

## **Superannuation (prudential standard) determination No. 1 of 2018**

### **EXPLANATORY STATEMENT**

**Prepared by the Australian Prudential Regulation Authority (APRA)**

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

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). Under subsection 34C(6) of the Act, APRA may, in writing, vary or revoke a prudential standard.

On 18 April 2018, APRA made Superannuation (prudential standard) determination No. 1 of 2018 (the instrument) which revokes *Prudential Standard SPS 310 Audit and Related Matters* made under Superannuation (prudential standard) determination No. 3 of 2013 and determines a new *Prudential Standard SPS 310 Audit and Related Matters* (SPS 310).

The instrument commences on 1 May 2018.

#### **1. Background**

APRA was granted power to make prudential standards applying to RSE licensees in 2012. In 2013, APRA introduced SPS 310 as part of a package of new prudential standards applying to RSE licensees which sought to strengthen prudential requirements applying to RSE licensees and support the amendments to the legislative framework arising from the Government's Stronger Super reforms.

Paragraph 20 of SPS 310 allows APRA to approve a form (the approved form) for the auditor's report, and requires the auditor's report to be in the approved form.

For the avoidance of doubt, where SPS 310 refers to an Act, Regulation or prudential standard, this is a reference to the document as it exists from time to time.

#### **2. Purpose and operation of the instrument**

Paragraph 19(b)(iv) of SPS 310 previously required auditors to provide, via the auditor's report, limited assurance addressing the RSE licensee's compliance with its operational risk financial requirement (ORFR) strategy.<sup>1</sup> This limited assurance requirement was intended to ensure adequate review of the ORFR target amount and tolerance limit, how the financial resources will be used, the replenishment plan, and review and monitoring processes in relation to the ORFR.

The audit profession has advised that, as there is no additional testing that the external auditor can effectively and efficiently undertake as part of the year-end audit, a limited assurance review requirement adds little value. The auditors noted that any other testing of this requirement would be considered to be an internal audit function

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<sup>1</sup> Refer to *Prudential Standard SPS 114 Operational Risk Financial Requirement*.

rather than a function of the RSE auditor. Auditors are already required to provide reasonable assurance on RSE licensee compliance with relevant Acts and regulations, including the requirement to maintain ORFR reserves at the required target amount, and the annual reporting forms that relate to these requirements. Auditors also provide limited assurance on the systems, procedures and internal controls designed to ensure that the RSE licensee has complied with all applicable prudential requirements.

APRA has therefore decided to remove both the limited assurance review requirement in paragraph 19(b)(iv) of SPS 310 and the equivalent provision in the approved form of the audit report (which must comply with SPS 310).

This amendment is likely to reduce compliance burden for superannuation auditors without affecting the prudential effectiveness of ORFR strategies. Minor consequential amendments have also been made to SPS 310 as a result of this change.

### **3. Consultation**

APRA consulted on the proposed amendments to SPS 310 during February 2018. Discussions with industry and accounting bodies supported the change. APRA received three written submissions, which all expressed support for the change.

### **4. Regulation Impact Statement**

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for this legislative instrument.

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

A Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is provided at Attachment A to this Explanatory Statement.

## **ATTACHMENT A**

### **Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instrument listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (HRPS Act).

#### **Overview of the Legislative Instrument**

The purpose of making this legislative instrument is to amend SPS 310, which sets out prudential requirements for the provision of independent advice in relation to the operations, financial position and risk controls of the business operations of an RSE licensee. SPS 310 outlines the roles and responsibilities of the RSE auditor of an RSE licensee, and it also outlines the obligations of an RSE licensee to make arrangements to enable an RSE auditor to fulfil his or her responsibilities. The amendments to SPS 310 are minor; their purpose is to remove a duplicative function by the removal of paragraph 19(b)(iv) and to include minor consequential amendments as a result of this change. It is expected that the amendments are likely to reduce compliance burden for superannuation auditors without affecting the prudential effectiveness of RSE licensee ORFR strategies.

#### **Human rights implications**

APRA has assessed the instrument against the international instruments listed in section 3 of the HRPS Act and determined that it does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.