



30 July 2021

## **TO: ALL RSE LICENSEES**

### **IMPLEMENTATION OF YOUR FUTURE, YOUR SUPER REFORMS**

The Government's Your Future, Your Super reforms (the YFYS reforms) came into effect on 1 July 2021. APRA welcomes the YFYS reforms. They are significant and far reaching, designed to ensure superannuation works in the best financial interests of all Australians. The YFYS reforms will require the superannuation industry to improve its efficiency, transparency and accountability.

APRA is writing to set out its expectations in light of the new legislative requirements, and to outline its plans for implementing the YFYS reforms.

#### **What APRA expects of RSE licensees**

The best financial interests duty (BFID) sharpens the focus of all RSE licensee decisions, including on expenditure and investments. This reform places the onus firmly on RSE licensees to ensure, and demonstrate, that all decisions are consistent with the best financial interests of their members. Decisions must be supported by strong analysis and evidence in light of the implications of reversal of the burden of proof.

Given the changes to the law are now in effect, all RSE licensees must have already:

- taken immediate steps to initiate changes to practices where necessary, to meet the new legal obligations; and
- reviewed internal frameworks, policies and processes to identify and address areas that need to be strengthened in light of the reforms.

APRA supervisors are currently engaging with each RSE licensee to understand how they are complying with their new obligations. Through its regulatory and supervisory activities, APRA will be seeking to ensure these improvements are implemented quickly and effectively by all RSE licensees, and will take action where RSE licensees have failed adequately to respond to the YFYS reforms.

#### **APRA implementation**

APRA's implementation of the YFYS reforms will involve three core components:

1. administering the performance test;
2. enhancing standards on investment governance; and
3. reporting on the findings from a thematic review of RSE licensee expenditure management.

## ***The performance test***

The performance test applies from 1 July 2021 to MySuper products, and from 1 July 2022 to trustee-directed products. The assessment under the performance test, in conjunction with the ATO's YourSuper comparison tool, is intended to hold RSE licensees to account for underperformance through greater transparency and increased consequences. Where a product fails the performance test in two consecutive years, the RSE licensee will be prohibited from accepting new beneficiaries into that product.

Where an RSE licensee is advised by APRA that they have a product that has failed the performance test, they must, within 28 days of receiving this result, give notice in writing to beneficiaries who hold this product that it has failed the performance test. The Australian Securities and Investments Commission (ASIC) will be checking that communications made by RSE licensees about performance do not mislead members and are consistent with the required format.

### ***The first performance test***

APRA will undertake the first performance test for MySuper products only, and notify RSE licensees of their results by 31 August 2021.<sup>1</sup> Ahead of undertaking the first performance test, APRA will write to any RSE licensees affected by the application of APRA's discretion to combine historical product performance.<sup>2</sup>

Following the first round of assessments under the performance test, APRA will engage with RSE licensees considered to be at material risk of failing the test a second time to understand their plans to improve performance, and their contingency plans to deal with the implications of potentially failing the test again. These contingency plans would include pre-positioning to be able to give effect to an orderly transfer of members to another fund, if required.

### ***APRA heatmaps***

APRA expects RSE licensees to manage their investments in the best financial interests of members: this is a higher bar than solely passing the performance test. To support transparency and benchmarking of performance, APRA will continue to publish its superannuation heatmaps and closely supervise and hold RSE licensees to account for meeting their legal and prudential obligations for performance.

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<sup>1</sup> All resubmissions of data to facilitate the performance test must be completed by 15 August. In the coming weeks, APRA will outline ongoing expectations in relation to compliance with the *Financial Sector (Collection of Data) Act 2001*.

<sup>2</sup> Affected RSE licenses will be informed of APRA's intention to combine the performance of two or more of their products and assess them as one product in the performance test, as well as any other matters where APRA's discretion has been required. In August 2021, APRA will publish an Information Paper detailing the methodology that will guide APRA's exercise of discretion when determining whether the history of two or more products should be combined for the purposes of the performance test.

The next heatmap to be published will be a new Choice Product Heatmap in November 2021, followed by the third annual MySuper Product Heatmap in December 2021.<sup>3</sup> The heatmaps provide additional insights into the different components of performance, fees and sustainability, enabling RSE licensees to benchmark across multiple dimensions and identify areas for improvement using forward-looking measures.

### *Investments standards*

RSE licensees must meet their legal and prudential obligations for performance, and ensure their practices support the intent of the YFYS reforms. Alongside the passage of the reforms, APRA has undertaken a thematic review of industry practices in valuing unlisted assets and reviewed the prudential standards and guidance for investment governance.<sup>4</sup>

These reviews have identified areas where standards need to be raised in the industry. In light of the reforms, RSE licensees need to ensure that they can clearly demonstrate how they are managing their investments in the best financial interests of members.

APRA therefore intends to, in the coming weeks:

- publish a report on the findings of the *Thematic review of unlisted assets valuation*; and
- consult on proposed changes to *Prudential Standard SPS 530 Investment Governance* (SPS 530) and associated guidance. The proposed revisions to SPS 530 build on the findings of the thematic review, supervisors' observations of investment governance more broadly, and APRA's post-implementation review of the superannuation prudential framework.

### *Findings from expenditure thematic review*

APRA has also recently completed a thematic review of fund expenditure. This review considered whether certain expenditure was consistent with the sole purpose test, met the duty to act in the best interests of members, and was subject to appropriate governance and oversight.

As with investment governance, APRA has identified a range of industry practices that need to be strengthened, especially in light of the YFYS reforms.

APRA therefore intends to, in the coming months:

- publish a report on the key findings from the *Thematic review of fund expenditure*; and

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<sup>3</sup> APRA will also publish an Information Paper in August 2021 to provide some early insights into performance of the choice segment of the superannuation industry.

<sup>4</sup> Increased member switching during the early stages of the COVID-19 pandemic, together with the early release of superannuation program, also led to APRA seeking information on how member equity issues were being considered by RSE licensees in their investment decision-making.

- collect data on the expenses of each fund on a look-through basis using more granular categories, as part of APRA's Superannuation Data Transformation program.<sup>5</sup>

### Next steps

APRA will continue to communicate its planned activities over the course of 2021.

In 2022, APRA will consult on revisions to *Prudential Standard SPS 515 Strategic Planning and Member Outcomes* (SPS 515) and associated guidance. These revisions will bring together, in formal requirements, enhanced expectations around the reforms, lessons learned from the implementation of SPS 515 in recent years, and outcomes from APRA's upcoming discussion paper on trustee financial resilience.

APRA, ASIC and the Australian Tax Office will continue to work closely together in relation to the YFYS reforms.

Please contact your APRA responsible supervisor if you wish to discuss any matter raised in this letter.

Yours sincerely,

Margaret Cole  
APRA Member

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<sup>5</sup> *Reporting Standard SRS 332.0 Expenses* will enable APRA to gain a more complete and comparable picture of expenses relating to the management and operations of all RSE licensees and their RSEs. The first submissions of data under the Reporting Standard will be due by 30 September 2021 and we will consult on the proposed publication of the data later in 2021. The proposed reporting standards are informed by an interim Regulation Impact Statement (RIS). The reporting standards will be made final when APRA determines the reporting standards, which will be after finalising the RIS.