

Superannuation (prudential standard) determination No. 8 of 2012

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Superannuation Industry (Supervision) Act 1993, section 34C(1)

Under subsection 34C(1) of the *Superannuation Industry (Supervision) Act 1993* (the Act), APRA has the power to determine standards (prudential standards), in writing, in relation to prudential matters to be complied with by all RSE licensees of registrable superannuation entities (RSEs).

On 15 November 2012, APRA made Superannuation (prudential standard) determination No. 8 of 2012 under subsection 34C(1) of the Act (the instrument).

The instrument commences on 1 July 2013.

1. Background

The Government indicated, in its response to the recommendations of the Super System Review in December 2010, support for the recommendation that APRA be given the power to make prudential standards in respect of superannuation, consistent with APRA's existing powers in respect of banking and insurance.¹ The Government has also supported a number of reforms relating to the investment governance arrangements of RSE licensees.²

In April 2012, APRA released 11 draft prudential standards to implement APRA's proposed prudential framework for superannuation, incorporating those elements of the Government's superannuation reforms that come within APRA's mandate. APRA's proposals covered prudential requirements common to other APRA-regulated industries as well as superannuation-specific requirements. The proposals also included relocating some current requirements in the Act and *Superannuation Industry (Supervision) Regulations 1994* and non-binding guidance material into the new prudential standards, and harmonising the requirements for superannuation with those applying to other APRA-regulated industries to the extent practical.

APRA was granted the ability to make prudential standards in relation to superannuation under the Act by the passage of the *Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Act 2012* on 8 September 2012.

2. Purpose and operation of the instrument

The purpose of the instrument is to make *Prudential Standard SPS 530 Investment Governance* (SPS 530), which sets out prudential requirements for an RSE licensee to

¹ *Stronger Super*, Recommendation 10.2, p. 60.

² Refer to section 52(6) of the *Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Act 2012*.

implement a sound investment governance framework and to manage investments in a manner consistent with the interests of beneficiaries.

The key requirements of SPS 530 are that an RSE licensee must:

- have a Board-approved investment governance framework for the selection, management and monitoring of investments that is appropriate to the size, business mix and complexity of the RSE licensee's business operations;
- formulate specific and measurable investment objectives for each investment option, including return and risk objectives;
- develop and implement an effective due diligence process for the selection of investments;
- determine appropriate measures to monitor the performance of investments on an ongoing basis;
- review the investment objectives and investment strategies on a periodic basis; and
- formulate a liquidity management plan.

3. Consultation

In September 2011, APRA released for public consultation a discussion paper, *Prudential Standards for Superannuation*, which outlined proposals, including those Stronger Super reforms that the Government had recommended APRA implement in prudential standards. A suite of 12 prudential standards, including a standard dealing with investment governance, was described in the paper. APRA received 41 written submissions in response to this discussion paper, presented the reforms via a wide range of industry forums and held discussions with a variety of industry participants.

In a second consultation round, APRA released a *Response to Submissions – Prudential standards for superannuation* and a package of 11 draft prudential standards on 27 April 2012. In the response, APRA outlined the significant issues raised in the submissions and APRA's proposed response to them.

APRA received 38 written submissions in response to the draft prudential standards; again, APRA also presented the reforms at industry forums and met with individual industry participants on the proposed requirements.

APRA took note of the issues raised in submissions on the draft standard and the final version of SPS 530 includes a number of changes. In addition to new requirements to ensure an RSE licensee's investment governance framework adequately supports its obligation to disclose and report on investment reporting measures, SPS 530 now clarifies that an RSE licensee must have in place a process for independently reviewing the reporting of investment performance to the board, but does not otherwise mandate separation of roles between persons who undertake investment performance monitoring and those responsible for implementation of investments.

Further, SPS 530 now makes clear that that an RSE licensee's investment governance framework must reflect the investment related risks that are required to be covered by a RSE licensee's risk management framework under *Prudential Standard SPS 220 Risk Management*. SPS 530 also requires an RSE licensee to determine the basis for

which changes would be made to asset allocation targets and ranges, thus providing further clarity on how the asset allocation will be maintained.

4. Regulation Impact Statement

A Regulation Impact Statement is required for the superannuation prudential standards.

5. Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

The legislative instrument the subject of this explanatory statement does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. Accordingly, in APRA's assessment, this legislative instrument is compatible with human rights.