

# SUBMISSION

Submission to APRA —  
Proposed class exemption  
to own or control an RSE  
licensee

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17 May 2023

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Mr Gideon Holland  
General Manager, Policy  
APRA

Via email: [superannuation.policy@apra.gov.au](mailto:superannuation.policy@apra.gov.au)

17 May 2023

Dear Mr Holland

### **Proposed class exemption re approval to own or control an RSE licensee**

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to APRA's consultation on a proposed class exemption regarding approval to own or control a registrable superannuation entity (RSE) licensee.

#### **About ASFA**

ASFA is a non-profit, non-partisan national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$3.3 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing almost 90 per cent of the 17 million Australians with superannuation.

#### **Comments in relation to the draft approval instrument**

ASFA supports the proposed limited exemption from the requirement on an RSE licensee director to obtain approval from APRA to own or control an RSE licensee. The exemption is targeted, intended to address an identified impact where RSE directors are required to hold shares in the RSE licensee for the term of their appointment. Further, the exemption will apply only where the director is not entitled to any financial benefit directly arising from their shareholding in the RSE licensee and their shareholding is transferred or forfeited as soon as practicable after they cease to be a director.

Our members have advised that the current approval process is cumbersome and can take several months to complete. As acknowledged in the letter to RSE licensees regarding this consultation, APRA has other prudential oversight mechanisms through which to manage any governance concerns in relation to individual directors, including the 'fit and proper' requirements. Accordingly, we consider the exemption to be a sensible measure that will ensure RSE licensees do not face unnecessary delays when undergoing changes to the composition of their boards.

While supportive of the exemption, ASFA wishes to highlight two points in relation to the 'conditions for exemption' set out in clause 7 of the draft approval instrument:

- Sub-clause 7(d) requires that in order to be exempt, a person is "not entitled to any financial benefit directly arising from the person's shareholder in the RSE licensee". We recommend that this is amended to clarify that the prohibited 'financial benefit' relates only to the acquisition and holding of the share, and not to any payment made to the person in respect of their duties as a director.
- Sub-clause 7(e) states as an additional condition that, in order to be exempt, a person "must, as soon as practicable after ceasing to be a director of the RSE licensee transfer or forfeit the person's shareholding in the RSE licensee". We recommend that this is amended to include, at the end of the sub-clause, the words "subject to the terms of the RSE licensee's Constitution."

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If you have any queries or comments in relation to the content of our submission, please contact Julia Stannard, Senior Policy Advisor, on (03) 9225 4027 or by email [JStannard@superannuation.asn.au](mailto:JStannard@superannuation.asn.au).

Yours sincerely

Julian Cabarrus

Director – Policy Operations, Member Engagement & External Relations