



# Superannuation (prudential standard) determination No. 5 of 2012

## Prudential Standard SPS 250 Insurance in Superannuation

### *Superannuation Industry (Supervision) Act 1993*

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I, Ross Jones, delegate of APRA, under subsection 34C(1) of the *Superannuation Industry (Supervision) Act 1993* (the Act), DETERMINE *Prudential Standard SPS 250 Insurance in Superannuation* in the form set out in the Schedule, which applies to all RSE licensees.

This instrument commences upon registration on the Federal Register of Legislative Instruments.

Dated: 15 November 2012

*[signed]*

Ross Jones  
Deputy Chair

## **Interpretation**

In this instrument:

**APRA** means the Australian Prudential Regulation Authority.

**Federal Register of Legislative Instruments** means the Register kept under the *Legislative Instruments Act 2003*.

**RSE licensee** has the meaning given in section 10(1) of the Act.

*Note 1* It is a condition imposed on all RSE licences that the RSE licensee and, if the RSE licensee is a group of individuals, each of the members of the group, must comply with the RSE licensee law [section 29E(1)(a)]. RSE licensee law includes the prudential standards [section 10(1)]. APRA may direct an RSE licensee to comply with a specified condition of its RSE licence by a specified time if APRA has reasonable grounds to believe that the RSE licensee has breached the condition [section 29EB]. A failure to comply with a direction may lead to cancellation of the RSE licence [section 29G] and may be an offence attracting a penalty of 60 penalty units [section 29JB].

## **Schedule**

*Prudential Standard SPS 250 Insurance in Superannuation* comprises the 7 pages commencing on the following page.



## Prudential Standard SPS 250

### Insurance in Superannuation

#### Objectives and key requirements of this Prudential Standard

This Prudential Standard establishes requirements for an RSE licensee with respect to making insured benefits available to beneficiaries.

The Board of an RSE licensee is ultimately responsible for having an insurance management framework that reflects the risks associated with making available insured benefits that is appropriate to the size, business mix and complexity of the RSE licensee's business operations. The insurance management framework must include the insurance strategies for each registrable superannuation entity required in the *Superannuation Industry (Supervision) Act 1993*.

The key requirements of this Prudential Standard are that an RSE licensee must also:

- ensure that insurance arrangements adequately address the minimum requirements set out in this Prudential Standard; and
- formulate and give effect to appropriate selection processes for, and due diligence of, insurers and monitor relationships with insurers on an ongoing basis.

## Authority

1. This Prudential Standard is made under section 34C of the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

## Application

2. This Prudential Standard applies to all registrable superannuation entity (RSE) licensees (RSE licensees) under the SIS Act.<sup>1</sup>
3. All RSE licensees must comply with this Prudential Standard in its entirety, unless otherwise expressly indicated.
4. Where an RSE licensee of a defined benefit fund is permitted to self-insure benefits, paragraphs 22 to 24 inclusive do not apply with respect to the self-insured benefits.<sup>2</sup>
5. Subject to paragraph 27, this Prudential Standard commences on 1 July 2013 (effective date).

## Interpretation

6. For the purposes of this Prudential Standard, ‘insured benefits’ means benefits that are made available to beneficiaries via<sup>3</sup>:
  - (a) insurance acquired by an RSE licensee from a life company registered, or taken to be registered, under section 21 of the *Life Insurance Act 1995* or a general insurance company or Lloyd’s underwriter authorised, or taken to be authorised, under the *Insurance Act 1973* (an insurer); or
  - (b) insurance offered under an RSE licensee’s self-insurance arrangements.

For the purposes of this Prudential Standard, the activities described in paragraphs 6(a) and (b) are referred to as ‘making insured benefits available’ to beneficiaries.

## RSE licensees that are part of a group<sup>4</sup>

7. Where an RSE licensee is part of a corporate group, and the RSE licensee utilises group policies or functions, the Board must approve the use of group policies and functions and must ensure that these policies and functions give

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<sup>1</sup> For the purposes of this Prudential Standard, ‘RSE licensee’ has the meaning given in section 10(1) of the SIS Act.

<sup>2</sup> Refer to *Prudential Standard SPS 160 Defined Benefit Matters* for additional requirements applying to RSE licensees that are permitted to self-insure insurance benefits.

<sup>3</sup> For the purposes of this Prudential Standard, a reference to ‘beneficiaries’ is a reference to ‘beneficiaries of an RSE within the RSE licensee’s business operations’.

<sup>4</sup> For the purposes of this Prudential Standard, a reference to ‘a group’ is a reference to a group comprising the RSE licensee and all connected entities and all related bodies corporate of the RSE licensee, ‘connected entity’ has the meaning given in section 10(1) of the SIS Act and ‘related body corporate’ has the meaning given in section 50 of the *Corporations Act 2001*.

appropriate regard to the RSE licensee's business operations and its specific requirements.<sup>5</sup>

### **Insurance management framework**

8. An RSE licensee must have in place an insurance management framework to manage making insured benefits available to beneficiaries.
9. An RSE licensee's insurance management framework is the totality of systems, structures, policies, processes and people to manage making insured benefits available to beneficiaries.
10. An RSE licensee's insurance management framework must be appropriate to the size, business mix and complexity of the RSE licensee's business operations and to the types of insured benefits made available.
11. The Board is ultimately responsible for the insurance management framework.
12. An RSE licensee's insurance management framework must, at a minimum, include:
  - (a) the insurance strategy required under section 52(7) of the SIS Act (which must also comply with the requirements of this Prudential Standard);
  - (b) policies and procedures of the RSE licensee relevant to making insured benefits available to beneficiaries, that cover but are not limited to:
    - (i) the process by which the cost to the RSE licensee of insurance premiums is recovered from the RSE(s);
    - (ii) the process for monitoring and reviewing the administration of insurance;
    - (iii) underwriting; and
    - (iv) claims assessment;
  - (c) clearly defined roles and responsibilities and lines of reporting for the oversight of the insurance management framework;
  - (d) a review process to ensure the insurance management framework remains appropriate and effective; and
  - (e) a policy for managing declined applications for insurance, applications resulting in reduced cover or restrictions, terminations of cover and requests for reinstatement.

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<sup>5</sup> For the purposes of this Prudential Standard, an 'RSE licensee's business operations' includes all activities as an RSE licensee (including the activities of each RSE of which it is the licensee), and all other activities of the RSE licensee to the extent that they are relevant to, or may impact on, its activities as an RSE licensee.

13. An RSE licensee's insurance management framework must include a process for administering relevant requirements in RSE licensee law with respect to an election by a member to opt-out of benefits provided by the RSE licensee.<sup>6</sup>
14. An RSE licensee must have procedures to ensure that all persons in roles relevant to the insurance activities of the RSE licensee are made aware of, and have processes and controls for monitoring compliance with, the RSE licensee's insurance management framework.
15. An RSE licensee must maintain records of sufficient detail for a prospective insurer to properly assess the insured benefits that are made available. These records must include, for at least the previous five years, the claims experience, membership, sum insured and premiums paid in relation to beneficiaries.
16. An RSE licensee's risk management framework must reflect the risks associated with making insured benefits available to beneficiaries as a material risk area identified in *Prudential Standard SPS 220 Risk Management*.

### **Insurance strategy**

17. In addition to complying with section 52(7) of the SIS Act, an RSE licensee's insurance strategy for an RSE must, at a minimum, document:
  - (a) how the RSE licensee has regard to each of the factors in section 52(7) of the SIS Act;
  - (b) the processes for monitoring, reviewing and renewing the insured benefits made available to beneficiaries;
  - (c) the RSE licensee's approach to claims management, regardless of who is responsible for handling claims; and
  - (d) the RSE licensee's approach, as outlined in its conflicts management framework, to conflicts that may arise through making available insured benefits to beneficiaries.<sup>7</sup>

### **Insurance arrangements**

18. For the purposes of this Prudential Standard, 'insurance arrangement' means:
  - (a) where an RSE licensee makes available insured benefits as described in paragraph 6(a) – an insurance policy document<sup>8</sup>; or
  - (b) where an RSE licensee makes available insured benefits as described in paragraph 6(b) – appropriate documentation of the terms and conditions of the insured benefits

<sup>6</sup> For the purposes of this Prudential Standard, 'RSE licensee law' has the meaning given in section 10(1) of the SIS Act.

<sup>7</sup> Refer to *Prudential Standard SPS 521 Conflicts of Interest* for details of conflicts management requirements.

<sup>8</sup> For the purposes of this Prudential Standard, a reference to 'an insurance policy document' is a reference to a contract of insurance issued by an insurer.

and any accompanying agreements with any other party for the provision of services related to making available insured benefits.<sup>9</sup>

19. At a minimum, the insurance arrangement must address:
  - (a) the level and type of insured benefits made available, including any exclusions;
  - (b) the term of the insured benefits;
  - (c) automatic acceptance limits (to the extent relevant);
  - (d) availability of opt in and/or opt out cover;
  - (e) requirements for the beneficiaries' eligibility for, cessation of, and any reinstatement of entitlements to insured benefits where available;
  - (f) premium structure, including any variable components;
  - (g) procedures for notification and payment of claims;
  - (h) dispute resolution arrangements;
  - (i) agreed service standards;
  - (j) reporting requirements for monitoring agreed service standards;
  - (k) the provision of complete claims information to the RSE licensee on an annual basis which, at a minimum, includes the information required to be maintained by the RSE licensee under paragraph 15;
  - (l) liability and indemnity arrangements; and
  - (m) review, termination and renewal provisions for the insurance arrangement.
20. An RSE licensee must notify APRA as soon as practicable of any issues that it considers might materially affect its ability to make insured benefits available to beneficiaries.
21. Where an insurance arrangement is terminated, an RSE licensee must notify APRA as soon as practicable and provide a statement about the transition arrangements and future strategies for continuing to make insured benefits available to beneficiaries.

### **Selection and monitoring of insurers**

22. An RSE licensee must:
  - (a) develop and implement a selection process for choosing an insurer that includes, at a minimum, consideration of the prospective insurer's terms

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<sup>9</sup> An accompanying agreement that meets the definition of outsourcing in *Prudential Standard SPS 231 Outsourcing* must meet the requirements of that Prudential Standard.



- of cover and exclusions, claims philosophy, the reasonableness of the premiums to be charged and terms of any delegation to any other person of functions associated with making available insured benefits;
- (b) undertake a due diligence review of the selected insurer; and
  - (c) be able to demonstrate to APRA the appropriateness of the selection process and due diligence review and how it is applied.
23. An RSE licensee must be able to satisfy itself, and demonstrate to APRA, that the engagement of an insurer is conducted at arm's length and is in the best interests of beneficiaries.
24. An RSE licensee must ensure it has sufficient and appropriate resources to manage and monitor its relationship with an insurer at all times. At a minimum, the monitoring must include:
- (a) maintaining regular contact with the insurer at an appropriate frequency and level of seniority; and
  - (b) a process for regular monitoring of performance under the insurance arrangement, including reporting to senior management against service levels.

### **Review of insurance management framework**

25. An RSE licensee must ensure that the appropriateness, effectiveness and adequacy of its insurance management framework are subject to a review by operationally independent, appropriately trained and competent persons at least every three years.
26. The scope of the review of an RSE licensee's insurance management framework must have regard to the size, business mix and complexity of the RSE licensee's business operations, the extent of any change to those operations and any changes to the external environment in which the RSE licensee operates.

### **Transitional arrangements**

27. Paragraphs 28 and 29 of this Prudential Standard commence on the date of registration of this Prudential Standard on the Federal Register of Legislative Instruments (registration date).
28. An RSE licensee must ensure that, when entering into an insurance arrangement covered by this Prudential Standard on and from the day after the registration date, it complies with paragraphs 18, 19, 22 and 23.
29. Where an RSE licensee has entered into an insurance arrangement covered by this Prudential Standard prior to the registration date, the RSE licensee must, for each agreement:
- (a) assess the provisions of the insurance arrangement against paragraphs 18, 19, 22 and 23;

- (b) identify whether it is satisfied as to the matters in paragraphs 18, 19, 22 and 23;
  - (c) where the RSE licensee is not satisfied as to the matters in paragraphs 18, 19, 22 and 23, identify the anticipated end date of the insurance arrangement; and
  - (d) where the anticipated end date of the insurance arrangement is on or after 1 January 2014, take all reasonable steps to adjust the terms of the insurance arrangement in order to ensure that the RSE licensee complies with paragraphs 18, 19, 22 and 23
  - (e) minimise, as far as reasonably practical, any inconsistency between those terms and this Prudential Standard;
  - (f) where, as a result of the reasonable steps taken under paragraph 29(d), the RSE licensee determines that, if it were to renegotiate the terms of the insurance arrangement, it would not be acting in the best interests of beneficiaries, demonstrate to APRA why it considers the insurance arrangement should continue; and
  - (g) report to APRA, before 1 July 2013, the extent of any non-compliance with paragraphs 18, 19, 22 and 23 and the anticipated end date of the insurance arrangement.
30. An RSE licensee must meet the requirement to maintain the records referred to in paragraph 15 within three years of the effective date. An RSE licensee must make an assessment of the data already available to meet the requirements of paragraph 15 and report to APRA before 31 December 2013 as to when the RSE licensee expects to achieve full compliance with paragraph 15.

### **Adjustments and exclusions**

31. APRA may, by notice in writing to an RSE licensee, adjust or exclude a specific prudential requirement in this Prudential Standard in relation to that RSE licensee.<sup>10</sup>

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<sup>10</sup> Refer to section 34C(5) of the SIS Act.