

# SUBMISSION

Submission to APRA—  
Strategic planning and  
member outcomes:  
proposed enhancements

---

20 December 2023

**The Association of Superannuation  
Funds of Australia Limited**  
Level 11, 77 Castlereagh Street  
Sydney NSW 2000

PO Box 1485  
Sydney NSW 2001

**T** +61 2 9264 9300  
1800 812 798 (outside Sydney)

**F** 1300 926 484

**W** [www.superannuation.asn.au](http://www.superannuation.asn.au)

ABN 29 002 786 290 CAN 002 786 290

File: 2023/41

General Manager, Policy

APRA

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

20 December 2023

Dear Sir/Madam

**Strategic planning and member outcomes: proposed enhancements**

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to APRA's consultation on Strategic planning and member outcomes: proposed enhancements.

**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 \$3.5 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.

\*\*\*\*\*

If you have any queries or comments in relation to the content of our submission, please contact Harvey Russell on (02) 8079 0803 or by email [hrussell@superannuation.asn.au](mailto:hrussell@superannuation.asn.au).

Yours sincerely

Andrew Craston

Director of Economics

## Introduction

ASFA supports the objective of ensuring the good governance of superannuation funds and continuously improving trustees' strategic planning to ensure good outcomes for members. ASFA and our member organisations support the intention and approach of the SPS 515 framework and appreciate APRA's objective to enhance the standard as well as the overall modernisation of the prudential architecture.

Superannuation fund trustees continue to ensure appropriate resources are allocated to strategic planning activities. In considering amendments to improve SPS 515 consideration should be given to balancing the investment that funds will be required to make in implementing the changes against the demands of the best financial interests of superannuation fund members. In some instances this may require consideration of the practical impact of proposed modifications made to the standard. ASFA provides its comments on a range of matters with respect to the draft SPS 515 framework below.

## General Discussion

### Commencement of Enhanced Prudential Standard SPS 515 – Business Plan impacts

Draft Prudential Standard SPS 515 *Strategic Planning and Member Outcomes* (SPS 515) is proposed to commence on 1 January 2025. This covers a range of changes to prudential expectations relating to the development and maintenance of the Registrable Superannuation Entity (RSE) licensee's Business Plan. This includes a requirement to specify how the fund's strategic objectives will be funded and their expected costs, and a demonstration of the ongoing financial soundness of the fund under different scenarios. Amongst other things, the Business Plan must also be informed by the annual review of the fund's Retirement Income Strategy.

RSE licensees generally conduct the business planning process on a financial year basis. The commencement of the draft Standard will therefore occur at a point in time when the Business Plan cycle for the 2025 financial year is likely to be in mid-flight. Further, Business Performance Reviews (BPRs) and associated activities relevant for the completion of the Business Plan for the period will already be underway at the time of commencement.

Given the complexity of the business planning process (including the coordination of a vast number of inputs across an RSE licensee's business operations), and the proposed mid-2024 release of the updated SPS 515 and associated prudential practice guidance, ASFA encourages the regulator to consider clear and appropriate transition to the new standard where business planning requirements are concerned.

More broadly, to ensure efficient and consistent implementation across the industry, it will be important for APRA to clarify its expectations as to how RSE licensees must approach the commencement of the updated obligations.

Given the challenge of matching the timing of the Business Plan cycle, ASFA considers the requirements under draft SPS 515 should commence from 1 July 2025, aligning with the natural cycle of the business planning schedule for superannuation funds.

### Expenditure management

Existing Standard SPS 515 imposes heightened requirements for trustee decision-making associated with items of significant expenditure. 'Significance' under SPS 515 is determined by the size of the expenditure or whether it is extraordinary in nature. ASFA notes the intention to remove the concept of 'significant expenditure' under both draft SPS 515 and SPG 515.

The proposed guidance includes a requirement for trustees to demonstrate the purpose of expenditure decisions including how the expenditure will contribute to the RSE licensee meeting its strategic objectives and outcomes. Proposed guidance at paragraph 40 of SPG 515 states as follows: 'APRA expects that the level of detail in an RSE licensee's records would be commensurate with the nature, quantum, complexity, regularity and duration of the expenditure'.

This is a more expansive requirement than that which operates at present. It may expose RSE licensees to an undesirable level of risk in having to interpret how to apply appropriate levels of governance and monitoring over immaterial amounts of expenditure. The removal of a concept of materiality could mean core business decisions relating to the daily operations of the fund are captured, potentially introducing unintended consequences such as increased compliance burden in relation to its operations.

The removal of the concept of significant expenditure also appears to coincide with increased reference to the maintenance of expenditure decision records, the consideration of expenditure management decision, and compliance with the duty to act in the best financial interests of beneficiaries.<sup>1</sup>

Given our comments above with respect to materiality, further guidance will be required to demonstrate how funds should consider complying with this enhanced requirement from a practical perspective. Existing guidance in the revised explanatory memorandum to the Bill which originally introduced the best financial interests duty<sup>2</sup> could be used as a basis for the development of further guidance to assist funds manage this change. Without such guidance there is likely to be inconsistencies in the approaches funds take when meeting this requirement with respect to a range of fund expenditures. Given the potential effort involved in monitoring, managing and reviewing certain expenditures, greater clarity will assist.

### **Financial resource management - fee setting**

Under draft SPS 515, with respect to the setting of fees, RSE licensees must demonstrate how each fee charged to members (that is, type and amount) is appropriate, proportionate and complies with its legal duties and obligations.

To ensure close alignment with the general principles trustees adhere to it is suggested further guidance is provided to clarify that these fee setting requirements are introduced and apply at a trustee 'policy level' as opposed to assessment and documentation at an individual fee level. That is, that the governance and frameworks trustees use to set fees are the subject of the obligations under SPS 515, as opposed to each particular fee. This would achieve greater consistency with existing licensee governance arrangements with reference to the setting of fees.

### **Transfer Planning**

#### **Transfer preparedness**

ASFA has previously indicated it believes trustees should be required to 'consider', but not to 'plan for', transfers out.

Trustees should be required to identify potential triggers for a transfer, however, transfer 'planning' incurs undue costs and detracts from the trustee's focus on maintaining and improving member outcomes. Maintaining a refreshed plan is resource intensive and would not be in the best financial interests of members.

---

<sup>1</sup> For example, Draft SPG 515, para 40

<sup>2</sup> Treasury Laws Amendment (Your Future, Your Super) Bill 2021

Trustees should monitor against the pre-determined trigger framework for indications that a fund may need to consider a Successor Fund Transfer (SFT), as well as evaluate any changes to the fund's circumstance that may affect any assessment of any potential transfers. Transfers out can have significant costs and impacts on members, including the potential disruption to service during the transfer, and should be a last resort.

Trustees should not be required to undertake significant preparatory steps unless, and until, it is reasonably likely that a trigger may be met. Given the introduction of additional transfer planning requirements under the enhanced standard (see 'Sequencing' below), expectations around timing will be beneficial.

### **Triggers**

Where certain triggers have been met which identify to an RSE licensee the need to commence taking action to improve outcomes expected to be achieved for beneficiaries, or to commence preparation for a transfer of beneficiaries<sup>3</sup>, licensees must take timely remedial action or prepare for circumstances that may necessitate a transfer of beneficiaries. For an RSE licensee, determining appropriate triggers to monitor in order to identify the need to commence preparation for a transfer is a highly complex matter. It will be influenced by a range of factors including the complexity and nature of the fund and the circumstances it may experience.

ASFA considers it will be beneficial to ensure an opportunity for future dialogue between regulators, industry associations and industry more broadly on these matters to ensure clear expectations in relation to the determination and monitoring of relevant triggers. This will also be important in the context of ensuring RSE licensees are not self-penalised for failing to meet desired outcomes linked to 'aspirational' strategic objectives.

### **Sequencing**

If APRA cancels – or notifies a licensee it may cancel – a MySuper authorisation, certain new requirements apply to ensure timely transfer of MySuper assets. These include the documentation (within a time specified by APRA) of a transfer plan and implementation of that plan, articulation of a description of the roles and responsibilities of stakeholders with a key role in the transfer process, and a responsibility to notify APRA once the transfer of MySuper assets has been completed.

To allow adequate preparation by RSE licensees ASFA suggests APRA provide clarity in SPG 515 that it will allow adequate time for the impacted licensee before the cancellation of its MySuper authority to ensure appropriate planning and preparation of a MySuper asset transfer (noting the timeline specified under section 29SAB of the SIS Act).

### **Identifying barriers and challenges to SFTs**

Where an RSE licensee forms a view that the outcomes it seeks for beneficiaries are not being achieved it may take a decision to undertake a transfer of beneficiaries. In some situations, it may be directed to do so by APRA. These situations require the contemplation of an SFT. These are incredibly complex transactions. In previous consultations on transfer planning ASFA has raised a number of barriers to the efficient and successful execution of SFTs to ensure good member experience. Some of the challenges which ASFA member organisations consider should be addressed are included in the attachment for reference. ASFA considers that it would be beneficial for further industry-regulator engagement to consider these challenges and what possible regulatory solutions may be introduced to address them, improving the member experience.

### **Business Performance Review – reporting results**

Under existing SPS 515 the results of the business performance review are specifically required to be reported to the Board. ASFA suggest APRA specifically confirms that reporting the results of the BPR to the Board remains a requirement, if this is the intention.

---

<sup>3</sup> Draft SPS 515, Paragraph 24

## Business Performance Review – cohort analysis

As part of the BPR, draft SPS 515 requires an RSE licensee to assess and demonstrate the outcomes achieved for beneficiaries having regard to different cohorts of beneficiaries including those who are retired or approaching retirement (and sub-classes of those beneficiaries). This is an expansion of the relevant cohort analysis. It would be helpful for trustees if APRA provided specific examples on the types of cohorts and cohort analysis expected to be completed by RSE licensees. This should include suggestions or examples of the relevant, corresponding data sources required to be employed in this assessment.

## Business Plan – form

Existing SPG 515 (at paragraph 28) suggests the Business Plan can be developed as best suits the fund, and that the Business Plan need not be a single document but instead a suite of appropriate planning documents. This seems to have been removed from the proposed SPG 515. To ensure clarity and certainty for RSE licensees it is suggested this guidance is retained.

## Annual outcomes assessment

Draft SPS 515, at paragraph 27(b) requires that an RSE licensee must document the methodology applied in undertaking the annual outcomes assessment under section 52(9) of the SIS Act including, “how the RSE licensee has determined the products it will use for the purposes of comparing its MySuper or choice products. *Where a product, or part of a product is assessed under the legislated annual performance assessment under Part 6A of the SIS Act, an RSE licensee’s methodology must demonstrate how it has taken into account the population of products against which it was assessed.*”

The final sentence highlighted above appears to be new and ASFA member organisations are interested to clarify its intent given the performance test is not designed specifically as a peer comparative metric. That is, a product’s return is assessed relative to the product-specific benchmark, which is weighted according to the product’s strategic asset allocation, rather than assessed relative to the returns of other products.

## Technical suggestions

*Annual review of Retirement Income Strategy:* Guidance occurs both in SPG 515 paragraph 16-19 (for the purpose of consideration in Business Plan) and SPG 516 paragraph 15-17 (for purpose of Business Performance Review). We suggest this guidance is combined.

*Product failure of performance test:* Guidance occurs in both SPG 515 paragraph 24 (around the need to update financial projections) and paragraph 56-57 (in relation to transfer planning). We suggest this guidance could be combined.

*Undertaking an SFT:* ASFA members have expressed concern that guidance in updated SPG 515 at paragraph 68 introduces a new expectation on trustees to: weigh the benefits of small/individual members versus the whole; and create further analysis to show how this was considered. This appears to create new regulatory requirements which may not have been intended.

*Rights and features:* In updated SPG 515 at paragraph 72, APRA appears to have introduced a new trustee requirement to provide separate analysis on the methodology of how it determined the difference between a feature and a right. We suggest that the previous SPG 227 guidance be retained here (that is, SPG 227 at paragraph 117).

## **ATTACHMENT - Summary of challenges identified to the completion of Successor Fund Transfers (SFTs)<sup>4</sup>**

Members have indicated that SFTs are incredibly complex transactions and there are significant challenges including, but by no means limited to:

- Tax:
  - CGT rollover relief – this is available only for a full closure of a fund and not for a partial transfer of members (e.g. MySuper members) which raises issues with satisfying the members' best financial interests obligation
  - Inherent issues with the way transfer balance credits and debits are calculated for term allocated pensions.
- Benefits and features (challenges with equivalent rights) – a comprehensive analysis and assessment is required with respect to fund benefits and features, for example: standing instruction flexibility; auto reweighting; corporate actions; member and adviser online reporting; member and adviser capability to make changes online on a straight through basis; online withdrawals and availability of particular investments.
  - Can alternative paths to equivalency for SFTs be explored such as creating a statutory 'safe harbour' re equivalent rights and best financial interests? Or could APRA be granted a general power to grant relief from legislative requirements.
- Employer contributions – transferring members requires members to update their contribution details with their employer, with the transferring fund potentially needing to continue to receive and on-forward contributions to the new fund or reject the contributions back to the employer. However, there is no infrastructure to allow those contributions to be redirected in bulk.
- Portability provisions - to implement the data transfers for an SFT, an operational 'black-out' period generally is necessary, during which new transactions, including benefit rollovers, cannot be processed. This can extend beyond the standard statutory three-day rollover period and means the trustee is required to apply to APRA for relief with respect to the portability provisions, which can take time and involves resources and costs. It would be preferable if the portability requirements were amended to provide that they be suspended and recommenced once the black out period has ended.
- Legacy income streams – the inherent complexity of legacy income streams - SFTs from an older fund to a newer fund may necessitate significant IT development, trust deed amendments and staff training to account for members in legacy income streams.
- Pension standards – these require a minimum pension to be paid before transfer, and a new minimum pension paid afterwards - there is no consideration for members who, for example, have drawn an annual minimum payment prior to the SFT taking place.
- Pension commencement capital inflexibility - given the complex nature of these transactions, determining a member's specific tax liability may not occur until after the SFT has been actioned - this means the transferring fund may determine a refund of taxes deducted from the member's interest after the receiving fund has already commenced the pension.
- Defined benefits – the new fund needs to be able to administer defined benefits.

---

<sup>4</sup> Drawn from ASFA Submission to APRA – Superannuation transfer planning: Proposed enhancements – 13 March 2023: [https://www.superannuation.asn.au/wp-content/uploads/2023/09/202306\\_APRA\\_Transfer\\_Planning\\_final.pdf](https://www.superannuation.asn.au/wp-content/uploads/2023/09/202306_APRA_Transfer_Planning_final.pdf)

- Insurance – agreement will need to be reached with the receiving insurer with respect to existing insurance benefits, term and conditions, premiums and auto acceptance for customised employer insurance arrangements and defaults for future new employees.
- Investment choices – mapping and assessment of existing investment options gains those available in the receiving fund.
- Advice fees – consideration will need to be given whether existing member advice fee arrangements can be grandfathered into the receiving fund.