



# PRUDENTIAL PRACTICE GUIDE

## Draft SPG 250 – Insurance in Superannuation

January 2021 ~~July 2013~~

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## About this guide

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Prudential practice guides (PPGs) provide guidance on APRA's view of sound practice in particular areas. PPGs frequently discuss legal requirements from legislation, regulations, or APRA's prudential standards, but do not themselves create enforceable requirements.

*Prudential Standard SPS 250 Insurance in Superannuation* (SPS 250) sets out APRA's requirements in relation to making insured benefits available to beneficiaries. *Prudential Standard SPS 160 Defined Benefit Matters* (SPS 160) sets out APRA's requirements in relation to self-insurance. This PPG aims to assist an RSE licensee in complying with those requirements and, more generally, to outline prudent practices in relation to insurance in superannuation.

For the purposes of this guide, and consistent with the application of SPS 250 and SPS 160, 'RSE licensee' and 'registrable superannuation entity (RSE)' have the meaning given in the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

Subject to the requirements of SPS 250 and SPS 160, an RSE licensee has the flexibility to structure its business operations in the way most suited to achieving its business objectives. Not all practices outlined in this PPG will be relevant for every RSE licensee and some aspects may vary depending upon the size, business mix and complexity of the RSE licensee's business operations.

# Introduction

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1. SPS 250 sets requirements with respect to making insured benefits available to beneficiaries. This PPG provides guidance for an RSE licensee with respect to the requirements of SPS 250, regardless of how the RSE licensee chooses to undertake this activity.

## Insurance management framework

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A robust insurance management framework will set out a clear insurance strategy for making insured benefits available to beneficiaries and will promote effective management and oversight of risks related to insurance.

2. Under the SIS Act, an RSE licensee is generally required to provide death benefits and permanent incapacity benefits to all MySuper beneficiaries on an opt out basis.<sup>1</sup> An RSE licensee can also make certain types of insured benefits available to choice members.<sup>2</sup>
3. An RSE licensee is ultimately responsible for insured benefits that are made available to beneficiaries within its business operations.
4. For the purposes of this PPG and consistent with SPS 250, 'insured benefits' means benefits that are made available to beneficiaries via insurance acquired by the RSE licensee from an insurer or insurance offered under an RSE licensee's self-insurance arrangements.
5. An RSE licensee's insurance management framework encompasses all aspects of the RSE licensee's business operations that affect insured benefits made available to beneficiaries. APRA expects an RSE licensee to develop its insurance management framework in a way that pays particular attention to factors that could adversely affect these insured benefits.
6. It is common for parties other than the RSE licensee to have roles and responsibilities in relation to making insured benefits available to beneficiaries, including with respect to managing the risks relating to insurance. These parties can include, but are not limited to, insurer(s) and administrator(s). APRA expects an RSE licensee would ensure that it understands the roles and responsibilities of all such persons and documents these appropriately as part of the insurance management framework.
7. An insurance management framework supports the identification and monitoring of risks relating to insured benefits and encompasses all aspects relating to the management of those benefits. An RSE licensee's policies relating to the management of insured benefits would normally deal with risks including, but not limited to:

<sup>1</sup> Refer to [sections](#) 68AA of the SIS Act.

<sup>2</sup> Refer to [regulation](#) 4.07D of the *Superannuation Industry (Supervision) Regulations 1994*.

- a. the administration of insured benefits, regardless of whether it is undertaken by the RSE licensee or an external party. This may include risks arising from underwriting terms and their practical application, the management of eligibility for cover and granting of cover, claims management and assessments of eligibility to claim and risks associated with communication with beneficiaries including where the communication ~~with members~~ does not accurately reflect the terms of the insurance policy;
  - b. the roles and responsibilities of the RSE licensee where it makes insured benefits available to beneficiaries by way of individually underwritten insurance arrangements;
  - c. holding or having access to adequate data to assess the performance of an arrangement that makes insured benefits available and to support ongoing management of this arrangement;
  - d. risks related to the due diligence and selection of an insurer; and
  - e. risks relating to the appropriate transfer of insurance risk to and between insurers including the possibility of self-insurance.
8. SPS 250 requires an RSE licensee to review its insurance management framework every three years to ensure that it remains appropriate and effective with respect to its business operations. It would also be prudent practice for an RSE licensee to undertake an objective annual review of the insurance management framework. A prudent RSE licensee would normally conduct this review in conjunction with the regular review of its risk management framework, as required under *Prudential Standard SPS 220 Risk Management*.
9. At a minimum, in addition to consideration of each component required to be included in the insurance management framework, APRA expects that the periodic review of the insurance management framework would consider whether the risks relating to making insured benefits available outlined in paragraph 7 are adequately addressed by the risk management framework.
10. An RSE licensee's approach to the management of insured benefits is not expected to duplicate the policies and practices of an insurer providing insured benefits. An RSE licensee would instead be expected to have an understanding of the underwriting, claims and premium deduction and remittance processes of the insurer and other parties involved in the management of insured benefits and to have considered how the insurer's approach and processes align with the RSE licensee's expectations and understanding.
11. An RSE licensee's insurance management framework would normally include specific consideration of how the RSE licensee will ensure compliance with the requirements in the *Insurance Contracts Act 1984*, specifically obligations to act in utmost good faith in its relationships with insurers.<sup>3</sup>

<sup>3</sup> Refer to section 13 of the *Insurance Contracts Act 1984*.

## Communication to beneficiaries

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44.12. APRA expects that an RSE licensee would have in place a process that supports timely communication to beneficiaries about the insured benefits to which they are entitled. The communications may relate to both standard and non-standard insurance conditions such as restrictions, loadings and also the cessation and reinstatement of cover.

13. APRA considers the process of enabling members to easily opt-out of insurance is critical for ensuring that members are able to give effect to their decisions regarding their individual insurance needs. Under SPS 250, an RSE licensee is required to have a process in place to enable beneficiaries to easily opt-out of insurance cover and for this to be communicated to beneficiaries. APRA expects an RSE licensee to proactively assist members to cancel their insurance where they have decided to do so. Effective and straightforward processes for facilitating member opt-out could take a number of forms but will ultimately depend on an RSE licensee's membership base and particular circumstances. APRA considers that processes for opting out of insurance would ordinarily include, where possible:

- a. website information on how a member can cancel their insurance cover, including relevant links;
- b. a direct, personalised link to a pre-populated opt-out form that is easily accessible and the facility for pre-populated hard copy forms to be sent to members;
- c. the ability for members to use electronic communication methods such as email to make an election to cancel their insurance;
- d. consistency in the communication processes for opting out of insurance. For example, if a member is provided with information on opting out of insurance by email, better practice would ensure the member is also able to use email or any other method for acting on that information; and
- e. clearly identifiable naming conventions for any forms that relate to a member's ability to opt-out of insurance.

14. It would be sound practice for an RSE licensee's communication to members relating to opting out of insurance to clearly set out the benefits and the cost to members of the insurance cover provided. Effective communication would ordinarily include matters such as the advantages of default cover, the impact to the member of opting out of cover, the likely processes to obtain cover in the future, any restrictions on claiming benefits, the implications and potential drawbacks in having multiple insurance policies, and the costs associated with insurance including the erosion of member benefits and the resulting impact on members' retirement income.

~~12.1. An RSE licensee's insurance management framework would normally include specific consideration of how the RSE licensee will ensure compliance with the~~

requirements in the *Insurance Contracts Act 1984*, specifically obligations to act in utmost good faith in its relationships with insurers.<sup>4</sup>

## Data management

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~~13.15.~~ SPS 250 requires an RSE licensee to maintain or have access to records of at least five years' duration about the claims experience for each RSE within its business operations. This information is important to support the tender process and orderly transition where an RSE licensee enters into an agreement for an insurer to provide the insured benefits. Accurate claims records also support the identification, monitoring and management of the risks associated with making insured benefits available to beneficiaries.

~~14.16.~~ Whilst an RSE licensee may, as part of its contractual arrangements with an insurer or administrator, allocate specific responsibility for the maintenance of claims data to that other party, the RSE licensee is ultimately responsible for complying with the requirements in SPS 250.

~~15.17.~~ A prudent RSE licensee would maintain accurate and up-to-date records of resolved claims and ongoing claims including, but not limited to, cClaim experience information related to the following that an RSE licensee would ordinarily maintain includes, but is not limited to:

- a. event type i.e. the reason behind the claim being lodged;
- b. the date of the event giving rise to the claim;
- c. the date on which the claim was notified by the member to the RSE licensee, and by the RSE licensee to the insurer;
- d. the details of insurance cover disclosed to the member on taking up the cover;
- e. the date that the claim was admitted for each death and permanent incapacity and terminal illness claim and the dates that payments started and ceased for each temporary incapacity, or the date the claim was denied;
- f. disputed claims and the reason for the dispute;
- g. the date(s) the claim was paid by the insurer to the RSE licensee, and by the RSE licensee to the member; and
- h. the amount of the claim.

~~16.18.~~ Whilst SPS 250 makes specific reference to data of five years' duration, APRA considers that a prudent RSE licensee would maintain information, over time, that covers as long a period as possible. APRA expects an RSE licensee would ordinarily consider the historical run-off pattern of claims when determining the longevity of records maintained.

<sup>4</sup>Refer to sections 13 of the *Insurance Contracts Act 1984*.



APRA considers it good practice for an RSE licensee to continue to maintain insurance data beyond the expiry of insurance risk, and until the last claim payment is made.

~~17.~~19. APRA expects that an RSE licensee would maintain records of sufficient detail, currency and accuracy to support both the management and assessment of the provision of insured benefits and the associated risks. This information would usually include complaints data, take-up rates of opt-in and opt-out arrangements and requests for additional cover and their outcome. Where this information is maintained by an insurer or outsourced service provider (such as an administrator) on behalf of the RSE licensee, APRA expects that the RSE licensee would receive periodic reporting on and/or have access to relevant insurance information.

~~18.~~20. APRA expects that an RSE licensee would have in place mechanisms for the regular review of the processes of each outsourced service provider that plays a role in making insured benefits available and of the processes of the insurer. This review can support the accuracy of premiums charged, underwriting processes and claims information over time.

~~19.~~21. APRA also considers it good practice for an RSE licensee to maintain a history of the design of insured benefits and membership in each type of insurance made available ~~as they have evolved over time~~ to beneficiaries. Much of this information would be retained by maintaining insurance policy documents and recording any amendments to these documents over time. This would ordinarily include:

- a. changes in the type and level of insured benefits made available, as well as pricing and associated advice to beneficiaries regarding changes to their cover;
- b. significant groups of beneficiaries joining or leaving the RSE, such as those employed by a particular employer that enters or leaves the RSE, or successor fund transfers;
- c. details in relation to cohorts or classes of beneficiaries that are required to be treated in a particular way under the SIS Act, for example, where the member's account is inactive, the account balance is less than \$6000, the member is under the age of 25 years, or where the dangerous occupation exception applies, or where the RSE licensee determines specific treatment(s) to be applied to a cohort or class of beneficiaries;<sup>5</sup>
- ~~e.d.~~ changes to insurance processes, e.g. changes to administration systems, changes in marketing methods, bulk adjustments, special offers to alter the terms of insurance or changes that result in claims being reported earlier or later; and
- ~~d.e.~~ changes in automatic acceptance limits.

~~20.~~ Where an external party other than the insurer is responsible for the day-to-day maintenance of claims information, good practice would be for an RSE licensee to have in place arrangements for accessing this information in a timely manner.

<sup>5</sup> Refer to sections 68AA, 68AAA, 68AAB, 68AAC and 68AAF of the SIS Act.

~~21.22. In addition to information about resolved claims, APRA considers that a prudent RSE licensee would also maintain accurate and up to date records of claims that are continuing to be paid or are in dispute.~~

## **Member outcomes and the insurance covenants**

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- ~~23. SPS 250 requires an RSE licensee to maintain records of sufficient detail to comply with its obligations under the reporting framework. Given the additional requirements for member outcomes assessments set out in the SIS Act and *Prudential Standard SPS 515 Strategic Planning and Member Outcomes*, a diligent RSE licensee would also ensure it collects and maintains extensive data on members' insured benefits so that it is able to make effective assessments of member outcomes.<sup>6</sup>~~
- ~~24. APRA considers that data required for member outcomes assessments may include, but is not limited to, data on cohort analysis, including actual and target premiums and claims payment ratios (on both a cash and accrual basis where possible) for different cohorts (including those receiving default and non-default insurance) and different types of insurance, claims handling procedures and processing times, claims withdrawal rates, claims decline rates, fees and costs including insurance fees, data on disputes lodged and resolved, and appropriate benchmarks and comparison factors for MySuper products and choice products.~~
- ~~25. An RSE licensee is also required to satisfy the insurance covenants in section 52(7) of the SIS Act. APRA considers it would be prudent for an RSE licensee to perform a rigorous analysis to ensure that the kind and/or level of insurance offered or acquired does not inappropriately erode the retirement income of the beneficiaries. This obligation assumes particular importance where the beneficiaries are default members who are typically disengaged with their superannuation and consequently may be unaware of the adverse impacts of erosion on their retirement income. Better practice would include consideration of default members who may be adversely affected where their circumstances may change over time, for example, where a change in employer or employment status may result in a loss of cost subsidisation by the member's employer.~~
- ~~26. In conducting annual outcomes assessments, APRA expects an RSE licensee to evaluate all the elements of the insurance covenants and to be able to demonstrate how each of the elements impact on the overall outcomes achieved for members. For example, sound practice would include consideration of claims experience, the cost of the insurance cover offered, measured against the expected needs of the relevant cohort of members, including their demographic composition and risk profile, the likelihood of these members needing to claim, and the comparative impact on these members of having a different level and/or type of insurance cover.~~

<sup>6</sup> Requirements for annual member outcomes assessments as set out in sections 52(9) – (11) of the SIS Act.

# Insurance strategy

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An insurance strategy is a key component of the insurance management framework and is required to address all the matters set out in the SIS Act including the type and level of insurance that will be offered to beneficiaries. Setting a sound insurance strategy involves a rigorous analysis of membership cohorts to enable an RSE licensee to assess the insurance needs and the effect of insurance costs on the retirement income of beneficiaries. An RSE licensee is required to consider the impact of the cost of insurance in making its annual member outcomes assessments.

22-27. An RSE licensee's insurance strategy, as required by SPS 250, is a key component of the insurance management framework. In addition to the requirements contained in section- 52(7) of the SIS Act, an RSE licensee's insurance strategy would ordinarily include consideration of:

- a. which beneficiaries are to be provided with insured benefits and at what level, including when insured benefits of a particular type are not appropriate to make available to some groups of members or beneficiaries (e.g. when the best interests of casual employees and beneficiaries close to retirement age may not be served by these types of benefits);
- b. relevant factors in relation to the appointment of an insurer to make insured benefits available to beneficiaries and how the risks relating to this selection are to be managed;
- c. when insurance cover is to commence and the circumstances under which member's eligibility for insurance cover would cease;
- d. the level of underwriting needed for beneficiaries to be provided insured benefits;
- e. administrative capabilities, including ease of underwriting and claims processes; and
- f. how, where appropriate, existing insured benefits provided to beneficiaries are to be preserved (e.g. in the situation of a successor fund transfer).

23-28. Under the SIS Act, an RSE licensee's ~~APRA expects that~~ strategic decisions relating to making insured benefits available to beneficiaries would be made with reference to the collective best interests of beneficiaries of the RSE as a whole and the requirement to promote as well as the financial interests of ~~beneficiaries~~ members with an interest in a MySuper product or choice product(s) offered by the RSE licensee.<sup>7</sup>

24-29. An RSE licensee may decide it is appropriate to enter into arrangements with more than one insurer for making insured benefits available, for example, to address

<sup>7</sup> Refer to section 52(9) of the SIS Act.

complexity within its business operations or particular characteristics of ~~parts of cohorts~~ within its membership.

~~25-30.~~ Where an RSE licensee uses more than one insurer for a given RSE or ~~group cohort~~ of members within an RSE (including sub-funds), APRA considers it good practice for the RSE licensee to address the risks involved in this arrangement within its insurance strategy. This would consider risks related to the maintenance and communication of complete and accurate member data where this data may be provided to the RSE licensee, or another party involved in making insured benefits available, by multiple parties.

~~26-31.~~ In setting its insurance strategy, a prudent RSE licensee would carefully consider the ~~insurer and the type of insurance offering that will be provided~~The use of a general insurer or Lloyd's underwriter may generate specific risks given the nature of, and differences between, general insurance and life insurance policies. These include, but are not limited to, the risk of the policy being cancelled, or significant changes to the terms and conditions being made, at the end of the contract. Policies offered by general insurers or Lloyd's underwriters are not provided on a 'guaranteed renewable' basis, whereas life insurance policies may be guaranteed renewable.<sup>8</sup> If a policy is not guaranteed renewable there is a risk of the policy being cancelled, or significant changes to the terms and conditions being made, at the end of the contract. It would be better practice for an RSE licensee to carefully considerAPRA expects that the benefits of policies that are guaranteed renewable, and the risks ~~where they involved in making benefits available with policies that are not guaranteed renewable, would be closely considered by an RSE licensee and, where that considers, or enters into an arrangement that is not guaranteed renewable is selected, with, a general insurer or Lloyd's underwriter and~~ that these specific risks are reflected in the insurance strategy and addressed in the insurance management framework.

~~32.~~ An RSE licensee ~~would be~~ expected to consider the membership profile of each cohort or class of beneficiaries within each RSE (or sub-fund) within its business operations (~~for group of beneficiaries or sub-funds within an RSE~~) to which insurance is being made available when determining its insurance strategy in relation to that RSE or group cohort or class of beneficiaries.

~~27-33.~~ It would be sound practice to ensure that information maintained on the membership profile would be up to date and would identify ~~This would include whether there are any~~ substantial differences in profile between different ~~groups cohorts~~ of beneficiaries within a single RSE, e.g. the size of the pool insured, and age, gender, ~~and~~ occupational profile and work status (including part-time, casual and unemployed workers) of the membership.

~~28-34.~~ As a material fluctuation in the number of beneficiaries insured can affect the insurance coverage and the cost of that coverage, an RSE licensee would ordinarily consider in its insurance strategy how it expects to monitor the overall number and profile of beneficiaries covered under an insurance policy. This would ordinarily include

<sup>8</sup> A guaranteed renewable policy is an insurance policy feature that ensures that an insurer is obligated to continue coverage as long as premiums are paid on the policy. While re-insurability is guaranteed, premiums can rise depending on factors that may increase the risk of future claims.

consideration of membership volatility given the insurance profile and risk factors of the insured beneficiaries and/or the circumstances of employer sponsors. This is particularly important in the context of insured benefits made available on an opt-out basis.

## Selection of insurer

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Critical to the selection process is that it is done on an arm's length basis and in the best interests of the beneficiaries. The Board is responsible for ensuring that an objective selection process is conducted and a due diligence review once an insurer has been selected. Given the risks associated with conflicts of interest, an independent certification is required for insurance arrangements with connected entities and for arrangements that provide a priority or privilege to an insurer.

29-35. SPS 250 sets out an RSE licensee's minimum obligations that apply when deciding whether to enter into a new agreement with an insurer. APRA considers a prudent RSE licensee would also consider these factors when determining whether to renew an existing relationship with an insurer.

30-36. APRA expects that an RSE licensee would, when undertaking a selection or tender process, first consider its criteria for selecting insurers or inviting insurers to tender, based on the RSE licensee's insurance strategy.

31-37. Where a tender is conducted, APRA considers it good practice for information that is provided to prospective insurers as part of a selection or tender process to be reviewed and approved by the RSE licensee regardless of who provides the information. To support the requirement in SPS 250 that the selection process be conducted at arm's length, APRA considers it sound practice for the RSE licensee to provide the same information to all prospective insurers at the same time.

32-38. It is important that an RSE licensee conducts its selection processes in a manner that allows sufficient time for prospective insurers to properly assess the risks of providing the requested insurance.

33-39. When selecting an insurer, a prudent APRA expects that an RSE licensee would give consideration to a number of factors to, when selecting an insurer, would consider the cost of insurance as one of many considerations that inform the selection process. TheseOther important factors include, but are not limited to:

- a. whether the insured benefits under consideration align with the best interests of beneficiaries more broadly;
- b. the appropriateness of the terms and conditions of the insurance cover provided to any given group of beneficiaries, including takeover terms;
- c. the cost of insurance cover, including the stability of these costs over a period of time, and how these costs may be expected to impact the retirement income of beneficiaries;

~~e-d.~~ the services offered by the insurer under the agreements accompanying the insurance policy, including claims and data management, underwriting and reporting provisions; and

~~d-e.~~ the insurer's long term viability or sustainability.

~~34-40.~~ APRA considers it good practice for an RSE licensee to consider the sustainability of both the insured benefits to be provided by prospective insurers and the insurer itself. This includes consideration of matters such as:

- a. access to capital;
- b. relevant resources, experience and practice in claims management;
- c. any additional risks that may be involved in increasing benefits made available to beneficiaries (e.g. increasing automatic acceptance levels and/or life-style increase options);
- d. tailored service models;
- e. the rate guarantee period; and
- f. the terms of any extension or new cover provided after termination of a policy and how this would be managed in relation to notices required to beneficiaries advising them of a change in insurance terms.

~~35-41.~~ SPS 250 requires an RSE licensee to give due consideration to claims philosophy when selecting an insurer. In APRA's view, an insurer's claim philosophy ~~is a reflection of~~ ~~reflects~~ the insurer's ability and willingness to assess and pay legitimate claims expeditiously. Claims philosophy includes measurable factors such as the insurer's history of ~~the~~ rate of rejection of claims formally made, the insurer's record of claims decisions being overturned by the [Australian Financial Complaints Authority \(and formerly by the Superannuation Complaints Tribunal\)](#), the reasonableness of claims underwriting requirements and the training and skills of claims assessors. Other information that might be relevant includes details of specific examples of claims paid and claims denied. Claims philosophy also encompasses those processes of the insurer which support procedural fairness for claimants. Examples of how procedural fairness might be supported by an insurer's processes include, but are not limited to:

- a. the insurer having formal service levels for processing claims and reporting against those service levels;
- b. the insurer having in place a process to ensure that all relevant information has been provided to it and a process that supports the appropriate review of previous decisions when new information comes to light;
- c. the insurer's process for paying interest on claims; and
- d. the insurer's awareness of case law that might affect its decision making processes.

~~36-42.~~ It would be good practice for an RSE licensee to consider both the appropriateness of continuation options as well as their management to ensure that these options are in the best interest of beneficiaries. This includes ensuring that the continuation options are appropriate to the membership group cohort and the cost and terms of these options are fair and clearly communicated to relevant beneficiaries.

~~37-43.~~ A prudent ~~APRA expects an~~ RSE licensee would have in place a formal process for appointing an insurer, including appropriate delegations for appointing the insurer. The Board may choose to delegate elements of the tender and/or selection process, ~~such as the determination of the selection criteria,~~ but it would be sound practice for the Board, or a relevant Board committee, ~~is expected to~~ would ordinarily review and approve the selection criteria to ensure that appropriate consideration is given to the factors expected to be considered by the RSE licensee when selecting an insurer.

## Insurance arrangements requiring independent certification

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44. SPS 250 requires an RSE licensee to satisfy itself, and demonstrate to APRA, that an arrangement with an insurer is negotiated on an arm's length basis and is in the best interests of the beneficiaries.

45. SPS 250 sets out an RSE licensee's obligations to obtain an independent certification that states it is reasonable for the RSE licensee to form the view that the insurance arrangement is in the best interests of the beneficiaries. APRA considers that the key requirement is for an RSE licensee to ensure that the insurance arrangement is in the best interests of the beneficiaries, and the requirement to obtain an independent certification provides independent support for this view. The obligation to obtain an independent certification applies to the following types of insurance arrangements:

- a. an insurance arrangement with an insurer that is a connected entity of the RSE licensee (a related party insurer); and
- b. an insurance arrangement with an insurer that is not a connected entity of the RSE licensee (a non-related party insurer), which provides the insurer with a priority or privilege, as set out in the terms of the insurance arrangement.

46. APRA expects the person making the independent certification to assess whether an RSE licensee's decision to enter into, renew, materially alter or keep an insurance arrangement in place for more than three years, is reasonably justifiable as being in the best interests of the beneficiaries. That assessment should have regard to the totality of the insurance arrangement and all relevant circumstances at the time of making the assessment. The certification must be obtained ahead of the RSE licensee's decision to enter, renew or materially alter an insurance arrangement.

47. Paragraph 17 of SPS 250 sets out the definition of an insurance arrangement for the purposes of the Prudential Standard. In addition to the primary documentation of the arrangement (generally an insurance policy document), an insurance arrangement also includes any agreements with any other party related to making available insured benefits. Examples of other agreements that may fall within this broad definition of insurance arrangement include, but are not limited to, administration agreements or

other agreements related to the provision of insurance, such as the selection process for insurers and premium setting arrangements. Therefore, any additional agreements related to making available insured benefits would be considered as part of the independent certification process.

48. A person that provides an independent certification of an insurance arrangement is required to be independent of the RSE licensee and the insurer, and is expected to have suitable expertise, experience and knowledge, to effectively assess and evaluate the terms and conditions of an insurance arrangement. APRA considers that independent certifications will likely be provided by qualified and experienced persons associated with audit firms, actuarial firms, legal firms or other firms recognised in the superannuation and insurance industries, and expects that appropriate external sources of expertise will be sought where relevant.

49. The role of a person in providing an independent certification of an insurance arrangement is separate and distinct from the role of an operationally independent person, who is responsible for reviewing the insurance management framework under paragraph 29 of SPS 250.

### **Independent certification for related party insurance arrangements**

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50. Insurance arrangements with related party insurers carry a heightened risk that the arrangement may not be in the best interests of the beneficiaries.

51. APRA expects the person providing an independent certification of a related party insurance arrangement to holistically assess, on balance, the reasonably expected impact on the beneficiaries of the related party arrangement relative to arrangements available from non-related parties. It would be prudent for the person providing the independent certification to consider whether it reasonably appears that the interests of the beneficiaries are being treated as paramount and placed ahead of the RSE licensee's own interests or those of the related party insurer.

### **Independent certification for priority and privilege**

52. Insurance arrangements with non-related party insurers, under terms that provide the insurer with a priority or privilege, also carry a risk that the arrangement may not be in the best interests of the beneficiaries.

53. A priority or privilege may occur where the terms of an arrangement provide the insurer with a current or future competitive advantage relative to other insurers, or where the terms of an arrangement favour the insurer relative to the RSE licensee or the beneficiaries of the superannuation entity.

54. A 'priority' may occur where an insurer has a contractual preference or precedence, and therefore ranks ahead of other insurers or is entitled to exercise its rights to the exclusion of other insurers. A 'privilege' may occur where a particular benefit, right or advantage is available only to a particular insurer.



55. APRA expects the person providing an independent certification of a non-related party insurance arrangement to assess, on balance, the reasonably expected impact on the beneficiaries of the contractual terms that may provide a priority or privilege to an insurer and whether it is reasonable for the RSE licensee to form the view that the insurance arrangement overall is in the best interests of the beneficiaries.

56. APRA considers that a person making that assessment for the independent certification would need to conclude that, despite the existence of the contractual term that provides a priority or privilege, it is reasonable for the RSE licensee to form the view that the insurance arrangement as a whole is in the best interests of the beneficiaries. It would be prudent for a person to consider matters such as whether there are any compensating benefits to the insurance arrangement, that may be considered as offsetting any adverse impacts from the contractual term that provides a priority or privilege. Compensating benefits may include a price reduction and/or an improvement in relation to other terms and conditions of the arrangement.

57. APRA considers that contractual terms that enable an insurer (including a reinsurer) to rank ahead of other insurers may provide a priority to the insurer relative to other insurers, or in comparison to the contractual rights provided to the RSE licensee. Such contractual terms may impose a level of restriction over the RSE licensee while providing an additional benefit to prioritise the insurer. 'Priority terms' may include, but are not limited to the following:

a. exclusivity rights, including:

i. exclusive rights to an insurance arrangement for a period of time longer than the industry average. As a guide, APRA considers that arrangements longer than five years may be considered to provide a priority to an insurer;

ii. rights for automatic renewal or rollover of the arrangement by the insurer without agreement with the RSE licensee;

iii. rights for the incumbent insurer to have its renewal offer given priority in the tender process or to have its renewal offer considered without going to tender; and

iv. restrictions on tendering to other parties, including tendering for additional forms of insurance; and

b. contractual tendering restrictions that may provide a priority to one or more reinsurers by requiring that the tendering insurer reinsure through that or those reinsurers. In this circumstance, a priority may also be provided to an insurer with existing contractual arrangements with the particular reinsurer(s).

58. APRA considers that contractual terms that provide a particular benefit, right or advantage to a particular insurer may provide a privilege to the insurer relative to other insurers, or in comparison to the contractual rights provided to the RSE licensee. 'Privilege terms' may include, but are not limited to, the following:

- a. tendering rights, including:
  - i. the right to tender first ahead of all other insurers;
  - ii. the right to be the last tenderer to be considered by the RSE licensee; and
  - iii. the right to have additional time to respond to a tender;
- b. a contractual term that provides an insurer with a unilateral right to vary the terms of an arrangement where the conditions for variation have not been agreed in advance between the RSE licensee and the insurer;<sup>9</sup> and
- c. privileged access to information or rights, including:
  - i. when tendering, the right to have access to additional information / data that is not shared with other insurers; and
  - ii. the right to assist with, or influence, matters related to making available insured benefits. For example, the right to assist the RSE licensee with the selection process for the insurer.

## Insurance arrangements

An insurance arrangement must include a number of specific criteria related to making insured benefits available to beneficiaries, including the ability for the RSE licensee to terminate the arrangement.

38-59. SPS 250 outlines the minimum requirements that must be included in insurance arrangements. APRA expects that ordinarily, an RSE licensee would also have documented arrangements in place, prior to the commencement of risk, which address matters including but not limited to:

- a. underwriting requirements, including the responsibilities of the insurer, the RSE licensee or any other party with respect to underwriting;
- b. any reduction in benefits and premium loadings i.e. extra premiums charged to a member or group of beneficiaries based on specific conditions, including how beneficiaries are notified about additional premiums;
- c. clearly defined conditions for when claims will be admitted or denied;
- d. procedures for deducting premiums from beneficiaries' accounts and paying premiums to insurers;

<sup>9</sup> While RSE licensees are unlikely to be subject to the Unfair Contracts Terms laws, APRA considers that, in some circumstances, an unfair contract term may be considered to provide a privilege to an insurer. Further information on the Unfair Contracts Terms laws is available from the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission.

- e. procedures for notifying and paying claims, including the responsibilities of the insurer when communicating directly with beneficiaries;
- f. continuation options including notification to beneficiaries;
- g. liability and indemnity where the insurer outsources a material business activity relating to the insured benefits made available by the RSE licensee;
- h. liability and indemnity where incorrect data has been relied upon; and
- i. profit-sharing arrangements and experience commission terms, including their consistency with the undertaking provided under s. 29SAC of the SIS Act in relation to members with an interest in a MySuper product.

~~39-60.~~ The responsibilities of the RSE licensee and the insurer's service levels would typically be outlined in an insurance arrangement. APRA considers that it would be sound practice for these to cover, at a minimum, the timeframes for:

- a. the provision of relevant member and claims information to the insurer;
- b. processing claims, including the time taken to undertake the initial assessment of a claim;
- c. claim decisions once all relevant information has been received;
- d. when admitted claims are paid; and
- e. processing of underwriting requests and the communication of the outcome of underwriting decisions to beneficiaries.

~~40-61.~~ SPS 250 requires that dispute resolution arrangements be addressed in an RSE licensee's insurance arrangements. APRA expects that this would cover the management of disputes between the RSE licensee and the insurer and the RSE licensee's internal dispute resolution processes, as appropriate. The matters that would ordinarily be expected to be covered include, at a minimum, how disputes relating to claims, underwriting, premium payment, renewal, data and service standards are agreed upon, including how a dispute is to be escalated.

## **Attribution of status to a beneficiary**

62. In meeting its obligations under SPS 250, an RSE licensee is required to be satisfied, and to be able to demonstrate to APRA, that any rules for attributing a particular status to a beneficiary, cohort or class of beneficiaries, are fair and reasonable. Examples of statuses that may be attributed to a beneficiary include occupation class/type e.g. 'blue-collar' or another status, such as 'smoker status', that may affect the premium to be charged for insurance. In determining whether a rule to attribute a status to a beneficiary is fair and reasonable, a prudent RSE licensee would be able to demonstrate that the rules for attributing a particular status to a particular beneficiary, cohort or class of beneficiaries are based on statistically appropriate data, sourced from the RSE's own data where there is sufficient data available.

63. Where an RSE licensee considers that an RSE has insufficient data of its own to provide an appropriate statistical source of data, APRA considers that the RSE licensee may use general industry data as an alternative source of data. It would be sound practice for an RSE licensee relying on industry data to be able to demonstrate that appropriate and comparable statistical sources have been used for the relevant beneficiaries, cohorts or classes of beneficiary.

## RSE licensees that are part of a group

41-64. An RSE licensee that is part of a broader group of associated entities may utilise policies and functions of the group, with respect to making insured benefits available, provided that those policies meet the requirements of SPS 250. For example, an RSE licensee in a conglomerate group may use an established claims management approach used by other entities within the group to meet the obligations in SPS 250.

42-65. If an RSE licensee relies on documentation relating to making insured benefits available that is developed elsewhere in the broader group, it is important that this documentation be adopted only where it appropriately reflects the insurance management framework of the RSE licensee. The documentation would be expected to provide sufficient clarity to facilitate ownership by those with responsibilities associated with making available insured benefits within the RSE licensee's business operations.

## Monitoring the insurer relationship

Effective processes for monitoring the insurer, including its performance under the insurance arrangement, are essential.

43-66. The resources required to manage and monitor the relationship with an insurer will depend on the complexity of insurance arrangements. Typically, an RSE licensee that maintains a complex insurance management framework with multiple types or sources of insured benefits and/or complicated benefit structures would need closer and more frequent contact with an insurer(s) and other relevant service providers, such as the administrator, than where simple insured benefits are made available to beneficiaries. Whilst APRA does not expect an RSE licensee to have dedicated insurance management resources in place, a prudent RSE licensee would ensure that its business structure allows adequate oversight of the risks related to the ongoing performance of the insurer and the administrator where relevant.<sup>10</sup>

44-67. APRA considers that appropriately detailed and frequent reporting between the insurer, the RSE licensee and other parties involved in the management of insured benefits is crucial for managing the risks related to making available insured benefits.

<sup>10</sup> Refer to *Prudential Standard SPS 231 Outsourcing* for requirements related to outsourcing of material business activities.



 **APRA**