the determination.

- (6) APRA must give a notice of the determination to each of the trustees of the regulated superannuation funds specified in the determination. The notice must:

-
- (a) be in writing; and
 - (b) include a copy of the determination.

Division 9AB.2—Performance assessments

9AB.8 Period for making and giving annual performance assessment— paragraph 60C(4)(b) of Act

For the purposes of paragraph 60C(4)(b) of the Act, the period mentioned in that paragraph is the period that:

- (a) starts immediately after the end of the financial year mentioned in that paragraph; and
- (b) ends on the following 31 August.

9AB.9 Specified classes of Part 6A product

- (1) For the purposes of subsection 60D(1) of the Act, the following subregulations specify classes of Part 6A product in relation to a financial year.

Standard Part 6A products

- (2) A class of Part 6A product is specified in relation to a financial year if each Part 6A product in the class is a standard Part 6A product throughout the financial year.

Lifecycle Part 6A products

- (3) A class of Part 6A product is specified in relation to a financial year if each Part 6A product in the class is a lifecycle Part 6A product throughout the financial year.

9AB.10 Requirements for assessment

- (1) For the purposes of subsection 60D(1) of the Act, subregulation (2) specifies a requirement for all specified classes of Part 6A product in relation to a financial year (the *assessment year*).
- (2) The requirement is that:
 - (a) information available to APRA on 15 August in the financial year after the assessment year shows that either or both of the following conditions are met:
 - (i) the performance measure for the Part 6A product for the assessment year equals or exceeds -0.005;
 - (ii) if the number of whole financial years in the lookback period for the Part 6A product in respect of the assessment year is less than 5—there is no determination in force under subregulation (4) that specifies the Part 6A product, the superannuation entity that offers the Part 6A product and the assessment year; or
 - (b) if APRA makes a determination under subregulation (7) specifying the Part 6A product, the superannuation entity that offers the Part 6A product and the assessment year—information available to APRA on the day

specified in the determination shows that either or both of the conditions mentioned in paragraph (a) of this subregulation are met.

- (3) The **performance measure** for a Part 6A product for a financial year is the amount calculated using the following formula:

$$\left(\text{Actual return} - \text{Benchmark return} \right) + \left(\text{Benchmark RAFE} - \text{Actual RAFE} \right)$$

where:

actual RAFE means the representative administration fees and expenses for the Part 6A product in relation to the financial year.

actual return means the actual return for the Part 6A product for the lookback period for the Part 6A product in respect of the financial year.

benchmark RAFE means the benchmark RAFE for the Part 6A product in relation to the financial year.

benchmark return means the benchmark return for the Part 6A product for the lookback period for the Part 6A product in respect of the financial year.

APRA's determination—subparagraph (2)(a)(ii)

- (4) For the purposes of subparagraph (2)(a)(ii), APRA may make a determination, in writing, specifying:
- (a) a Part 6A product; and
 - (b) the superannuation entity that offers the Part 6A product; and
 - (c) one or more financial years.

- (5) In making the determination, APRA must consider whether any other Part 6A products that are offered by:
- (a) the entity; or
 - (b) an associated entity (within the meaning of the *Corporations Act 2001*) of the entity;
- have failed to meet the requirement in subsection 60D(1) of the Act in relation to any financial year.

- (6) APRA must give a notice of the determination to the trustee of the superannuation entity specified in the determination. The notice must:
- (a) be in writing; and
 - (b) include a copy of the determination.

APRA's determination—paragraph (2)(b)

- (7) For the purposes of paragraph (2)(b), APRA may make a determination, in writing, specifying:
- (a) a Part 6A product; and
 - (b) the superannuation entity that offers the Part 6A product; and
 - (c) a financial year; and
 - (d) a day occurring:
 - (i) after 15 August; and
 - (ii) on or before 31 August;

in the next financial year.

- (8) APRA must give a notice of the determination to the trustee of the superannuation entity specified in the determination. The notice must:
- (a) be in writing; and
 - (b) include a copy of the determination.

9AB.11 Meaning of *actual return*—standard Part 6A products

- (1) This regulation applies to standard Part 6A products.
- (2) The *actual return*, for a Part 6A product for a lookback period for the product in respect of a financial year, is the amount calculated using the following formula, rounded to 4 decimal places (rounding up if the fifth decimal place is 5 or more):

$$\left[\prod_{t=1}^{4n} (1 + NIR_t) \right]^{\frac{1}{n}} - 1$$

where:

n means the number of quarters in the lookback period, divided by 4.

NIR, in relation to a quarter, means the Part 6A product's net investment return in relation to the quarter.

t represents a quarter in a consecutive sequence of quarters, where if *t*=1, the quarter is the first quarter that starts in the lookback period.

9AB.12 Meaning of *actual return*—lifecycle Part 6A products

- (1) This regulation applies to lifecycle Part 6A products.
- (2) The *actual return*, for a Part 6A product for a lookback period for the product in respect of a financial year, is the amount calculated using the following formula, rounded to 4 decimal places (rounding up if the fifth decimal place is 5 or more):

$$\left(\prod_{t=1}^{4n} \left\{ 1 + \sum_{j=1}^J \left[NIR_{j,t} \times \left(\text{Lifestage weight}_{j,t} \right) \right] \right\} \right)^{\frac{1}{n}} - 1$$

where:

j represents a lifestage of the Part 6A product, in a consecutive sequence of lifestages of the Part 6A product, where:

- (a) if *j*=1, the lifestage is the lifestage that applies to the youngest beneficiaries who hold the product; and
- (b) subject to paragraph (c), the sequence proceeds in ascending order of the ages of those beneficiaries; and
- (c) if there are 2 or more lifestages of the Part 6A product that apply to beneficiaries of the same age—the sequence proceeds in respect of those

lifestages in the order specified by APRA in a determination under regulation 9AB.15.

J means the number of lifestages of the Part 6A product.

lifestage weight, in relation to a lifestage and a quarter, means the Part 6A product's lifestage weight in relation to the quarter and the lifestage.

n means the number of quarters in the lookback period, divided by 4.

NIR, in relation to a quarter and a lifestage, means the Part 6A product's net investment return in relation to the quarter and the lifestage.

t represents a quarter in a consecutive sequence of quarters, where if $t=1$, the quarter is the first quarter that starts in the lookback period.

Change of lifestages

- (3) Subregulation (4) applies if:
 - (a) the following circumstances exist:
 - (i) a lifecycle Part 6A product has particular lifestages at the end of a quarter in a lookback period for the product in respect of a financial year;
 - (ii) the product has different lifestages at the end of a later quarter in the lookback period; and
 - (b) APRA makes a determination under subregulation (5) that specifies:
 - (i) the Part 6A product; and
 - (ii) the superannuation entity that offers the Part 6A product; and
 - (iii) the quarter mentioned in subparagraph (a)(i) of this subregulation; and
 - (iv) the quarter mentioned in subparagraph (a)(ii).
- (4) Despite subregulation (2), the **actual return**, for the Part 6A product for the lookback period, is the amount calculated using the formula in subregulation (2), as modified in the way specified in the determination.
- (5) For the purposes of paragraph (3)(b), APRA may make a determination, in writing, that:
 - (a) specifies:
 - (i) a lifecycle Part 6A product; and
 - (ii) the superannuation entity that offers the Part 6A product; and
 - (iii) 2 quarters; and
 - (b) specifies modifications of the formula in subregulation (2) that APRA considers are reasonably necessary to reflect the circumstances mentioned in paragraph (3)(a).
- (6) APRA must give a notice of the determination to the trustee of the superannuation entity specified in the determination. The notice must:
 - (a) be in writing; and
 - (b) include a copy of the determination.

9AB.13 Meaning of *benchmark return*—standard Part 6A products

- (1) This regulation applies to standard Part 6A products.
-

- (2) The **benchmark return**, for a Part 6A product for a lookback period for the product in respect of a financial year, is the amount calculated using the following formula, rounded to 4 decimal places (rounding up if the fifth decimal place is 5 or more):

$$\left[\prod_{t=1}^{4n} \left(1 + \sum_{a=1}^A \left\{ SAA_{a,t-1} \times \left[\frac{(1 + Index_{a,t})}{(1 + Fee_{a,t})^{\frac{1}{4}}} - 1 \right] \times [1 - ART_{a,t}] \right\} \right) \right]^{\frac{1}{n}} - 1$$

where:

a represents a covered asset class for the quarter, where the value of “a” corresponds to the number of the item of the table in regulation 9AB.17 relating to the quarter that identifies that covered asset class for the quarter.

Example: If a=2, then “a” represents the covered asset class identified in item 2 of the table in regulation 9AB.17 that relates to the quarter.

A means the number of covered asset classes identified in the table in regulation 9AB.17 that relates to the quarter.

ART, in relation to a covered asset class and a quarter, means the assumed rate of tax for the quarter for the covered asset class.

fee, in relation to a covered asset class and a quarter, means the assumed annual fee for the quarter for the covered asset class.

index, in relation to a covered asset class and a quarter, means the amount calculated using the following formula, rounded to 4 decimal places (rounding up if the fifth decimal place is 5 or more):

$$\frac{\text{Value at the end of the quarter of the assumed index for the covered asset class for the quarter}}{\text{Value at the end of the previous quarter of the assumed index for the covered asset class for the quarter}} - 1$$

Note: For the covered asset class for a quarter that is identified in item 16 of the table in regulation 9AB.17 (other/commodities asset class), see subregulations (6) and (7) of this regulation.

n means the number of quarters in the lookback period, divided by 4.

SAA, in relation to a covered asset class and a quarter, has the meaning given by subregulation (3).

t represents a quarter in a consecutive sequence of quarters, where if t=1, the quarter is the first quarter that starts in the lookback period.

- (3) For the purposes of subregulation (2), **SAA**, in relation to a covered asset class and a quarter, means:

- (a) unless paragraph (b) or (c) applies—the product’s strategic asset allocation to the covered asset class in relation to the quarter (expressed as a fraction); or
 - (b) unless paragraph (c) applies, if the product does not have a strategic asset allocation to the covered asset class in relation to the quarter—zero; or
 - (c) if the quarter is before the first quarter (the *initial quarter*) in relation to which the trustee of the superannuation entity that offered the Part 6A product reported to APRA, in accordance with the applicable investment performance standard, a net return of the Part 6A product—the product’s strategic asset allocation to the covered asset class in relation to the initial quarter (expressed as a fraction).
- (4) Subregulation (5) applies, for the purposes of the definition of *index*, in relation to a covered asset class and a quarter, in subregulation (2), if:
- (a) the covered asset class for the quarter is identified in item 10 or 11 of the table in regulation 9AB.17 relating to the quarter; and
 - (b) the value at the end of the quarter of the assumed index for the covered asset class for the quarter is not publicly available earlier than 36 days after the end of the financial year.
- (5) For those purposes:
- (a) treat the value at the end of the quarter of the assumed index for the covered asset class for the quarter as being the value at the end of the quarter of the assumed index for the covered asset class identified in item 6 of the table in regulation 9AB.17 for the quarter; and
 - (b) treat the value at the end of the previous quarter of the assumed index for the covered asset class for the previous quarter as being the value at the end of the previous quarter of the assumed index for the covered asset class identified in item 6 of the table in regulation 9AB.17 for the previous quarter.
- (6) Subregulation (7) applies in relation to the covered asset class for a quarter that is identified in item 16 of the table in regulation 9AB.17 relating to the quarter.
- (7) For the purposes of subregulation (2), treat *index*, in relation to that covered asset class and the quarter, as being the sum of the following:
- (a) 25% of the index (worked out in accordance with subregulation (2)) in relation to the covered asset class identified in item 2 of the table in regulation 9AB.17 and the quarter;
 - (b) 25% of the index (worked out in accordance with subregulation (2)) in relation to the covered asset class identified in item 3 of that table and the quarter;
 - (c) 50% of the index (worked out in accordance with subregulation (2)) in relation to the covered asset class identified in item 13 of that table and the quarter.

9AB.14 Meaning of *benchmark return*—lifecycle Part 6A products

- (1) This regulation applies to lifecycle Part 6A products.
- (2) The *benchmark return*, for a Part 6A product for a lookback period for the product in respect of a financial year, is the amount calculated using the

following formula, rounded to 4 decimal places (rounding up if the fifth decimal place is 5 or more):

$$\left\{ \prod_{t=1}^{4n} \left[1 + \sum_{j=1}^J \sum_{a=1}^A \left\{ SAA_{a,j,t-1} \times \left[\frac{1 + \text{Index}_{a,t}}{1 + \text{Fee}_{a,t}} \right] - 1 \right\} \times [1 - \text{ART}_{a,t}] \times \left\{ \text{Lifestage weight}_{j,t} \right\} \right] \right\}^{\frac{1}{n}} - 1$$

where:

a represents a covered asset class for the quarter, where the value of “a” corresponds to the number of the item of the table in regulation 9AB.17 relating to the quarter that identifies that covered asset class for the quarter.

Example: If a=2, then “a” represents the covered asset class identified in item 2 of the table in regulation 9AB.17 that relates to the quarter.

A means the number of covered asset classes identified in the table in regulation 9AB.17 that relates to the quarter.

ART, in relation to a covered asset class and a quarter, means the assumed rate of tax for the quarter for the covered asset class.

fee, in relation to a covered asset class and a quarter, means the assumed annual fee for the quarter for the covered asset class.

index, in relation to a covered asset class and a quarter, means the amount calculated using the following formula, rounded to 4 decimal places (rounding up if the fifth decimal place is 5 or more):

$$\frac{\text{Value at the end of the quarter of the assumed index for the covered asset class for the quarter}}{\text{Value at the end of the previous quarter of the assumed index for the covered asset class for the quarter}} - 1$$

Note: For the covered asset class for a quarter that is identified in item 16 of the table in regulation 9AB.17 (other/commodities asset class), see subregulations (6) and (7) of this regulation.

j represents a lifestage of the Part 6A product, in a consecutive sequence of lifestages of the Part 6A product, where:

- (a) if j=1, the lifestage is the lifestage that applies to the youngest beneficiaries who hold the product; and
- (b) subject to paragraph (c), the sequence proceeds in ascending order of the ages of those beneficiaries; and
- (c) if there are 2 or more lifestages of the Part 6A product that apply to beneficiaries of the same age—the sequence proceeds in respect of those lifestages in the order specified by APRA in a determination under regulation 9AB.15.

J means the number of lifestages of the Part 6A product.

lifestage weight, in relation to a lifestage and a quarter, means the Part 6A product's lifestage weight in relation to the quarter and the lifestage.

n means the number of quarters in the lookback period, divided by 4.

SAA, in relation to a covered asset class, a lifestage and a quarter, has the meaning given by subregulation (3).

t represents a quarter in a consecutive sequence of quarters, where if $t=1$, the quarter is the first quarter that starts in the lookback period.

- (3) For the purposes of subregulation (2), *SAA*, in relation to a covered asset class, a lifestage and a quarter, means:
- (a) unless paragraph (b) or (c) applies—the product's strategic asset allocation to the covered asset class, the lifestage and the quarter (expressed as a fraction); or
 - (b) unless paragraph (c) applies, if the product does not have a strategic asset allocation to the covered asset class, the lifestage and the quarter—zero; or
 - (c) if the quarter is before the first quarter (the *initial quarter*) in relation to which the trustee of the superannuation entity that offered the Part 6A product reported to APRA, in accordance with the applicable investment performance standard, a net return of the Part 6A product—the product's strategic asset allocation to the covered asset class, the lifestage and the initial quarter (expressed as a fraction).
- (4) Subregulation (5) applies, for the purposes of the definition of *index*, in relation to a covered asset class and a quarter, in subregulation (2), if:
- (a) the covered asset class for the quarter is identified in item 10 or 11 of the table in regulation 9AB.17 relating to the quarter; and
 - (b) the value at the end of the quarter of the assumed index for the covered asset class for the quarter is not publicly available earlier than 36 days after the end of the financial year.
- (5) For those purposes:
- (a) treat the value at the end of the quarter of the assumed index for the covered asset class for the quarter as being the value at the end of the quarter of the assumed index for the covered asset class identified in item 6 of the table in regulation 9AB.17 for the quarter; and
 - (b) treat the value at the end of the previous quarter of the assumed index for the covered asset class for the previous quarter as being the value at the end of the previous quarter of the assumed index for the covered asset class identified in item 6 of the table in regulation 9AB.17 for the previous quarter.
- (6) Subregulation (7) applies in relation to the covered asset class for a quarter that is identified in item 16 of the table in regulation 9AB.17 relating to the quarter.
- (7) For the purposes of subregulation (2), treat *index*, in relation to that covered asset class and the quarter, as being the sum of the following:
- (a) 25% of the index (worked out in accordance with subregulation (2)) in relation to the covered asset class identified in item 2 of the table in regulation 9AB.17 and the quarter;

- (b) 25% of the index (worked out in accordance with subregulation (2)) in relation to the covered asset class identified in item 3 of that table and the quarter;
- (c) 50% of the index (worked out in accordance with subregulation (2)) in relation to the covered asset class identified in item 13 of that table and the quarter.

Change of lifestages

- (8) Subregulation (9) applies if:
 - (a) the following circumstances exist:
 - (i) a lifecycle Part 6A product has particular lifestages at the end of a quarter in a lookback period for the product in respect of a financial year;
 - (ii) the product has different lifestages at the end of a later quarter in the lookback period; and
 - (b) APRA makes a determination under subregulation (10) that specifies:
 - (i) the Part 6A product; and
 - (ii) the superannuation entity that offers the Part 6A product; and
 - (iii) the quarter mentioned in subparagraph (a)(i) of this subregulation; and
 - (iv) the quarter mentioned in subparagraph (a)(ii).
- (9) Despite subregulation (2), the **benchmark return**, for the Part 6A product for the lookback period for the product in respect of the year, is the amount calculated using the formula in subregulation (2), as modified in the way specified in the determination.
- (10) For the purposes of paragraph (8)(b), APRA may make a determination, in writing, that:
 - (a) specifies:
 - (i) a lifecycle Part 6A product; and
 - (ii) the superannuation entity that offers the Part 6A product; and
 - (iii) 2 quarters; and
 - (b) specifies modifications of the formula in subregulation (2) that APRA considers are reasonably necessary to reflect the circumstances mentioned in paragraph (8)(a).
- (11) APRA must give a notice of the determination to the trustee of the superannuation entity specified in the determination. The notice must:
 - (a) be in writing; and
 - (b) include a copy of the determination.

9AB.15 APRA's determination of sequence of lifestages

- (1) For the purposes of paragraph (c) of the definition of **j** in subregulation 9AB.12(2) or 9AB.14(2), APRA may make a determination, in writing, that specifies:
 - (a) a Part 6A product; and
 - (b) the trustee of the superannuation entity that offers the Part 6A product; and
 - (c) a sequence of lifestages of the Part 6A product that apply to beneficiaries of the same age.

- (2) APRA must give a notice of the determination to the trustee of the superannuation entity specified in the determination. The notice must:
 - (a) be in writing; and
 - (b) include a copy of the determination.

9AB.16 Meaning of *benchmark RAFE*

- (1) Work out the *benchmark RAFE* for a Part 6A product in relation to a financial year in accordance with the following subregulations.
- (2) First:
 - (a) if the Part 6A product is a MySuper product—identify all Part 6A products that exist at the end of the year that are MySuper products; or
 - (b) otherwise—identify all Part 6A products that exist at the end of the year that are not MySuper products.
- (3) Next, construct a consecutive sequence of the representative administration fees and expenses for each of the Part 6A products identified under subregulation (2) in relation to the year, where the sequence:
 - (a) starts with the lowest of those RAFE; and
 - (b) proceeds in ascending order of the amount of each of those RAFE.
- (4) Next, work out the result of the following formula:

$$P = 0.5 \times (M + 1)$$

where:

M is the number of Part 6A products identified under subregulation (2).

- (5) If *P* is a whole number, the *benchmark RAFE* for the Part 6A product in relation to the year is the RAFE that occupies the place in the sequence mentioned in subregulation (3) corresponding to *P*.

Example: If *P*=5, then the benchmark RAFE is the fifth RAFE in that sequence.
- (6) If *P* is not a whole number, determine the *benchmark RAFE* mentioned in subregulation (1) by using the following formula:

$$RAFE_{PR} + \left[\left(RAFE_{PR+1} - RAFE_{PR} \right) \times 0.5 \right]$$

where:

PR is *P* rounded down to the nearest whole number.

RAFE_{PR} is the RAFE that occupies the place in the sequence mentioned in subregulation (3) corresponding to *PR*.

RAFE_{PR+1} is the RAFE that occupies the place in the sequence mentioned in subregulation (3) corresponding to *PR* + 1.

RAFE for lifecycle Part 6A products

- (7) If a Part 6A product is in the class of Part 6A products specified in relation to a financial year under subregulation 9AB.9(3) (lifecycle Part 6A products), treat a reference in subregulations (1) to (6) of this regulation to the RAFE for the Part 6A product in relation to the year as being a reference to the largest of the RAFEs for the product in relation to the year and each lifestage of the product.
- (8) However, if:
- (a) the lifecycle Part 6A product has particular lifestages at the start of the financial year; and
 - (b) at one or more times during the year, the product starts to have different lifestages;
- treat a reference in subregulations (1) to (6) of this regulation to the RAFE for the Part 6A product in relation to the year as being a reference to the amount worked out as follows:
- (c) first, divide the year into periods on the following basis:
 - (i) the first period starts at the start of the year;
 - (ii) a new period starts each time the product starts to have different lifestages;
 - (iii) the last period ends at the end of the year;

Note: Each period, other than the last period, ends immediately before the first time after the start of that period at which there is a change of the lifestages.
 - (d) then, for each period identified under paragraph (c), work out what is the largest of the RAFEs for the product in relation to the period and each lifestage that the product has during the period;
 - (e) the RAFE for the Part 6A product in relation to the year is the sum of the RAFEs worked out under paragraph (d).

9AB.17 Meaning of covered asset class, assumed index, assumed annual fee and assumed rate of tax

- (1) Subregulations (2) to (5) define the following:
 - (a) a **covered asset class** for a quarter starting on or after 1 July 2014;
 - (b) the **assumed index** for a covered asset class for such a quarter;
 - (c) the **assumed annual fee** for a covered asset class for such a quarter;
 - (d) the **assumed rate of tax** for a covered asset class for such a quarter.
- (2) A **covered asset class** for a quarter mentioned in paragraph (1)(a) is a class of assets identified in an item of the table in subregulation (7) by its description.
- (3) For the purposes of this regulation, in determining a covered asset class for a quarter, treat the term **Other/Commodities** as having the same meaning as that term has in the asset allocation standard that applies in relation to the quarter.
- (4) The **assumed index** for a quarter mentioned in paragraph (1)(a) for a covered asset class for the quarter is the assumed index identified in the item of the table in subregulation (7) that identifies the covered asset class.
- (5) The **assumed annual fee** for a quarter mentioned in paragraph (1)(a) for a covered asset class for the quarter is the assumed annual fee identified in the item of the table in subregulation (7) that identifies the covered asset class.

Schedule 1 Amendments

(6) The **assumed rate of tax** for a quarter mentioned in paragraph (1)(a) for a covered asset class for the quarter is the assumed rate of tax identified in the item of the table in subregulation (7) that identifies the covered asset class.

(7) The table is as follows:

Covered asset classes, assumed indices, assumed annual fees and assumed tax rates for quarters starting on or after 1 July 2014				
Item	Description	Assumed index	Assumed annual fee	Assumed annual rate of tax
1	Australian Equity	ASA52 S&P/ASX 300 Total Return Index	0.05%	0.00%
2	International Equity (hedged)	DE725341 MSCI All Country World Ex-Australia Equities Index with Special Tax (100% hedged to AUD)	0.11%	14.00%
3	International Equity (unhedged)	DN714533 MSCI All Country World Ex-Australia Equities Index with Special Tax (unhedged in AUD)	0.09%	14.00%
4	Australian Listed Property	ASA6PROP S&P/ASX 300 A-REIT Total Return Index	0.12%	14.00%
5	International Listed Property	RAHRSAH FTSE EPRA Nareit Developed ex Aus Rental 100% Hedged to AUD Net Tax (Super) Index	0.22%	14.00%
6	Australian Listed Infrastructure	FDCIISAH FTSE Developed Core Infrastructure 100% Hedged to AUD Net Tax (Super) Index	0.26%	14.00%
7	International Listed Infrastructure	FDCIISAH FTSE Developed Core Infrastructure 100% Hedged to AUD Net Tax (Super) Index	0.26%	14.00%
8	Australian Unlisted Property	MSCI/Mercer Australia Core Wholesale Monthly Property Fund Index – NAV-Weighted Post-Fee Total Return (All Funds)	0%	14.00%
9	International Unlisted Property	MSCI/Mercer Australia Core Wholesale Monthly Property Fund Index – NAV-Weighted Post-Fee Total Return (All Funds)	0%	14.00%
10	Australian Unlisted Infrastructure	MSCI Australia Quarterly Private Infrastructure Fund Index (Unfrozen) – NAV-Weighted Post-Fee Total Return (All Funds)	0%	14.00%
11	International Unlisted	MSCI Australia Quarterly Private Infrastructure Fund Index (Unfrozen) –	0%	14.00%

Covered asset classes, assumed indices, assumed annual fees and assumed tax rates for quarters starting on or after 1 July 2014				
Item	Description	Assumed index	Assumed annual fee	Assumed annual rate of tax
	Infrastructure	Nav-Weighted Post-Fee Total Return (All Funds)		
12	Australian Fixed Interest	BACM0 Bloomberg Ausbond Composite 0+ Yr Index	0.10%	15.00%
13	International Fixed Interest	LEGATRAH Bloomberg Barclays Global Aggregate Index (hedged to AUD)	0.10%	15.00%
14	Australian Cash	BAUBIL Bloomberg Ausbond Bank Bill Index	0.04%	15.00%
15	International Cash	BAUBIL Bloomberg Ausbond Bank Bill Index	0.04%	15.00%
16	Other/Commodities		0.10%	14.50%

9AB.18 APRA’s determination of alternative assumptions—paragraphs 60D(7)(b) and (c) of Act

APRA’s determination of alternative assumptions

- (1) For the purposes of paragraph 60D(7)(b) of the Act, APRA may, by legislative instrument, determine a specified alternative assumption in relation to a specified quarter covered by the table in regulation 9AB.17 that replaces one of the following assumptions in relation to that quarter:
 - (a) an assumed index identified in an item of that table;
 - (b) an assumed annual fee identified in an item of that table;
 - (c) an assumed annual rate of tax identified in an item of that table.
- (2) To avoid doubt, the determination may:
 - (a) specify an alternative assumption in relation to more than one specified quarter; or
 - (b) specify more than one alternative assumptions, each of which replaces one particular assumption mentioned in paragraph (1)(a), (b) or (c), in relation to a specified quarter; or
 - (c) specify more than one alternative assumption, each of which replaces one particular assumption mentioned in paragraph (1)(a), (b) or (c), in relation to more than one specified quarter.

Specified conditions for APRA’s determination of alternative assumptions

- (3) For the purposes of paragraph 60D(7)(c) of the Act, subregulations (4), (5) and (6) specify conditions to be met before APRA can make a determination under subregulation (1).
- (4) Before making a determination under subregulation (1), APRA must consult with the Treasurer.

- (5) Before making a determination under subregulation (1) specifying an alternative assumption that replaces an assumption mentioned in paragraph (1)(a) (assumed index) in relation to a specified quarter, APRA must be reasonably satisfied that:
 - (a) the relevant assumed index identified in an item of the table in regulation 9AB.17 does or did not exist in relation that quarter; and
 - (b) the specified alternative assumption is substantially analogous to the relevant assumed index.
- (6) Before making a determination under subregulation (1) specifying an alternative assumption that replaces an assumption mentioned in paragraph (1)(b) or (c) (assumed annual fee or assumed annual rate of tax) in relation to a specified quarter, APRA must be reasonably satisfied that, as a result of material changes in the investment environment, the assumed annual fee or assumed rate of tax identified in an item of the table in regulation 9AB.17 is no longer suitable in relation to that quarter.

9AB.19 Requirements for notification of fail assessment—subsection 60E(6) of Act

- (1) For the purposes of subsection 60E(6) of the Act, this regulation specifies:
 - (a) forms in which a notice mentioned in subsection 60E(2) of the Act must be; and
 - (b) kinds of information that must be contained in such a notice.
- (2) The information set out in Schedule 2A is specified as a kind of information
- (3) If the notice includes an electronic communication as mentioned in subparagraph 60E(5)(a)(ii) of the Act:
 - (a) the text “Important notice about your super product’s performance” is specified as a kind of information; and
 - (b) inclusion of that text in the subject line for the electronic communication is specified as a form.

9AB.20 Requirements for reopening determination—subsection 60F(4) of Act

- (1) For the purposes of subsection 60F(4) of the Act, this regulation specifies a requirement in relation to a Part 6A product and an entity.

Note: Subsections 60F(3) and (4) of the Act provide that if APRA is satisfied that this requirement is met, it may make a determination that has the effect that each trustee of the entity is released from the obligation in subsection 60F(2) of the Act (to ensure that there are no new beneficiaries for the Part 6A product).
- (2) The requirement is that the performance measure for the Part 6A product for the most recently ended financial year equals or exceeds -0.005.

Division 9AB.3—Comparison rankings

9AB.21 Specified formula as basis for ranking Part 6A products—performance assessment met

- (1) This regulation applies in relation to a Part 6A product for which the requirement in subsection 60D(1) of the Act is met in relation to a financial year.

- (2) For the purposes of paragraph 60J(3)(a) of the Act:
- (a) this paragraph specifies the formula set out in regulation 9AB.23 (net return ranking formula) as a basis for ranking Part 6A products in relation to the financial year; and
 - (b) this paragraph specifies the formula set out in regulation 9AB.24 (fee ranking formula) as a basis for ranking that Part 6A products in relation to:
 - (i) a beneficiary who holds the Part 6A product; and
 - (ii) a year (the **relevant year**) that is the financial year, or the year that is the period of 12 months ending on 30 September, 31 December or 31 March in the next financial year.

9AB.22 Specified formula as basis for ranking Part 6A products—performance assessment *not met*

- (1) This regulation applies in relation to a Part 6A product for which the requirement in subsection 60D(1) of the Act is *not met* in relation to a financial year.
- (2) For the purposes of paragraph 60J(3)(a) of the Act:
- (a) this paragraph specifies the formula set out in regulation 9AB.23 (net return ranking formula) as a basis for ranking Part 6A products in relation to the financial year; and
 - (b) this paragraph specifies the formula set out in regulation 9AB.24 (fee ranking formula) as a basis for ranking Part 6A products in relation to:
 - (i) a beneficiary who holds the Part 6A product; and
 - (ii) a year (the **relevant year**) that is the financial year, or the year that is the period of 12 months ending on 30 September, 31 December or 31 March in the next financial year.

9AB.23 Net return ranking formula

For the purposes of paragraphs 9AB.21(2)(a) and 9AB.22(2)(a), the formula is:

$$\left[\prod_{t=1}^{4n} (1 + NR_t) \right]^{\frac{1}{n}} - 1$$

where:

n means the number of whole quarters in the test period, divided by 4.

NR, in relation to a quarter, means the Part 6A product's net return in relation to the quarter.

t represents a quarter in a consecutive sequence of quarters, where if $t=1$, the quarter is the first quarter that starts in the test period.

test period mean the period that:

- (a) starts at a time that:
 - (i) is no earlier than 8 years before the start of the financial year; and
 - (ii) is the start of a quarter in an earlier financial year; and
- (b) ends at the end of a quarter in the financial year.

9AB.24 Fee ranking formula

(1) For the purposes of paragraphs 9AB.21(2)(b) and 9AB.22(2)(b), the formula is:

$$\text{Applicable investment fee} + \text{Applicable administration fee} + \text{Applicable indirect cost ratio}$$

where:

applicable administration fee has the meaning given by subregulation (2).

applicable indirect cost ratio means the product of the following:

- (a) the relevant beneficiary's account balance in respect of the Part 6A product;
- (b) the Part 6A product's indirect cost ratio in relation to the relevant year.

applicable investment fee has the meaning given by subregulation (3).

(2) For the purposes of subregulation (1), work out the **applicable administration fee** as follows:

- (a) first, work out the product of the following:
 - (i) an account balance in respect of the Part 6A product;
 - (ii) the Part 6A product's administration fee percentage in relation to the relevant year;
- (b) work out the sum of the following:
 - (i) the result of paragraph (a);
 - (ii) the Part 6A product's administration fee flat amount in relation to the relevant year;
- (c) if the Part 6A product does *not* have an administration fee cap in relation to the relevant year, the **applicable administration fee** is the result of paragraph (b);
- (d) if the Part 6A product has an administration fee cap in relation to the relevant year, the **applicable administration fee** is the lesser of the following:
 - (i) the result of paragraph (b);
 - (ii) that administration fee cap.

(3) For the purposes of subregulation (1), work out the **applicable investment fee** as follows:

- (a) first, work out the product of the following:
 - (i) an account balance in respect of the Part 6A product;
 - (ii) the Part 6A product's investment fee percentage in relation to the relevant year;
- (b) work out the sum of the following:
 - (i) the result of paragraph (a);
 - (ii) the Part 6A product's investment fee flat amount in relation to the relevant year;
- (c) if the Part 6A product does *not* have an investment fee cap in relation to the relevant year, the **applicable investment fee** is the result of paragraph (b);
- (d) if the Part 6A product has an investment fee cap in relation to the relevant year, the **applicable investment fee** is the lesser of the following:
 - (i) result of paragraph (b);

-
- (ii) that investment fee cap.

9AB.25 Specified methods for Part 6A ranking products—paragraph 60J(3)(b) of Act

- (1) For the purposes of paragraph 60J(3)(b) of the Act, the following subregulations specify methods for ranking Part 6A products according to the formulas specified in regulations 9AB.21 and 9AB.22.
- (2) This subregulation specifies the method of ranking Part 6A products from:
- (a) the highest result of applying the formula set out in regulation 9AB.23 (net return ranking formula) in respect of a Part 6A product in respect of a financial year;
- to:
- (b) the lowest result of applying that formula in respect of a Part 6A product in respect of the financial year.
- (3) This subregulation specifies the method of ranking Part 6A products from:
- (a) the lowest result of applying the formula set out in regulation 9AB.24 (fee ranking formula) in respect of a Part 6A product in respect of a financial year;
- to:
- (b) the highest result of applying that formula in respect of a Part 6A product in respect of the financial year.

5 In the appropriate position in Part 14

Insert:

Division 14.27—Transitional arrangements arising out of the Treasury Laws Amendment (Your Future, Your Super—Addressing Underperformance in Superannuation) Regulations 2021

14.28 Arrangements

- (1) The amendments made by this Schedule apply:
- (a) in relation to MySuper products—on and after 1 July 2021; and
- (b) in relation to other Part 6A products—on and after 1 July 2022.
- (2) If the financial year mentioned in subparagraph 9AB.6(1)(a)(ii) is the 2020-21 financial year, treat the reference in that subparagraph to 7 years as instead being a reference to 6 years.

6 After Schedule 2

Insert:

Schedule 2A—Information in notice under subsection 60E(2) of Act

Note: See subregulation 9AB.19(2).

Hello *[insert the name of the beneficiary of the superannuation entity]*,

Your superannuation product *[insert the name of the superannuation entity and the name of the Part 6A product]* has performed poorly under an annual performance test that was introduced by the Australian Government to make sure Australians are getting the most out of their super. As a result, we are required to write to you and suggest that you consider moving your money into a different superannuation product.

You currently have \$*[insert the beneficiary's account balance on the date of this letter]* invested with *[insert the name of the superannuation entity]*. In the last year you paid \$*[insert total fees and costs charged to beneficiary in previous financial year]* in total fees and costs for your account with *[insert the name of the superannuation entity]*.

Switching to a different super product is easy, and there are no fees involved.

By switching into a better performing product, you can potentially save thousands of dollars more for retirement. For example, by earning 1% higher net return over a 30-year period, you could be 20% better off at retirement.

Using the Australian Government's YourSuper comparison tool you will be able to compare the fees and returns of all MySuper products. Go to ato.gov.au/yoursuper or the QR code below:

[insert QR code for ato.gov.au/yoursuper]

Your questions answered

Why have I received this letter?

The Australian Government has introduced an annual performance test of superannuation products to make sure Australians are getting the most out of their super.

The purpose of this letter is to notify you of the poor performance of your superannuation product and to provide you with information to help you decide whether you want to stay with your current product or choose a better performing product.

Even a small difference in performance can make a big difference at retirement.

What is the annual performance test?

The annual performance test assesses the returns of your product (after your super fund deducts fees) over the last *[insert the number of financial years in the lookback period for the Part 6A product]* years. The test compares the returns your product delivered with the returns that a comparable product would have delivered over the same period.

Products that fail this test are required to notify their members.

You can find out more about superannuation at moneysmart.gov.au.