



# Superannuation (prudential standard) determination No. 2 of 2013

## Prudential Standard SPS 160 Defined Benefit Matters

### *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 160 Defined Benefit Matters* in the form set out in the Schedule, which applies to all RSE licensees of a defined benefit fund and all RSE actuaries.

This instrument commences on 1 July 2013.

Dated: 28 June 2013

[signed]

Ross Jones

Deputy Chair

### **Interpretation**

In this instrument:

*APRA* means the Australian Prudential Regulation Authority.

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

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

### **Schedule**

*Prudential Standard SPS 160 Defined Benefit Matters* comprises the 15 pages commencing on the following page.



## Prudential Standard SPS 160

### Defined Benefit Matters

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

This Prudential Standard establishes requirements for an RSE licensee of a defined benefit fund to manage the fund with the objective of enabling the RSE licensee, out of the assets of the fund, to meet the liabilities of the fund as they become due.

The requirements in this Prudential Standard also apply to defined benefit sub-funds.

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

- appoint an RSE actuary to undertake, and report on, regular actuarial investigations into the financial position of a defined benefit fund;
- arrange for an interim actuarial investigation in circumstances where the financial position of a defined benefit fund deteriorates below a shortfall limit set by the RSE licensee;
- implement a program to restore a defined benefit fund to a satisfactory financial position, so that the vested benefits of beneficiaries are fully funded, and submit the program to, and report to, APRA; and
- if the fund is permitted to self-insure benefits, arrange for regular actuarial oversight, attest annually that the self-insurance continues to be in the best interests of beneficiaries and develop a contingency plan for an orderly wind-up of the self-insurance arrangements.

## 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) of a defined benefit fund unless otherwise expressly stated in this Prudential Standard or where the RSE is listed in Attachment A.<sup>1</sup> Certain provisions of this Prudential Standard also apply to RSE actuaries.<sup>2</sup>
3. For the purposes of this Prudential Standard, ‘defined benefit fund’ means a regulated superannuation fund that has at least one defined benefit member, including where the regulated superannuation fund is a public sector superannuation scheme.
4. For the purposes of this Prudential Standard, ‘defined benefit sub-fund’ means a sub-fund of a defined benefit fund that has at least one defined benefit member, separately identifiable assets and separately identifiable beneficiaries and the interest each beneficiary has in the sub-fund is determined wholly or partly by reference to the conditions governing the sub-fund.<sup>3</sup> In this Prudential Standard, unless otherwise expressly indicated:
  - (a) a reference to a defined benefit fund includes a reference to a defined benefit sub-fund; and
  - (b) a requirement applying to a defined benefit fund may be met by satisfying the requirement in relation to each defined benefit sub-fund in the fund.
5. An RSE licensee identified in paragraph 2 must comply with this Prudential Standard in its entirety, unless otherwise expressly indicated. An RSE actuary undertaking functions under this Prudential Standard must comply with those requirements of this Prudential Standard expressed to apply to RSE actuaries.
6. This Prudential Standard commences on 1 July 2013 (effective date).

## Interpretation

7. For the purposes of this Prudential Standard, ‘defined benefit member’ means a member who:

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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> For the purposes of this Prudential Standard ‘RSE actuary’ has the meaning given in section 10(1) of the SIS Act.

<sup>3</sup> In addition, to qualify as a defined benefit sub-fund, there must be no capacity to transfer assets, benefits or money between the sub-fund and any other part of the fund without a transfer of the corresponding beneficial interest unless the transfer is to meet a share of whole-of-fund expenses, such as administration costs or tax liabilities, attributable to the sub-fund.

- (a) is being paid a defined benefit pension<sup>4</sup>; or
  - (b) is entitled, on retirement or termination of employment, to be paid a benefit defined, wholly or in part, by reference to either or both of:
    - (i) the amount of:
      - A. the member's salary at the date of the termination of the member's employment or of the member's retirement or an earlier date; or
      - B. the member's salary averaged over a period before retirement; or
    - (ii) a specified amount.
8. For the purposes of this Prudential Standard, 'unsatisfactory financial position' means the value of the assets of the defined benefit fund or defined benefit sub-fund, excluding any amount held to meet the operational risk financial requirement (ORFR)<sup>5</sup>, is not adequate to cover the liabilities of the fund or sub-fund in respect of the benefits vested in the members of the fund or sub-fund.<sup>6</sup>

### **RSE licensees that are part of a group<sup>7</sup>**

- 9. Where an RSE licensee is part of a corporate group, and the RSE licensee utilises group policies or functions, the Board of the RSE licensee (the Board<sup>8</sup>) must approve the use of group policies and functions and must ensure that these policies and functions give appropriate regard to the RSE licensee's business operations.<sup>9</sup>

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<sup>4</sup> For the purposes of this Prudential Standard, 'defined benefit pension' means a pension within the meaning of section 10 of the SIS Act other than: (a) a pension wholly determined by reference to one or more policies of life insurance purchased or obtained by the RSE licensee of a regulated superannuation fund solely for the purpose of providing benefits to the members of that fund; or (b) an allocated, market linked or account-based pension (as defined in regulation 1.03 of the SIS Regulations).

<sup>5</sup> Refer to *Prudential Standard SPS 114 Operational Risk Financial Requirement*.

<sup>6</sup> For the purposes of this Prudential Standard, 'satisfactory financial position' is the situation where the value of the assets (excluding assets held to meet the ORFR) is adequate to cover the liabilities in respect of vested benefits.

<sup>7</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* (Corporations Act).

<sup>8</sup> For the purposes of this Prudential Standard, a reference to 'the Board' is a reference to the Board of directors or group of individual trustees of an RSE licensee and 'group of individual trustees' has the meaning given in section 10(1) of the SIS Act.

<sup>9</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.

## Shortfall limit

10. An RSE licensee must set a shortfall limit, approved by the Board, for each defined benefit fund within its business operations.<sup>10</sup> For the purposes of this Prudential Standard, a ‘shortfall limit’ is the extent to which an RSE licensee considers that a fund can be in an unsatisfactory financial position with the RSE licensee still being able to reasonably expect that, because of corrections to temporary negative market fluctuations in the value of fund assets, the fund can be restored to a satisfactory financial position within one year.<sup>11</sup>
11. The shortfall limit may be set so there is zero deviation from a satisfactory financial position. The shortfall limit must not be such that that the fund may become technically insolvent as referred to in regulation 9.06(3) of the SIS Regulations before breaching the shortfall limit.
12. The shortfall limit approved by the Board must be calculated and expressed in the same way as required under the reporting standards made under the *Financial Sector (Collection of Data) Act 2001*.<sup>12</sup>
13. The Board must determine and implement a monitoring process designed to detect, on a timely basis, when the fund has, or may have, fallen into an unsatisfactory financial position and/or breached the shortfall limit.

## Actuarial investigations – regular and initial investigations

14. An RSE licensee must appoint an RSE actuary to make an actuarial investigation in relation to a defined benefit fund:
  - (a) at least every three years if the fund is not paying a defined benefit pension;
  - (b) at least annually if the fund has fewer than five members and is paying a defined benefit pension;
  - (c) if the fund has more than four members, and is paying a defined benefit pension, within one year of the RSE licensee commencing to pay the pension. APRA may determine another date by which the initial investigation must be carried out which will be not less than one year and not more than three years after the commencement of the pension; and
  - (d) if the fund has more than four members, and is paying a defined benefit pension, for second and further investigations after the RSE licensee commences paying the pension, annually or with a frequency determined

<sup>10</sup> Paragraph 10 does not apply to a fund that is part of public sector superannuation scheme that, under the rules of the scheme, is not fully funded. ‘Fully funded’ in relation to a fund means funded in advance in accordance with actuarial advice at a level that is reasonably expected by the actuary to be adequate to provide for present and prospective liabilities in respect of benefits relating to the fund.

<sup>11</sup> The shortfall limit may be determined in consultation with an RSE actuary appointed by the RSE licensee.

<sup>12</sup> Refer to *Reporting Standard SRS 160.0 Defined Benefit Matters*.

by APRA which will be not less than one year and not more than three years after the most recent regular investigation.

For the purposes of this Prudential Standard, investigations required under this paragraph are referred to as 'regular investigations'.

15. Where an RSE licensee establishes a new defined benefit fund, the RSE licensee must appoint an RSE actuary to carry out a first investigation as at the date of the establishment or conversion to defined benefit status of the fund. For the purposes of this Prudential Standard, investigations required under this paragraph are referred to as 'initial investigations'.

#### **Actuarial investigations – APRA direction**

16. APRA may, in writing, direct an RSE licensee to appoint an RSE actuary, who may be the existing RSE actuary or another actuary, to undertake an actuarial investigation into the defined benefit fund if APRA considers, on reasonable grounds, that to do so would be in the best interests of beneficiaries. The RSE licensee must advise APRA of the name of the RSE actuary. If APRA notifies an RSE licensee that an RSE actuary is not acceptable to APRA, the RSE licensee must appoint a different actuary and advise APRA of the name of the actuary.

#### **Actuarial investigations – interim investigation**

17. An RSE licensee must:
  - (a) appoint an RSE actuary to carry out an actuarial investigation for a defined benefit fund as soon as practicable if:
    - (i) it appears to the RSE licensee that the fund is or may be in breach of its shortfall limit; and
    - (ii) a regular investigation scheduled under paragraph 14 is not due for six months or more; or
  - (b) seek actuarial advice from an RSE actuary as to whether action should be taken prior to the completion of the next regular investigation if:
    - (i) it appears to the RSE licensee that the fund is or may be in breach of its shortfall limit; and
    - (ii) the next regular actuarial investigation under paragraph 14 is due to commence within six months

unless an investigation is currently taking place, a restoration plan is already in place under paragraph 32 or the fund is technically insolvent.

18. For the purposes of this Prudential Standard, investigations required under paragraph 17(a) are referred to as 'interim investigations'.

### **Actuarial investigations – sub-funds**

19. Where a defined benefit fund contains one or more defined benefit sub-funds each sub-fund must be investigated in accordance with this Prudential Standard.<sup>13</sup>

### **Actuarial investigations – professional standards and guidance**

20. An RSE actuary appointed to carry out an investigation must do so having regard to professional standards and guidance issued by the Institute of Actuaries of Australia, to the extent that they are not inconsistent with the requirements of this Prudential Standard. In the event of any inconsistency arising from application of the professional standards and this Prudential Standard, the requirements of this Prudential Standard prevail.

### **Report of the actuarial investigation – regular and initial investigations**

21. An RSE licensee must obtain an actuarial report in relation to each initial and regular investigation undertaken. The RSE licensee must obtain the report from the RSE actuary within six months of the date at which the investigation was effective (valuation date) unless otherwise specified in paragraph 39.
22. APRA may request an RSE licensee to provide APRA with a copy of the report and the RSE licensee must provide it within 15 business days of receipt of the request.<sup>14</sup>
23. An RSE licensee must ensure that an actuarial report of an initial or regular investigation for a defined benefit fund (including a fully funded public sector superannuation scheme) contains, at a minimum:
- (a) the value of the assets of the fund at the valuation date, excluding any amount held to meet the ORFR;
  - (b) a projection made by the RSE actuary of the likely future financial position of the fund, during the three years following the valuation date, based on the reasonable expectations of the actuary;
  - (c) a statement of the RSE actuary's opinion on whether, at the valuation date, the value of the assets of the fund, excluding any amount held to meet the ORFR, is adequate to meet the liabilities in respect of the accrued benefits of the members of the fund.<sup>15</sup> In preparing the statement,

<sup>13</sup> Where an actuarial investigation is made into each sub-fund, an RSE licensee is not required to complete an investigation into the fund as a whole. An RSE licensee is not required to undertake such investigations of each sub-fund at the same time.

<sup>14</sup> Where this Prudential Standard provides for APRA to request a copy of the report, or otherwise exercise a power or discretion, the power or discretion is to be exercised in writing.

<sup>15</sup> 'Accrued benefits of a member of the fund' has the meaning given in regulation 9.27 of the SIS Regulations (i.e. the benefits to which the member has an absolute or potential entitlement at the valuation date on account of the length of time the member has been a member of the fund at that date (including any amount that would be payable out of those benefits to the member's spouse or former spouse under a payment split)).

the RSE actuary must assess and comment on the appropriateness of the assumptions and valuation methods used to determine the accrued benefit liability;

- (d) a statement regarding the financial position of the fund that indicates whether it is to be treated as unsatisfactory, and whether, in the opinion of the RSE actuary, the shortfall limit should be reviewed. If the RSE actuary finds that the financial position is to be treated as unsatisfactory, the statement must contain the information required under paragraph 31(a);
  - (e) a statement indicating the value of the liabilities of the fund in respect of the minimum benefits of the members of the fund;
  - (f) if the fund has been used to meet obligations under the *Superannuation Guarantee Administration Act 1992*, a statement as to whether or not all necessary funding and solvency certificates were obtained during the period under investigation, and a statement as to whether or not the RSE actuary expects that an RSE actuary will be able to certify the solvency of the fund in any funding and solvency certificate required during the three-year period following the valuation date<sup>16</sup>;
  - (g) recommendations as to the level of, or the rate at which, or the range of rates within which, employer contributions are to be made during the three-year period immediately following the valuation date;
  - (h) if the fund is paying a defined benefit pension to at least one defined benefit member of the fund, a statement of the RSE actuary's opinion on whether, at the valuation date, there is a high degree of probability that the fund will be able to pay the pension as required under the fund's governing rules; and
  - (i) a statement regarding the occurrence of a prescribed event, if a pre-July 1988 funding credit has been granted under section 342 of the SIS Act or has been obtained by transfer under Part 12 of the SIS Regulations, and an event prescribed under section 342(4)(a) of the SIS Act and listed in regulation 12.10 of the SIS Regulations has occurred.
24. An RSE licensee of a public sector superannuation scheme that, under its rules, is not fully funded must ensure that an actuarial report of an initial or regular investigation contains, at a minimum:
- (a) the value of the assets of the fund at the valuation date, excluding any amount held to meet the ORFR;
  - (b) if the RSE actuary considers it appropriate, taking into account the proportion of the liabilities of the fund that are being funded, a statement recommending the level of, or the rate at which, or the range of rates

<sup>16</sup> For the purposes of this Prudential Standard, a reference to the 'solvency' of a defined benefit fund or defined benefit sub-fund is a reference to the minimum benefit index of the fund or sub-fund being certified as not less than one in accordance with Part 9 of the SIS Regulations.



within which, employer contributions to be made during the three-year period immediately following the valuation date. In preparing the statement, the RSE actuary must assess and comment on the appropriateness of the assumptions and valuation methods used to determine the accrued benefit liability;

- (c) a statement regarding the adequacy of the funding of the liabilities of the fund, having regard to any Commonwealth, State or Territory guarantee in respect of benefit payments and to any appropriations in respect of the fund; and
  - (d) a statement regarding the occurrence of a prescribed event, if a pre-July 1988 funding credit has been granted under section 342 of the SIS Act or has been obtained by transfer under Part 12 of the SIS Regulations, and an event prescribed under section 342(4)(a) of the Act and listed in regulation 12.10 of the SIS Regulations has occurred.
25. An RSE licensee of a new defined benefit fund must ensure that, if the fund has no accrued defined benefit liabilities, an actuarial report of an initial investigation contains:
- (a) the level of, or the rate at which, or the range of rates within which, employer contributions to be made during the three-year period immediately following the valuation date; and
  - (b) a statement as to whether or not the RSE actuary expects that an RSE actuary will be able to certify the solvency of the fund in any funding and solvency certificate required during the three-year period following the valuation date.

However, if the fund has accrued defined benefit liabilities, the report must contain the other matters set out in paragraph 23 or 24 (as applicable) that are relevant.

### **Report of the actuarial investigation – APRA direction**

26. If APRA directs an RSE licensee to undertake an investigation under paragraph 16, an RSE licensee must ensure that the actuarial report of the investigation contains the information set out by APRA in the direction. The RSE actuary appointed to carry out the investigation must provide the report simultaneously to APRA and the RSE licensee within the time set out in APRA’s direction.

### **Report of the actuarial investigation – interim investigation**

27. An RSE licensee must ensure that an actuarial report of an interim investigation under paragraph 17(a) contains, at a minimum, a reasonable estimate of the value of the assets of the fund (excluding any amount held to meet the ORFR), and whether that value is in breach of the fund’s shortfall limit. The next regular investigation may be brought forward and undertaken at the time, and in place of, a required interim investigation, in which case the report of the investigation must also include the matters required under paragraph 23 or 24 (as applicable).

28. An RSE licensee must obtain the actuarial report of an interim investigation, other than where the next regular investigation has been undertaken in place of the interim investigation, as soon as practicable but in any event by three months after the later of the valuation date and the date the RSE licensee determined that an interim actuarial investigation was required under paragraph 17.
29. An RSE licensee must provide a copy of the actuarial report of an interim investigation to APRA within 15 business days of receipt of the report.

**Unsatisfactory financial position – actuarial requirements**

30. Paragraph 31 applies where an RSE actuary:
  - (a) conducting an initial or regular investigation, makes a finding, in the actuarial report of the investigation, that:
    - (i) the fund is to be treated as being in an unsatisfactory financial position; or
    - (ii) the financial position of the fund is likely to become unsatisfactory; or
  - (b) conducting an interim investigation makes a finding, in the actuarial report of the investigation, that:
    - (i) the fund is in an unsatisfactory financial position; and
    - (ii) the fund is in breach of its shortfall limit

unless a restoration plan is already in place under paragraph 32 or the fund has been declared to be technically insolvent under regulation 9.16(1) of the SIS Regulations.

31. An RSE actuary must, in the situations identified in paragraph 30:
  - (a) prepare a statement that, at a minimum:
    - (i) describes the recommended actions to be taken to address the financial position; and
    - (ii) contains a recommendation, or sets a date by which a recommendation will be made, in respect of a contribution rate or level that, on reasonable expectations, will restore the fund to, and maintain it in, a satisfactory financial position, within a time period that is reasonable in the circumstances of the fund but which must not exceed three years from the valuation date, or, in the case of an interim investigation, the later of the valuation date and the date the RSE licensee determined that an interim investigation was required under paragraph 17; and
  - (b) provide the statement to the RSE licensee as soon as practicable and, in

any event, within 15 business days of making a finding, in the actuarial report of the investigation, that the financial position is to be treated as unsatisfactory, or is likely to become unsatisfactory or that the shortfall limit has been breached.

### **Unsatisfactory financial position – RSE licensee requirements**

32. When an RSE licensee receives a statement from the RSE actuary under paragraph 31, the RSE licensee must:
  - (a) provide a copy of the statement to APRA as soon as practicable but no later than 15 business days after receipt from the RSE actuary;
  - (b) consult with each employer-sponsor (as relevant) about the content and implementation of the recommendations of the RSE actuary, which may include an increase in the contribution rate or rates or change to the pattern or frequency of contribution payments;
  - (c) appoint an RSE actuary to be responsible for provision of advice to the RSE licensee in regard to actuarial management during the period in which the fund is in an unsatisfactory financial position, including advice as to whether, under the governing rules of the fund, there can be any reduction in the amounts of any benefit payments from the fund, or deferral of payment of any part of the benefit, during the period;
  - (d) set out a plan (restoration plan) to return the fund to a satisfactory financial position within the timeframe referred to in paragraph 31(a)(ii). The restoration plan may be developed in consultation with the employer-sponsor and the RSE actuary and must be approved by the Board within three months of receiving the statement from the RSE actuary;
  - (e) provide a copy of the restoration plan to APRA and the RSE actuary as soon as practicable but no later than 15 business days after the Board has approved the plan; and
  - (f) implement the restoration plan, subject to any changes required by APRA under paragraph 34 or 35.
  
33. At a minimum, a restoration plan must outline:
  - (a) the RSE licensee's view of the likelihood that contributions will be made as recommended, taking into account the obligations of each employer-sponsor under the governing rules of the fund, and the outcome of the RSE licensee's consultation with each employer-sponsor;
  - (b) any changes to the investment strategy of the fund determined by the RSE licensee to be necessary;
  - (c) the likely impact on benefit payments during the period of the plan; and

- (d) the process by which the RSE actuary and the Board will monitor and review progress towards restoration of the fund to a satisfactory financial position.
34. On receipt of a restoration plan, APRA may, at a minimum:
- (a) require the RSE licensee to report to APRA at specified intervals or on occurrence of certain events;
  - (b) require the RSE licensee to review the investment strategy of the fund; or
  - (c) require or permit a variation to the period of the plan.
35. During the period that a restoration plan is in effect, and if it appears that the funding position is not likely to be restored by the end of the period, APRA may, at a minimum:
- (a) permit a variation to the period in which the funding position is expected to be restored;
  - (b) require the RSE licensee to seek further actuarial advice; or
  - (c) vary any reporting requirements imposed under paragraph 34.

### **Self-insurance**

36. An RSE licensee that is permitted to self-insure insured benefits must<sup>17</sup>:
- (a) maintain reserves or have other arrangements approved by APRA in place to fund current and future self-insurance liabilities;
  - (b) attest annually that, in formulating and maintaining its policy in relation to self-insurance, the RSE licensee continues to act in the best interests of beneficiaries<sup>18</sup>; and
  - (c) develop a contingency plan for an orderly transfer of insurance assets and obligations, for activation in the event that the Board has decided that, by self-insuring benefits, the RSE licensee is no longer acting in the best interest of beneficiaries as a whole.
37. An RSE licensee that self-insures insured benefits must ensure the ongoing actuarial oversight of the reserves and self-insurance arrangement via, at a minimum, the regular investigation required under paragraph 14. The actuarial review must provide sufficient information about the maintenance of adequate insurance reserves or other arrangements for funding of self-insured benefits. The actuarial review must also provide sufficient information on the self-

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<sup>17</sup> Refer to *Prudential Standard SPS 250 Insurance in Superannuation* for additional requirements in respect to the offering of insured benefits.

<sup>18</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'.

insurance arrangements to demonstrate the extent and adequacy of the actuarial oversight undertaken on these arrangements.

### **RSE licensee to bear costs for reports**

38. An RSE licensee must bear the costs of obtaining an actuarial investigation and preparing and submitting reports, documents and other material required by this Prudential Standard.

### **Transitional arrangements**

39. If the valuation date is within the period commencing 1 July 2013 and ending on 30 June 2016, the RSE licensee must obtain the report required in paragraph 21 within nine months of the valuation date.
40. An RSE licensee must ensure that the first regular investigation on or after 1 July 2013 takes place no later than the time at which the next actuarial investigation carried out under regulation 9.29 or 9.29A (as applicable) of the SIS Regulations<sup>19</sup> would have been required to be carried out, and that subsequent regular investigations take place no later than provided for under paragraph 14.
41. The transitional provisions set out in Attachment B apply in relation to actions commenced prior to 1 July 2013 under Division 9.5 of the SIS Regulations, as specified in the Attachment.

### **Adjustments and exclusions**

42. APRA may, by notice in writing to an RSE licensee or RSE actuary, as relevant, adjust or exclude a specific prudential requirement in this Prudential Standard in relation to that RSE licensee or RSE actuary.<sup>20</sup>

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<sup>19</sup> As in force immediately prior to 1 July 2013 pursuant to Modification Declaration No. 23 made under Part 29 of the SIS Act

<sup>20</sup> Refer to section 34C(5) of the SIS Act.

**Attachment A**

1. This Prudential Standard does not apply to superannuation funds that are part of:
  - (a) the scheme established by the *Superannuation Act 1976*;
  - (b) the scheme established under the provisions of the *Superannuation Act 1990*; or
  - (c) the Military Superannuation Benefits Scheme.

**Attachment B****Transitional provisions**

| <b>Actions undertaken prior to 1 July 2013</b>  | <b>Treatment under SPS 160 on or after 1 July 2013</b>  |
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| <p>Where an investigation has commenced under regulation 9.29(1) or regulation 9.29A but has not been completed, or the actuarial report of the investigation has not been obtained, as at 1 July 2013:</p>   | <ol style="list-style-type: none"> <li>1. The RSE licensee must ensure that the investigation is completed, and obtain the actuarial report of the investigation, in accordance with Division 9.5 of the SIS Regulations, as in force immediately before 1 July 2013.</li> <li>2. If the RSE actuary finds that the financial position of the defined benefit fund is to be treated as unsatisfactory then, unless the fund is declared technically insolvent under regulation 9.16(1): <ol style="list-style-type: none"> <li>(a) the RSE actuary must take the actions set out in paragraph 31; and</li> <li>(b) the RSE licensee must take the action set out in paragraphs 31 to 35 inclusive (including any actions required by APRA under paragraph 34 or 35).</li> </ol> </li> </ol> |
| <p>Where an investigation commenced under regulation 9.29(1) or regulation 9.29A:</p> <ol style="list-style-type: none"> <li>(a) has been completed;</li> <li>(b) an actuarial report has been obtained under Division 9.5 of the SIS Regulations with a finding that the financial position of the defined benefit fund is to be treated as unsatisfactory; and</li> <li>(c) the RSE licensee has submitted a remedial action plan to APRA:</li> </ol> | <ol style="list-style-type: none"> <li>3. A remedial action plan submitted to APRA is taken to be a restoration plan under paragraph 32 to which paragraphs 34 and 35 apply.</li> </ol>   |

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| <p>Where an investigation commenced under regulation 9.29(1) or regulation 9.29A:</p> <p>(a) has been completed;</p> <p>(b) an actuarial report has been obtained under Division 9.5 of the SIS Regulations with a finding that the financial position of the defined benefit fund is to be treated as unsatisfactory; and</p> <p>(c) as at 1 July 2013 the RSE licensee has <b>not</b> submitted a remedial action plan to APRA:</p> | <p>4. The RSE licensee must put in place by 31 December 2013 a restoration plan under paragraph 32 unless the next investigation has already, or is due to be, commenced prior to that date.</p> |
| <p>Where a determination by APRA under regulation 9.29A(2)(b)(ii) is in force immediately before 1 July 2013:</p>   | <p>5. The determination continues as if made under paragraph 14(c) of this Prudential Standard.</p>  |
| <p>Where a determination by APRA under regulation 9.29A(2)(c)(ii) is in force immediately before 1 July 2013:</p>   | <p>6. The determination continues as if made under paragraph 14(d) of this Prudential Standard.</p>  |
| <p>Where an investigation has commenced under regulation 9.29(2), but not been completed, or an actuarial report has not been obtained, as at 1 July 2013:</p>  | <p>7. The RSE licensee must ensure that the investigation is completed, and paragraph 26 of this Prudential Standard is to apply as if investigation commenced under paragraph 16.</p>           |