Prudential Standard FPS 100

First Home Saver Accounts Providers (RSE licensees only)

Objectives and key requirements of this Prudential Standard

This Prudential Standard aims to ensure that Registrable Superannuation Entity (RSE) licensees that are First Home Saver Accounts (FHSA) providers have adequate systems, policies and procedures to adequately address the risks associated with their FHSA activities.

The key requirements of this Prudential Standard for an FHSA provider are that:

- all responsible officers are fit and proper;
- the risk management framework addresses the risks of providing FHSAs;
- adequate resources are available to undertake FHSA-related activities;
- outsourcing arrangements are appropriately managed; and
- the FHSA provider complies with investment principles that apply to FHSAs.
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Authority

1. This Prudential Standard is made under section 121 of the First Home Saver Accounts Act 2008 (FHSA Act).

Application

2. This Prudential Standard applies to all Registrable Superannuation Entity (RSE) licensees that hold an RSE licence of a class that enables them to be the trustee of a public offer entity, and are authorised by APRA as First Home Saver Accounts (FHSA) providers under the FHSA Act.

Scope

3. This Prudential Standard outlines the requirements applicable to FHSA providers in respect of fit and proper, risk management, adequacy of resources, outsourcing and investment.

Fit and Proper

4. For the purposes of this Prudential Standard, responsible officer, in relation to a body corporate, means:

   (a) a director of the body corporate; or
   (b) a secretary of the body corporate; or
   (c) an executive officer of the body corporate.

5. Responsible officers of the body corporate that is an FHSA provider must possess relevant attributes to enable it to properly discharge its duties and responsibilities in a prudent manner.

6. Relevant attributes include, but are not limited to:

   (a) character, competence, diligence, experience, honesty, integrity and judgement; and
   (b) educational and technical qualifications and knowledge and skills relevant to the duties and responsibilities of an FHSA provider.

7. An FHSA provider is required to comply with the conditions imposed on its RSE licence on an ongoing basis, including meeting the requirements of operating standards made under Part 3 of the Superannuation Industry (Supervision) Act 1993 (SIS Act) relating to fitness and propriety.
8. An FHSA provider must consider whether its existing fit and proper policy and procedures adequately cover the FHSA business. An FHSA provider may choose to either:

(a) review these existing policies and procedures to ensure that the FHSA business is adequately reflected; or

(b) develop separate policies and procedures covering the FHSA business.

9. To determine the fitness of a responsible officer, an FHSA provider must:

(a) assess the skills needed to operate the FHSA business (in light of the size and complexity of the FHSA trust); and

(b) assess each responsible officer, individual directors and the Board as a whole against these skills and attributes and address any gaps identified that may arise.

10. Existing responsible officers that satisfy the fit and proper requirements in respect of the superannuation business are likely to also satisfy this Standard in respect of the FHSA business. However, APRA expects that these responsible officers have knowledge and understanding of the FHSA legislation, including this Prudential Standard, the nature of FHSA s and the associated risks to the FHSA provider. APRA expects that the FHSA provider would ensure that its responsible officers are assessed against this Standard prior to applying for authorisation.

11. If an FHSA provider appoints additional responsible officers as a result of undertaking FHSA business, the FHSA provider must ensure that those officers are fit and proper prior to their appointment.

12. For the purposes of this part of this Prudential Standard, disqualified person has the meaning given in section 120 of the SIS Act.

13. An FHSA provider that is a body corporate does not meet the fit and proper requirements of this Standard if the body corporate is a disqualified person.

Risk management

14. An FHSA provider must have systems for identifying, assessing, mitigating and monitoring the risks that may affect its ability to meet its obligations to FHSA holders. These systems, together with the structures, processes, policies and roles supporting them, are referred to in this Prudential Standard as an FHSA provider’s risk management framework.

15. An FHSA provider must, at all times, have a risk management framework to manage the risks arising from its business. The framework must provide a reasonable assurance that the FHSA provider’s risks are being prudently and soundly managed, having regard to such factors as the size, business mix and complexity of the FHSA provider’s operations.
16. Under subsection 29H(1) of the SIS Act, an RSE licensee is required to maintain a risk management strategy in relation to its activities as an RSE licensee and in relation to all its other activities, or proposed activities, to the extent that they are relevant to its activities, or proposed activities, as an RSE licensee. This includes the RSE licensee’s activities as an FHSA provider.

17. Within 60 days of being authorised as an FHSA provider, the RSE licensee must review its risk management strategy with a view to ensuring that it adequately addresses the specific risks arising from its FHSA activities, including, but not limited to:

(a) specific fund or trust governance risks – additional risks may arise from the governing rules of the FHSA trust. For example, the governing rules may themselves expose the FHSA provider’s operations to additional risks, by giving the FHSA provider or others wide powers;

(b) operational risks – additional risks may arise where an FHSA provider engages in new business (such as the FHSA business) or significantly varies its existing operations (especially where this may not be consistent with core business strategies) or enters unfamiliar markets;

(c) investment risks – as an FHSA account generally has a shorter time horizon compared to superannuation, an FHSA provider must give separate consideration to what constitutes an appropriate investment strategy for the FHSA holder. Risks associated with this include the risk of failure to achieve investment objectives, failure to ensure the investment strategy remains appropriate as circumstances change, a lack of timeliness of remedial action in relation to market and counterparty risk and a concentration of assets;

(d) liquidity risk - this includes risks associated with insufficient cashflow to meet payment needs as well as investment settlements. This is particularly relevant for FHSAs given their nature.

18. In undertaking this review, an FHSA provider may choose to:

(a) modify its risk management strategy; or

(b) repeal its risk management strategy and replace it with a new risk management strategy.

If an FHSA provider chooses to modify or repeal and replace an existing risk management strategy, the new risk management strategy must continue to comply with section 29H of the SIS Act.

19. The FHSA provider must review its risk management strategy on at least an annual basis to ensure that it continues to adequately address the risks arising from its FHSA activities.

20. Even where the risks of the type identified in paragraph 17 have already been considered in the context of the RSE licensee’s superannuation risk
management framework, consideration must be given to these risks in the specific context of the FHSA business.

**Adequacy of resources of, or available to, FHSA providers**

21. An FHSA provider must, for all of the period during which the FHSA authorisation continues in force, identify and maintain adequate human, technical and financial resources to enable it to undertake its activities as an FHSA provider.

22. An FHSA provider has adequate human, technical or financial resources available to it if:

   (a) it has adequate resources of that kind in its own right; or

   (b) it has available to it adequate resources of that kind under an enforceable agreement or undertaking.

23. For the purposes of this Prudential Standard:

   **adequate financial resources** includes:

   (a) adequate resources to ensure the ongoing solvency of the FHSA provider; and

   (b) adequate liquidity to support the business operations of the FHSA provider.

   **adequate human resources** includes adequate levels of personnel with the necessary knowledge, skills and expertise to enable the FHSA provider to effectively carry out its operations.

   **adequate technical resources** includes:

   (a) adequate technical systems, including adequate IT hardware and software;

   (b) adequate systems and resources to ensure protection, security and privacy of confidential, personal and sensitive material;

   (c) adequate technical resources to handle transaction processing and other operations;

   (d) adequate technical resources to handle any significant changes or increases in business size or capacity that are planned or forecast or that are likely to occur;

   (e) adequate disaster recovery and business continuity plans; and

   (f) adequate records maintenance systems.
24. An FHSA provider must consider whether its existing policies and procedures relating to the adequacy of the resources to undertake superannuation business adequately cover the FHSA business. An FHSA provider may choose to either:

(a) review these existing policies and procedures to ensure that the FHSA business is adequately reflected; or

(b) develop separate policies and procedures covering this business.

25. An FHSA provider must have procedures in place evidenced by the formulation of appropriate budgets and cash flow forecasts to:

(a) ensure ongoing solvency and liquidity; and

(b) ensure that any business objectives are taken into consideration in planning its resource requirements so that solvency and liquidity of the FHSA provider can be maintained at all times.

26. The obligation is upon the FHSA provider to assess whether it has adequate financial resources available to it to support its FHSA business. In making that assessment, an FHSA provider must not use or in any way rely upon superannuation fund monies or assets or funds held in an administration reserve within a superannuation fund of which it is the RSE licensee, in order to comply with this Prudential Standard.

27. Where the human and/or technical resources relied on by the RSE licensee in its business operations as trustee of superannuation entities are used to support the RSE licensee’s business operations as an FHSA provider, the costs of using those resources must be apportioned between the relevant superannuation entity and the FHSA trust. APRA expects the FHSA provider to have policies and procedures in place to comply with this requirement.

28. An FHSA provider must ensure it has adequate levels of insurance against liabilities incurred as a result of a breach of its professional duty as trustee of the FHSA trust and business insurance in respect of its FHSA business. ‘Adequate levels of insurance’ means levels of insurance that are prudent and reasonable in all circumstances, taking into account the assets (if any) of the FHSA provider, the assets of the FHSA trust for which it is trustee, and all circumstances of the FHSA provider and its business or undertakings that are reasonably relevant to the risk for which the insurance concerned provides indemnity.

29. An FHSA provider must review and amend, as appropriate, its existing insurance policy to ensure it is adequate to cover the FHSA business. If the existing insurance policy is inadequate for this purpose, the FHSA provider must enter into a new policy of insurance that is adequate.

**Outsourcing arrangements**

30. For the purposes of this Prudential Standard:
**material business activity** means a business activity of the FHSA provider that a disruption to, or the poor performance of, has the potential to:

(a) affect the interests of FHSA holders; or  
(b) have a significant impact on the business operations, reputation, rate of return, profitability or net assets of either the FHSA provider or the FHSA trust.

**material outsourcing agreement** means an agreement or arrangement entered into by the FHSA provider with a service provider to perform a material business activity.

**service provider** does not include an employee of the body corporate acting in the capacity of an employee of the body corporate, or an officer of the body corporate acting in the capacity of an officer of the body corporate.

31. All outsourcing arrangements involving material business activities entered into by an FHSA provider must be subject to appropriate due diligence, approval and on-going monitoring. All risks arising from outsourcing material business activities must be appropriately managed to ensure that the FHSA provider is able to meet both its financial and service obligations to its account holders.

32. Whilst the materiality of a business activity depends on the scale and scope of the FHSA trust, the administration, investment management and custody of assets - being essential components of the operation of the FHSA trust - are all material business activities for the purposes of this Prudential Standard.

33. An FHSA provider must:

(a) have a policy relating to outsourcing of material business activities;  
(b) have sufficient monitoring processes in place to manage the outsourcing of material business activities; and  
(c) for all outsourcing of material business activities with third parties, have a legally binding agreement in place, that complies with the requirements of paragraphs 35 to 39 of this Prudential Standard.

34. An FHSA provider must consider whether its existing policies and procedures relating to outsourcing adequately cover the FHSA business. An FHSA provider may choose to either:

(a) review these existing policies and procedures to ensure that the FHSA business is adequately reflected; or  
(b) develop separate policies and procedures covering the FHSA business.

35. A material outsourcing agreement must:

(a) be in writing;  
(b) state the commencement and end date of the agreement;
(c) contain default arrangements and termination provisions;
(d) provide for dispute resolution;
(e) contain liability and indemnity provisions;
(f) provide for confidentiality, privacy and security of information;
(g) contain a pricing, fee and payments structure in relation to the performance of the material business activity;
(h) contain audit, monitoring and assessment procedures in relation to the performance of the material business activity; and
(i) provide for business continuity planning, including transfer protocols relating to the handover of functions from the service provider to either a successor service provider or the FHSA provider on the cessation of the material outsourcing agreement.

36. A material outsourcing agreement must provide that, upon the written request of the FHSA provider or APRA, the service provider will:

(a) within the time and at a place specified in the request, that is reasonable in the circumstances, provide the FHSA provider or APRA with any documents or information in the possession of the service provider relating to:
   (i) the material outsourcing agreement; or
   (ii) the material business activity performed under the agreement;

(b) at a time that is reasonable in the circumstances, allow the FHSA provider or APRA to:
   (i) conduct on-site visits to the service provider’s premises; and
   (ii) access any documents or information relating to the FHSA trust held at those premises; and

(c) within the time specified in the request, that is reasonable in the circumstances, arrange an audit of its business activities under the material outsourcing agreement conducted by an independent auditor.

37. For the purposes of this Prudential Standard, an FHSA provider may either amend its existing superannuation entity material outsourcing agreements to include the FHSA trust or develop separate material outsourcing agreements in relation to the FHSA trust.

38. A material outsourcing agreement must require that any agreement or arrangement that a service provider enters into with another service provider for the performance of a material business activity, under a material outsourcing
agreement, complies with paragraphs 35 and 36 of this Prudential Standard, as if the agreement or arrangement is itself a material outsourcing agreement.

39. An FHSA provider or a service provider must not charge APRA a fee for the provision of, or provision of access to, any documents or information, the provision of access to the service provider’s premises or the conduct of an independent audit conducted in accordance with paragraph 36.

40. An FHSA provider must, if requested to do so by APRA, take all reasonable steps to enforce the material outsourcing agreement against a service provider in relation to:

(a) any matter mentioned in paragraph 36 (a), (b) or (c); and

(b) the matter mentioned in paragraph 38.

Note Part 7 of the Act also contains standards for trustees, custodians and investment managers of superannuation entities to the extent that Part 15 of the SIS Act applies to the FHSA Act.

41. Direct investment by the FHSA provider, including but not limited to purchase of a property and purchase of equities, is not subject to the outsourcing requirements of this Prudential Standard. Similarly, direct investment in a pooled superannuation trust (PST), a managed investment scheme or investor directed portfolio service (IDPS) is not subject to the outsourcing requirements of this Prudential Standard. The terms and conditions of such investments are governed by the trust deed of the PST or managed investment scheme and the terms of the IDPS contract.

Investments

42. An FHSA provider must comply with the investment provisions prescribed by section 120 of the FHSA Act.

43. An FHSA provider must set an investment strategy that properly reflects the nature and purpose of FHSA accounts. An investment strategy is a plan for making, holding and realising trust assets consistent with the investment objectives adopted for the FHSA trust.

44. Where the FHSA provider does not offer investment choice, the investment strategy must be formulated for the FHSA trust in its entirety. Where investment choice is offered, the FHSA provider must instead formulate an investment strategy for each investment choice available to account holders.

45. An investment strategy is required regardless of whether the FHSA provider invests directly, or through one or more investment managers, or where the FHSA trust assets are invested in the statutory funds of a life insurance company.

46. For the purposes of satisfying subsection 120(4) the following matters must be taken into account in setting the strategy:
(a) the likely risk aversion, including but not limited to the loss of capital, of a person saving for the purchase of a home;

(b) that the account balance may be withdrawn after four years (and in certain circumstances in less than four years) and at very short notice after becoming eligible to draw down;

(c) that the purpose of the account is to encourage savings for the purchase of a first home;

(d) that account balances must be able to be transferred within 30 days; and

(e) the use of reserves, their purpose and how they are managed.

47. For each investment strategy, the FHSA provider must set, and document, an investment objective. The investment objective must describe the desired investment outcome for the FHSA trust, or for the particular investment choice.