Superannuation (prudential standard) determination No. 1 of 2024

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

*Superannuation Industry (Supervision) Act 1993* section 34C(6)

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 22 December 2023, APRA made Superannuation (prudential standard) determination No1 of 2024 (the Instrument) which revokes *Superannuation* *Prudential Standard* *SPS 450 Eligible Rollover Fund Transition*, which commences on the day after registration on the Federal Register of Legislation.

1. Background

Under Superannuation (prudential standard) determination No. 1 of 2013 dated 29 May 2013, APRA determined *Prudential Standard SPS 450 Eligible Rollover Fund Transition* (SPS 450). The determination was made pursuant to subsection 34C(1) of the Act.

SPS 450 sets out the required minimum processes for RSE licensees of an eligible rollover fund (ERF) to transfer members’ money to another fund in the event that their authorisation to operate as an ERF is cancelled. The requirements include identifying an appropriate transferee fund, having a transition plan and reporting progress on the transfer to APRA.

An ERF is a type of superannuation fund that was eligible to receive benefits rolled over from another fund without member consent: see section 243 of the Act. ERFs were intended to be a temporary repository for small account balances or for accounts belonging to persons that cannot continue to be a member of a fund. However, in its report, *Superannuation: Assessing Efficiency and Competitiveness* the Productivity Commission found that ERFs have not been successful in reuniting members with lost superannuation. The Productivity Commission therefore recommended the ATO be responsible for holding lost accounts and that APRA oversee the wind‑up of ERFs. In March 2021, Parliament passed the *Treasury Laws Amendment (Reuniting More Superannuation) Act 2021*, which required a trustee of an ERF to pay the balance of all accounts held for members to the Australian Tax Office (ATO) by 31 January 2022. The ATO is now responsible for reuniting these transferred amounts.

As all monies held in ERFs were transferred to the ATO by 31 January 2022, SPS 450 is now redundant.

1. Purpose and operation of the instrument

The purpose of the *Superannuation (prudential standard) determination No. 1 of 2024* is to revoke SPS 450 as it is no longer applicable to RSE licensees due to the aforementioned changes to legislation.

1. Consultation

As the revocation of SPS 450 will not have any impact on business, community organisations or individuals, consultation was not undertaken.

4. Regulation Impact Statement

The Office of Impact Analysis 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*

**Superannuation (prudential standard) determination No. 1 of 2024**

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 revoke *Prudential Standard SPS 450 Eligible Rollover Fund Transition* (SPS 450), which sets out the minimum processes for RSE licensees of an eligible rollover fund (ERF) to transfer members’ money to another fund in the event that their authorisation to operate as an ERF is cancelled.

In March 2021, Parliament passed the *Treasury Laws Amendment (Reuniting More Superannuation) Act 2021*, which required all members’ money in ERFs to be transferred to the Australian Tax Office (ATO) by 31 January 2022. The ATO is now responsible for returning those funds to members.

As all monies held in ERFs were transferred to the ATO by 31 January 2022, SPS 450 is now redundant and has been revoked.

**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.