

3 February 2020

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Via email: [superannuation.policy@apra.gov.au](mailto:superannuation.policy@apra.gov.au)

## Re: Proposed variations to Prudential Standard SPS 250 Insurance in Superannuation

ISA supports the proposed changes to SPS 250 which introduce an obligation on an RSE licensee to obtain an independent certification that an insurance arrangement with a related party is in the best interests of beneficiaries.

Group insurance within superannuation plays a key role in protecting Australians from insurable events. ISA supports measures which ensure insurance arrangements are appropriate and importantly do not inappropriately erode the retirement incomes of beneficiaries.

### Use of related party insurers an inherent and unavoidable conflict of interest

The use of related party insurers by RSE's introduces a conflict of interests into the system which are difficult to manage. Whilst the changes to SPS 250 will provide additional obligations on RSE licensees that use a related party insurer, the inherent conflicts of interest are not removed.

The inherent conflict introduced with the use of related party insurers is evident in both the cost of insurance to beneficiaries and the claims payout ratios. Whilst not all retail funds contract with related entities for insurance cover, many do. The impact of this conflict on beneficiaries is significant. It is estimated that no more than 50 per cent of insurance premiums

deducted from the accounts of members of retail superannuation funds were paid out to successful claimants compared to in excess of 80 per cent to members of not for profit funds.<sup>1</sup>

Insurers and trustees of superannuation funds have been working to resolve identified problems surrounding the claims process by members and further work is required, including moving voluntary codes to enforceable provisions.

Trustees who have an arms-length relationship with insurers are much more likely to act in the members' interest and where required argue their members' case. Data collected by ASIC demonstrates that the declined TPD claim rates amongst related party insurers can be considerably above average claims decline rates.<sup>2</sup> ASIC has indicated that targeted surveillance may clarify the reasons for very high decline rates from insurers such as Westpac Insurance.

The conflicts of both interest and duty arising from related party transactions are inherently structural and unavoidable given the nature of the relationship and mutual interests between the contracting parties.

Expectations that RSE licensees with related party arrangements must have 'robust' processes to ensure their insurance arrangements are conducted on an arm's length basis and are in the best interests of members are unlikely to ever be met where duties to shareholders and beneficiaries overlap.

Given the claims acceptance history of related party insurers it is difficult to see how RSE licensees who continue to use these related party insurers meet the requirements of clause 23 of SPS 250 which require the RSE to satisfy themselves and to demonstrate to APRA that the engagement of the insurer is conducted at arm's length and is in the best interests of members.

ISA supports the continuous review and updating. The results of any targeted surveillance by ASIC may warrant further review of prudential standards 521 Conflicts of Interest and SPS 231 Outsourcing to determine if it is possible to avoid conflicts of interest and duty when a related entity to an RSE is contracted to provide insurance services.

## Independent certifier

The amendment to SPS 250 to introduce a role for an independent certifier does not in any way reduce the obligation on Boards to develop and maintain appropriate insurance strategies, to abide by the requirements of relevant prudential standards and to make decisions that are in the best interests of beneficiaries.

The proposed change to the standard does not define the term independent certifier. The certifiers' role will require a detailed knowledge of insurance arrangements within super, including a working knowledge of comparable costs and product coverage.

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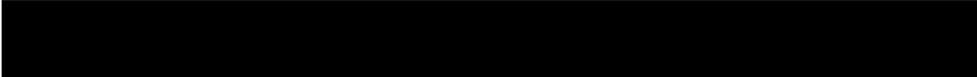
<sup>1</sup> KPMG analysis of APRA Quarterly life Insurance Performance, December 2016 (Issued 14 February 2017)- KPMG review of default insurance in superannuation, September 2017.

<sup>2</sup> ASIC Report 663: Holes in the Safety net: A review of TPD insurance claims, October 2019.

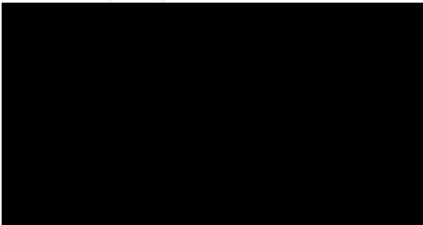
## Lack of clarity in new clause 24

It is suggested that the new clause 24 which requires the involvement of an independent certifier is unclear. The structure of the clause could be interpreted that 24(a) which is not limited to related party arrangements could stand alone as a requirement. This would require all RSE's, including those not engaging a related entity to obtain independent certification. This is not the stated intention of the change to the standard.

It is suggested that clause 24 be reworded to clarify the use of an independent certifier is only required when an insurance arrangement is with a related party insurer or gives priority to an insurer.



Yours sincerely



Consultant.