



5 March 2021

General Manager, Policy Development
Australian Prudential Regulation Authority
GPO Box 9836
SYDNEY NSW 2001

Dear

Re: Consultation: Proposed Revisions to Prudential Standard SPS 250 and Prudential Guidance SPG 250 Insurance in Superannuation

Thank you for the opportunity for the Actuaries Institute to provide feedback on the APRA draft revised Insurance in Superannuation standard (SPS 250) and associated guidance (SPG 250).

The Actuaries Institute fully supports the intent of the revisions to strengthen trustee governance of insurance within superannuation funds, particularly in the areas of independent certification, maintenance of data, appropriate cost of insurance for members and the rules for attributing a particular status to a member.

General Comments

We set out our feedback on a number of areas in this letter with our more detailed comments outlined in the Schedule.

Independent Certification – Priority and Privilege

This is a major change to SPS 250, and it is likely actuaries will be involved in this area in the future.

While we appreciate that the examples provided in the SPG assist in the understanding of Priority and Privilege there remains a wide range of interpretation. Some examples of how hard priority and privilege is to define are included in the Schedule. A particular example of this is SPG 250 paragraph 58, as all incumbent and possibly prior insurers have more up to date claims data, being their own data. The current draft SPG implies they therefore always receive a privilege in a tender situation and all tenders would therefore require certification.

We have suggested an approach that retains the intent and spirit of priority and privilege but makes it much clearer when certification is required.

We also suggest:

- Guidance is required on what constitutes “materially alter” in paragraph 24 of the SPS.
- That SPS paragraph 26 should reference the circumstances of the RSE licensee as the SPG does.

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- If current wording in SPS 250 is retained, SPG 250 be enhanced to give examples of circumstances where independent certification is and is not required and we have included some possible examples at the end of the Schedule.
- Certification be in respect of only those parts of the “insurance arrangement” relating to the insurer and where there is a material change to terms, the certification only be in relation to the change. Certifying the whole “insurance arrangement” may be unnecessary.

Examples of cohorts between and within APRA standards / guidance

Different examples / minimum required cohorts are stated for different purposes in various parts of SPG 250. The consolidated list includes 13 cohorts but is nonetheless an incomplete list. It may be simpler to refer to the appropriate member outcomes standard and guidance rather than include specific cohort examples in various places in SPG 250.

We recommend that SPG 516 (Business Performance Review) be enhanced to give a comprehensive list of example cohorts for each purpose. We suggest this is of such importance that it deserves a dedicated section in that guidance.

We recommend that SPG 250 and the relevant sections of member outcomes guidance be enhanced to include discussion of the fact that cohort analysis may provide misleading results where the chosen cohort is not statistically significant and credible.

Co-ordinated approach to driving improved insurance data

We support the additional pressure being brought to bear on trustees to improve insurance data scope, quality and granularity. The draft SPS 250 and SPG 250 are another good step in that direction.

However, we would strongly encourage APRA to co-ordinate with ASIC, Federal Treasury and the Actuaries Institute to develop strategies for improving the automatic flow of data from members and employers to funds. For example, in our submission to Federal Treasury in relation to the proposed Your Future Your Super legislation, we recommended that the following additional data fields be provided to the trustee of the member’s fund:

- a) From the new Single Touch Payroll / YourSuper design provided to the fund whenever it is assigned to be the recipient of SG contributions in respect of a person / employee (either through the person selecting the fund, because the fund is the person’s existing fund, or by default):
 - The employer’s Australian and New Zealand Standard Industrial Classification (“ANZIC”) code
 - New member type (employee selected fund, employee’s existing fund, fund assigned by default)
 - Starting salary
 - Employment start date.
- b) From the ATO the member’s occupation as provided to the ATO with their annual tax return



Without such a co-ordinated approach, trustees will continue to face challenges with insufficient data to carry out anything other than the most rudimentary member outcomes analysis.

For example, the proposed SPS 250 paragraph 19 states that the trustee must be able to satisfy itself, and demonstrate to APRA, that the rules for attributing any status to a beneficiary (including a class or cohort of beneficiaries) are fair and reasonable. So, without certain data items being mandatory SuperStream fields, the trustee will not be able to adopt cohorts of classes of member that it would otherwise consider to be appropriate. Typical examples are “occupation” and “work status” (including part-time, casual and unemployed workers).

Consistent definitions and classification of MySuper, Choice, Automatic Insurance and Voluntary Insurance members

SPS 250 and SPG 250 require trustees to maintain or have access to data broken down between MySuper and Choice members. Insurance is attached to the member, not the MySuper or Choice product(s) the member has. Insurance does not need to be broken down into MySuper and Choice. Applying this additional level of complexity is unnecessary and costly.

Separately, for example in the proposed SPG 250 paragraph 24 and the proposed Draft Reporting Standard (SRS) 251.0 Insurance, there is a requirement to be able to identify “default cover” which, in turn, requires the concept of “default insurance members” and “voluntary insurance members” to be defined. These are much more useful in terms of cohort analysis and claims experience analysis.

We recommend that APRA and ASIC should collaborate to provide agreed definitions of:

- MySuper member for insurance purposes if APRA intends to keep requiring this member classification)
- Choice member for insurance purposes if APRA intends to keep requiring this member classification
- Default insurance member
- Voluntary insurance member.

In each case, examples should be provided. Some examples are provided below in our Schedule under “SPG 250, paragraph 24”.

This will ensure that funds can have confidence in the agreed definitions before designing appropriate data fields, corporate data warehouses and data analytics systems.

Costs

APRA has asked for feedback on any substantive costs associated with the proposed changes. In general, we leave it to superannuation fund trustees and insurers to respond.

Without further changes or guidance there is likely to be a significant legal expense incurred by trustees on behalf of beneficiaries in obtaining interpretations of the requirements.

The cost for the actuarial work associated with the changes e.g., certification, is uncertain while the extent of the work remains unknown. In general, we support the certification



proposals and believe the benefits of certification (by an actuary or otherwise) will outweigh the cost to trustees.

Thankyou once again for the opportunity to provide this submission.

Yours sincerely

President



Schedule

APRA's Proposed change in red	Submission to APRA
<p>SPS 250, paragraph 14:</p> <p>14. An RSE licensee must maintain or have access to records of sufficient detail to comply with its obligations under the reporting framework and for a prospective insurer to properly assess the insured benefits that are made available. These records must include, for at least the previous five years, the claims experience, membership, sum insured and premiums paid in relation to beneficiaries.</p>	<p>Require a longer history of insurance data, including on fund merger</p> <p>The original SPS 250, in 2012, required the maintenance of 5 years' historical data. Since then, 9 years have passed. As such, it is reasonable for APRA to now require more than 5 years of historical data. 8 years of past data would be a reasonable and achievable requirement. Appropriate historical data in a fund merger situation has not always been provided to the new trustee.</p> <p>Recommendation</p> <p>SPS 250 paragraph 14 should be amended to require at least 8 years of historical insurance data and to require that, in the event of a merger, the previous 8 years' data should be made available to the new trustee</p>
<p>SPS 250, paragraph 16</p> <p>16. In addition to complying with section 52(7)(a) of the SIS Act, an RSE licensee's insurance strategy for an RSE must, at a minimum, document:</p> <p>(a) the RSE licensee's approach to complying with the insurance covenants in section 52(7)(b) to (d) of the SIS Act, including the RSE licensee's methodology to assess whether the cost of the insurance inappropriately erodes the retirement income of beneficiaries;</p> <p>(b) how the RSE licensee's assessment under section 52(11)(d) of the SIS Act will be documented in the RSE licensee's annual member outcomes assessments.....</p>	<p>Covenant Documentation</p> <p>(a) It is unclear why the insurance strategy must document some covenants but not others. Does APRA see 52(7)(a) as already requiring documentation or is it seen by APRA as less important and not requiring documentation? Are some covenants more important than others?</p> <p>(b) It is unclear why if it is appropriate to document this one part of 52(11) but not appropriate to document other insurance related member outcomes. If the insurance strategy is to be tied into the member outcomes requirements of the SIS Act, should it be a complete link rather than a partial link?</p> <p>Recommendation</p> <p>Either delete this change or make it applicable to all relevant covenants in both (a) and (b).</p>



<p>SPS 250, paragraph 17: For the purposes of this Prudential Standard, 'insurance arrangement' means: (a) where an RSE licensee makes available insured benefits as described in paragraph 6(a) – an insurance policy document; or (b) where an RSE licensee makes available insured benefits as described in paragraph 6(b) – appropriate documentation of the terms and conditions of the insured benefits and any accompanying agreements with any other party for the provision of services related to making available insured benefits.</p>	<p>Define “insurance arrangement” more clearly and specifically Under revised SPS 250, the definition of “insurance arrangement” is even more important, as it is the “insurance arrangement” that may be subject to independent certification. The current definition (paragraph 17) includes agreement with third parties (for example a service agreement with an administrator) but not associated agreements with the insurer itself which typically extend beyond the policy document, as set out in SPG250 paragraph 47.</p> <p>Recommendation “Insurance arrangement” should bring together the 3 references. For example, in part (a) replace “an insurance policy document” with:</p> <ul style="list-style-type: none">- The contract of insurance with the insurer and/or reinsurer- Any associated agreements with the insurer and/or reinsurer, such as Insurance Services Agreements, Claims Handling Agreements, Service Level Agreements and premium setting and profit share agreements- Any agreements with third party service providers such as administrators, tender consultants, Insurance Services Agreements, Claims Handling Agreements, Service Level Agreements and agreements related to the provision of insurance, such as the selection process for insurers, premium setting arrangements and profit share agreements.
<p>SPS 250, paragraph 19: An RSE licensee must be able to satisfy itself, and demonstrate to APRA, that the rules for attributing any status to a beneficiary (including a class or cohort of beneficiaries) in connection with the provision of insurance are fair and reasonable.</p>	<p>Clarity of the fair and reasonable test</p> <p>The use of fair and reasonable is open to a very wide range of opinion as discussed in our previous submission.</p> <p>This can be mitigated to some extent if it is clear that the test applies to the circumstances of the fund and the trustee.</p> <p>Recommendation Add the words “in the circumstances” or “considering all the relevant circumstances” at the end of the sentence</p>



SPS 250, paragraph 24:

24. Subject to paragraph 31 and paragraph 32, an RSE licensee that is required to obtain an independent certification under paragraph 25 or paragraph 26 must obtain the certification:

(a) before the RSE licensee:

- (i) enters into a new insurance arrangement; or
- (ii) renews, or materially alters the terms of, an existing insurance arrangement; or

(b) on a triennial basis if the insurance arrangement is for a term exceeding three years.

Provide guidance on what constitutes “materially alters”

The SPS 250 and SPG 250 could usefully provide discussion or examples of what constitutes “materially alters”. We have suggested some discussions points below.

- Should materiality be tested for only those members affected or for all members? For example, a change of TPD definition for members over age 65 may be material for these members but not be material for the contract as a whole; similarly, removal of cover for TPD for members over age 60 or a change in the sum insured age scale at some ages only.
- Is materiality a price or price equivalence (in the case of changes to terms and conditions or cover levels) test, say 5%?
- “Materially alters” is not directional so it encompasses both detrimental changes and improvements.
- Every fund will need to renegotiate aspects of its insurance arrangements (including price) if the government’s proposed Treasury Laws Amendment (Measures for consultation) Bill 2020 is enacted. Would that constitute a material alteration? Would the PYS and PMIF changes have been considered material?
- In the event of a fund merger, with members from one of the funds moving to the insurance arrangement of the other fund and no other changes, would that be a material change?
- Where a RSE licensee does not alter the insurance arrangement when it should have altered the arrangement and it could therefore “escape” the certification. This is of particular concern in relation to paragraph 25.

Recommendation

Define “materially alters” and/or provide guidance as to what constitutes the material alteration of the terms of an insurance arrangement.

For example, if certification is in respect of the alteration only (see our suggestion below) and the RSE licensee **materially alters the terms of an existing insurance arrangement, certification is required if the alteration has a value of 5% or more of the relevant premium.**



	<p>Provide more clarity on the term of an insurance arrangement</p> <p>Insurance arrangements (being a series of agreements with various parties including the insurer) do not have a term as such. The various agreements within the insurance arrangement may have a term or as is the case of a life policy be indefinitely continuing, so have no term. Within the insurance policy there may be a maximum rate guarantee period, but it is rarely an unqualified period.</p> <p>Recommendation</p> <p>Define more clearly the intent of this wording.</p>
<p>SPS 250, paragraph 25:</p> <p>25. Where an insurer that is a connected entity of an RSE licensee is party, or will be party, to an insurance arrangement with the RSE licensee under which the RSE licensee makes or will make insured benefits available to beneficiaries (other than an insurance arrangement covered by paragraph 31), the RSE licensee must obtain an independent certification that states:</p> <p>(a) it is reasonable for the RSE licensee to form the view that the insurance arrangement is in the best interests of the beneficiaries; and</p> <p>(b) the insurance arrangement otherwise satisfies applicable legal and regulatory requirements.</p>	<p>SPS 250 Paragraph 25</p> <p>We fully support the requirement for part (a) certification in all cases where the insurer is a connected entity.</p> <p>For the reasons outlined in our previous submission we continue to query the need for the part (b) certification and question:</p> <ul style="list-style-type: none">• if it is needed when it is covered in the usual legal and regulatory signoffs a trustee makes and the audit processes;• whether it is possible for an expert to make this certification and if it is possible:• would that same person have the necessary skills to also provide the part (a) certification; and• the cost of providing the part (b) certification it is likely to be very large and hard to justify. <p>Recommendation</p> <p>We recommend that the part (b) certification be deleted.</p> <p>Our comments on paragraph 26 apply where relevant to paragraph 25.</p>



SPS 250, paragraph 26:

26. Where an insurer that is not a connected entity of an RSE licensee is party, or will be party, to an insurance arrangement with the RSE licensee under which the RSE licensee makes or will make insured benefits available to beneficiaries (other than an insurance arrangement covered by paragraph 32), and a contractual term of the insurance arrangement provides the insurer with a priority or privilege, the RSE licensee must 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.

SPG 250 paragraph 58

".....'Privilege terms' may include, but are not limited to, the following:....."

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....."

We have 5 substantive comments.

1. Focus on certification rather than priority and privilege

The concepts of priority and privilege (paragraph 26) are complex and difficult to clarify and to define without ambiguity.

The examples in SPG 250 do assist but in some cases may lead to unintended outcomes and, potentially, certification in all circumstances. For example, SPG 250 para 58 points to certification being required for all tenders in all cases as the incumbent insurer (and possibly prior insurers) holds the claims data which will always be more up to date than that issued to the other insurers in a tender and this would be a "privilege" under SPG 250. It would not be practical or enforceable to require the insurer to ignore its own data.

Other possible examples that may lead to interpretation of a privilege and perhaps unintended certification include:

- The insurer's ability to underwrite cover increases and assess claims.
- The inclusion of a profit margin for the insurer
- The inclusion of a premium adjustment for the insurer.

There is also an issue in SPS 250 paragraph 24(b)

- Most group life insurance policies, while they have a rate guarantee period, have no fixed term, they are indefinitely continuing and open-ended. However, they include defined termination rights for both the insurer and the fund. In some cases, there may be a non-termination period, for example a Premium Adjustment Model may be negotiated in conjunction with a non-termination period of 5 years or more.
- As such, group life insurance policies "have a term exceeding 3 years (ref: SPS 250 paragraph 24(b)) and are "in place for more than 3 years" (ref: SPG 250 paragraph 46). So, most if not all insurance arrangements would require certification where there is priority or privilege.

In places it appears the SPG goes outside the scope of the SPS e.g., Paragraph 57 (b).

An alternative to trying to identify and define priority and privilege is to give effect to the concept through certification in all cases where a change or lack of change may not be in the best interests of beneficiaries.



When considering the SPS and SPG together we have identified the following circumstances where certification should be provided regardless of priority or privilege (there may be others):

- The period between market tenders is too “long”
- Material changes to rates, terms and conditions between market tenders or within guarantee periods
- Restricted access of the RSE licensee to the whole market of insurers and/or reinsurers

Recommendation

Amend SPS 250 Paragraph 26 to remove the references to priority and privilege and, instead, require:

- independent certification triennially of the insurance arrangement in all cases where the trustee’s IMF allows the trustee to undertake a full market tender less frequently than every three years. Certification would be required prior to the expiration of each 3-year period.
- independent certification of the alteration only (not the whole insurance arrangement) before the RSE licensee materially alters the terms of an existing insurance arrangement within a rate guarantee period.
- independent certification of the insurance arrangement before the RSE licensee enters into a new insurance arrangement or renews an existing insurance arrangement in all cases where the RSE licensee has restricted access to the whole market of insurers and/or reinsurers.

Another alternative, simpler and perhaps clearer again, is to require independent certification triennially of the insurance arrangement.

If APRA adopts one or other of the options above, then our feedback below relating to priority and privilege can be ignored.

2. Provide more guidance on what is being certified

Neither SPS 250 nor SPG 250 provide detailed guidance on what is being certified.



Some people may take the view that the expert only needs to consider the process for insurer selection and/or the specific documents such as insurance policies and service agreements. So, a procedural or probity signoff; was the procedure reasonable?

However, the expert in many circumstances should also consider the technical aspects of pricing, terms and conditions.

Under a strict interpretation of “best interests”, would the expert require the RSE licensee to have approached every possible insurer when conducting a tender and have examined every possible alternative arrangement to ensure that this one is the “best”?

Presumably, this is not intended. For example, if the proposed insurance arrangement was the result of a tender that the independent expert considers to have been conducted in a robust manner but it only included the three largest group insurers, would they be required to consider whether a better arrangement could have been achieved if other insurers had been invited to tender?

Further guidance would assist RSE licensees and the experts undertaking the certification, help prevent differing practices and inconsistencies across the market and unintended additional costs in many cases.

Recommendation

Further guidance should be provided as to what level the certification goes down to.

Insurance arrangement is a very wide term (see our comments above) and includes service provides other than the insurer. Should the certification be in respect of only those parts of the insurance arrangement relating to the insurer including the selection and appointment of insurers and reinsurers, excluding other third parties, and excluding the benefit design in the case where the RSE licensee has determined the benefit design?

Recommendation

Modify the required certification to make it clear it relates only to the insurer (if this is the intention) e.g.



“...it is reasonable for the RSE licensee to form the view that the insurance arrangement as it relates to the insurer including the selection and appointment of insurers and reinsurers is in the best interests of the beneficiaries.”

Materially alter (paragraph 24) is open to a wide range of interpretation (see our comments above). Where a material change is made should the certification be in respect of only those parts of the insurance arrangement relating to the material change rather than the whole insurance arrangement?

Recommendation

Modify the required certification in the case of a “material alteration” to make it clear it relates only to the material alteration (if this is the intention).

3. Other contractual terms of the insurance arrangement

The SPG includes examples where the RSE is restricted under a contractual term in the insurance arrangement from undertaking a full unencumbered tender to insurers and reinsurers. The SPS only refers to a contractual term with the insurer. The SPS should be aligned with the SPG.

Recommendation

“26. Where an insurer that

a contractual term of the insurance arrangement

- provides the insurer with a priority or privilege or
- restricts the access directly or indirectly of the RSE licensee to all insurers and reinsurers when undertaking a tender,....., ”

4. Modify the words of the certification to acknowledge the circumstances

When considering whether an insurance arrangement is in the best interests of beneficiaries, a person necessarily needs to take account of the circumstances. The SPG refers to “all relevant circumstances” when discussing these paragraphs.



Recommendation

In SPS 250 paragraphs 25 and 26, the required certification should be modified to incorporate the circumstances of the trustee, for example:

"...it is reasonable for the RSE licensee, *in the circumstances*, to form the view that the insurance arrangement is in the best interests of the beneficiaries".

"...it is reasonable for the RSE licensee, *considering all the relevant circumstances*, to form the view that the insurance arrangement is in the best interests of the beneficiaries".

5. Timing of certification

The draft SPS 250 requires certification before the new arrangement is entered into or is modified, as the case may be. In general, this is appropriate, particularly where the new/changed arrangement is initiated by the trustee or by an existing contractual term.

However, this requirement may not be appropriate where the change is necessitated or forced upon the trustee and has a very tight timeframe to commencement. Examples of these scenarios include in a pandemic and a legislative or regulatory change (e.g., PMIF and PYS changes and the potential Your Future Your Super changes which have not yet been passed by Parliament).

Recommendation

SPS 250 should be enhanced to state that APRA may grant special dispensation to funds to provide delayed certification, where the relevant changes are as a result of external, unanticipated events. Funds could then negotiate interim terms with their insurer, pending the outcome of the subsequent independent review and certification.



SPG 250, paragraph 13(b):

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

Practical considerations in relation to opt-out

We support the more detailed requirement for providing different ways to opt-out of insurance. However, we suggest that APRA considers the following points:

- Proactively assisting members to cancel their insurance can be read very widely e.g., does it imply trustees should be initiating contact with all their members about the suitability of their insurance?
- Are the processes set out at para a. to e. examples of a proactive approach? These appear to assist members rather than proactively assist members.
- It is unclear why opting out of insurance is the only member decision that needs proactive assistance from the trustee. Trustees should assist members with all their decisions equally including all their insurance related decision. Assessing their level of cover and adjusting it (upwards or downwards) to meet their needs, nominating beneficiaries and adjusting other terms such as income protection waiting and benefits periods should also attract assistance from the trustee.
- A trustee may assist a member to make an informed decision about their cover, particularly in relation to death cover and beneficiaries. This includes that the member is properly informed about the consequences of Opting Out of cover.
- The guidance should add to the clarity of the SPS. In this case it appears to be outside the scope of the SPS and does not assist in the understanding of the SPS.
- It is unclear whether "cancel their insurance" and "opt-out of insurance" refers to all insurance or just one type of cover.
- In relation to paragraph 13(b), this will require the member to be logged in to the fund's online system. As such, it could only be available to members who have registered for online access to their account or where the member provides the necessary personal information (e.g., member number and other items required for ID purposes) by phone or mail, for example
- In relation to paragraph 13(c), there are security issues associated with accepting a single email purportedly from the member to effect opt-out. Funds may legitimately require further verification of the identity of the sender before processing the opt-out as well as



<p>is also able to use email or any other method for acting on that information; and</p> <p>e. clearly identifiable naming conventions for any forms that relate to a member's ability to opt-out of insurance.</p>	<p>ensuring that the member has understood the implications of their opt-out. For example, they may seek verification by telephone or, if no phone number is on file, by mail. Whilst this runs counter to the objective of "one step out-out", the risks associated with accepting a simple email are material. Similar issues arise if the member does not provide sufficient information in their email (e.g., member number).</p> <ul style="list-style-type: none">- Is "proactive assistance required when a trustee must meet the best interest of beneficiaries' test? <p>Recommendations</p> <ul style="list-style-type: none">- Remove the word "proactively" and make it clear trustee assistance applies to all decisions made by the member that the trustee acts on; or- Delete this guidance
<p>SPG 250, paragraphs 14 and 25:</p> <p>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.</p>	<p>Reword to balance the implication that any reduction in account balance as a result of insurance premiums is not in the member's best interest</p> <p>The trustee's obligation under the SIS Act is to balance both the short term and long term mortality and morbidity risks of its members, particularly those who do not make an active choice.</p> <p>As a general comment, the use of the word "erosion" in the context of insurance premiums may be emotive and misleading, notwithstanding the fact that it is used in the SIS Act.</p> <p>In financial terms, without insurance some members and their financial dependents will certainly be far worse off while most will be marginally better off. Other considerations may also be important and include the 'peace of mind' that insurance can provide.</p> <p>More balanced wording is beneficial in these paragraphs and our proposed changes create a more neutral framing. Recommendations</p>



<p>25.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.....</p>	<ul style="list-style-type: none">- In paragraph 14, the words “erosion of member benefits” be replaced with the phrase “impact on the member’s retirement income”. The paragraph is then more neutral and reads appropriately.- In paragraph 25, the words “adverse impacts of erosion on their retirement income” should be changed to “need to compare the costs and benefits of insurance”.- If the APRA retains the word “erosion” it should reflect the SIS Act wording which is “inappropriate erosion”. <p>“member” and “beneficiary”</p> <p>Recommendation</p> <p>Amend to “, the impact to the member and their beneficiaries of opting out of cover.....”</p>
<p>SPG 250, paragraph 17:</p> <p>17. A prudent RSE licensee would maintain accurate and up-to-date records of resolved claims and ongoing claims including, but not limited to, claim experience information related to the following:</p> <ul style="list-style-type: none">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	<p>Clarify the separate nature of some required data items</p> <p>Section 17(c) and 17(g) have been amended to include additional data items (dates). However, as drafted, it is not clear whether these data items are “either/or” or “both”. Suggest both data items should be maintained.</p> <p>Recommendation</p> <p>We recommend the following changes to SPG 250, paragraph 17:</p> <ul style="list-style-type: none">- Change 17(c) to be two separate items:<ul style="list-style-type: none">(c) the date on which the claim was notified by the member to the RSE licensee;(d) the date on which the claim was notified by the RSE licensee to the insurer;- Change 17(g) to be two separate items which, using the revised paragraph numbering would be:<ul style="list-style-type: none">(h) the date(s) the claim was paid by the insurer to the RSE licensee(i) the date(s) the claim was paid by the RSE licensee to the member.



<p>each temporary incapacity, or the date the claim was denied;</p> <p>f. disputed claims and the reason for the dispute;</p> <p>g. the date(s) the claim was paid by the insurer to the RSE licensee, and by the RSE licensee to the member; and</p> <p>h. the amount of the claim.</p>	
<p>SPG 250, paragraph 24:</p> <p>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.</p>	<p>Consistent definitions and classification of MySuper, Choice, Automatic Insurance and Voluntary Insurance members</p> <p>Section 24 highlights a broader point that APRA is encouraging the maintenance of separate data for MySuper and Choice products, respectively. MySuper and Choice relate only to investment products and not to insurance. MySuper members are those that do not make an investment choice and their contributions are allocated to the MySuper investment option provided by the trustee.</p> <p>If a MySuper member changes their default insurance after joining the fund they will remain a MySuper member and do not become a Choice member. Similarly, if a MySuper member changes their investment holding from the MySuper option to a Choice investment option, they become a Choice member, but there is no impact on their insurance.</p> <p>Both APRA and ASIC appear to have a concept (as yet not defined) of a Default Insurance member and a Voluntary Insurance Member. There is no agreement on how these are defined not only between regulators but between and within funds.</p> <p>For example, if a member calls the fund to discuss their default insurance but does not, ultimately, make changes to it, some funds may consider them to be Voluntary Insurance Members (or having Voluntary Insurance Cover) as they have made an active decision to maintain the cover automatically provided to them. Similarly, if the member makes no change to their level of insurance but applies to be moved to a more favourable occupation category, they would become a Voluntary Insurance Member at that point.</p> <p>Recommendation</p>



	<p>APRA and ASIC should collaborate to provide agreed definitions of:</p> <ul style="list-style-type: none">• MySuper member (for insurance purposes, if different from the statutory definition)• Choice member (for insurance purposes, if different from the statutory definition)• Default insurance member• Default insurance (amount)• Voluntary insurance member• Voluntary insurance (amount) <p>In each case, examples should be provided, such as those above</p> <p>Enhance SPS 250 and SPG 250 to state that cohort analysis can be limited to member cohorts that lead to statistically significant results / conclusions.</p> <p>We are concerned that spurious granularity in the cohort analysis will not provide meaningful or statistically significant or credible results.</p> <p>Recommendation</p> <p>SPS 250 and/or SPG 250 should be enhanced to include a statement that trustees should consider the materiality of each cohort in the context of their insured membership base in the member outcomes assessment.</p>
<p>SPG 250, paragraphs 24 and 26:</p> <p>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.</p>	<p>Remove reference to claims payment ratios on a cash flow basis</p> <p>The cash basis of assessing claim payment ratios is likely to be misleading and inappropriate. Here is a quote from the ASIC report 675, December 2020 "Default insurance in superannuation: Member value for money" (page 25, box 2):</p> <p><i>"The disadvantage is that payments being made in any given year can relate to a mixture of both current and past insurance arrangements. This makes the cashflow claims ratio hard to interpret where insurance arrangements have changed over time (e.g., because of changes in the number of members, level of cover, claim incident rate or delays in beneficiaries notifying a claim)."</i></p> <p>Recommendation</p> <p>The reference to the cash method should be removed.</p>



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.

Clarify that it is legitimate for the trustee, when carrying out the annual member outcomes assessment, to focus on the key cohorts / combinations of cohorts that are most material for the particular fund

Insurance is a collective risk sharing product, involving a transfer from those who do not suffer a claim event to those who do. For this reason, member outcomes assessment at cohort level is very important where there are cohorts that are material given the profile of fund membership. However, it is not necessary for it to be carried out for cohorts which are not statistically significant enough to provide a credible assessment of member outcomes. SPG 250, as drafted, may be read to imply that member outcomes should definitely be assessed for each of the suggested minimum cohorts.

Recommendation

In line with the recommendation above on materiality of each cohort SPG 250 paragraphs 24 and 26 be enhanced to clarify that the requirements in relation the annual member outcomes assessments apply for the specific cohorts determined by the trustee (with documented justification) as being statistically significant enough to provide a credible assessment of member outcomes under SPG 516 (Business Performance Review).

Annual claims experience and insurance needs analysis

We note that the “sound practice” in paragraph 26 would require the fund to carry out a claims experience analysis, insurance needs analysis and design review annually. Most funds do not undertake this work annually.

If this is APRA’s intent then we suggest that SPS 250 be enhanced to be more specific regarding the resources that are expected to be available to trustees in order to fulfill these obligations. Funds are more likely to take action in relation to resource allocation if the SPS is aligned to the SPG.

Recommendation

SPS 250 should be enhanced to be more specific regarding the resources that are expected to be available to trustees in order to fulfill these obligations. For example, paragraph 28 of SPS 250 could be suitably enhanced by specifically stating that sufficient,



	<p>appropriately qualified, resources should be employed to ensure that annual claims experience and insurance needs analysis can be carried out, at appropriate cohort level, at least annually.</p>
<p>SPG 250 paragraph 31: 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. 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 consider the benefits of policies that are guaranteed renewable, and the risks where they are not guaranteed renewable and, where an arrangement that is not guaranteed renewable is selected, that these specific risks are reflected in the insurance strategy and addressed in the insurance management framework.</p>	<p>More balanced discussion of life insurance versus general insurance policies</p> <p>General insurance policies are not guaranteed renewable but do typically provide a 1-year rate guarantee.</p> <p>Life insurance policies are for all practical purposes only notionally “guaranteed renewable”. They do not guarantee the premiums and in some cases terms or conditions on renewal and include a limited and qualified rate guarantee period that may be up to 3 years. There is no guarantee regarding the premium rates charged on expiry of the guarantee period. As such, there is little practical difference between the two types of contract.</p> <p>In addition, APRA regulates both general insurers and life insurers.</p> <p>The risks associated with the general insurer’s right to cancel and the life insurer’s rights to change the premiums terms and conditions are in practice very similar. Trustees should ensure in both cases sufficient notice is provided by the insurer of proposed renewal terms (including cancellation) so that the trustee can act if these renewal terms are unacceptable.</p> <p>If APRA is concerned that trustees may not be properly considering the risks of rate guarantee expiry, paragraph 31 could be amended to discuss considerations for the trustee as the rate guarantee expiry date (life insurance) / contract renewal date (general insurance) approaches.</p> <p>Similarly, we acknowledge that some General Insurance contracts include more stringent terms and conditions, such as exclusions, compared with typical life insurance contracts. However, exclusions vary between life insurers also and this is one of a number of considerations a trustee takes into account when considering a proposal from an insurer.</p> <p>Recommendation</p> <p>Delete the current paragraph 31 and replace it with a discussion of the considerations for the trustee as the rate guarantee expiry date approaches or the contract renewal date approaches, noting that the considerations are similar.</p>



<p>SPG 250, paragraph 33:</p> <p>33. It would be sound practice to ensure that information maintained on the membership profile would be up to date and would identify any substantial differences in profile between different cohorts of beneficiaries within a single RSE, e.g. the size of the pool insured, and age, gender, occupational profile and work status (including part-time, casual and unemployed workers) of the membership.</p>	<p>Consistent examples of / minimum required cohorts between and within APRA standards / guidance</p> <p>We support the more specific guidance regarding the maintenance of insurance data. However, we suggest:</p> <ul style="list-style-type: none">• APRA removes specific cohort examples and instead refers to the cohorts determined by the trustee when performing their member outcomes determination.• Specific cohort examples would be better suited within the member outcome standard and guidance. <p>Recommendation</p> <ul style="list-style-type: none">• Amend paragraph 33 by deleting the reference to specific cohorts: 33. It would be sound practice to ensure that information maintained on the membership profile would be up to date and would identify any substantial differences in the profile of the different cohorts of beneficiaries as determined by the RSE.• Include further guidance on data availability under DataStream and the timing and periodicity of the required data. For example, because occupation and salary data are generally not available directly but has to be surmised through one-off investigations or from external sources (e.g., published ATO / ABS data), the RSE needs to make a judgement as to the most appropriate period to consider and how up to date the data from that source needs to be. This issue would be overcome in relation to occupation and salary (for example) if the proposed enhancements were to be made to SuperStream.• Transfer cohort guidance to the member outcomes guidance.
<p>SPG 250 paragraph 46</p> <p>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</p>	<p>Amend to ensure consistency</p> <p>The logical timing for the changes is:</p> <ol style="list-style-type: none">1. RSE Decision2. Expert assessment of the decision3. RSE enters into the new contract



<p>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.</p>	<p>The wording of this paragraph 46 is internally inconsistent and inconsistent with the associated SPS (paragraph 24).</p> <p>SPG 250 paragraph 46 states that the certification must be obtained both:</p> <ul style="list-style-type: none">• "ahead of the RSE licensee's decision" (final sentence)• After the RSE decision (as required by the first sentence) <p>It is not possible to do both.</p> <p>SPS250 paragraph 24 is different from both these, not referring at all to the date of the decision but rather to before the RSE "<u>enters into a new insurance arrangement or renews, or materially alters the terms of an existing insurance arrangement</u>"</p> <p>These are typically very different dates to the date of the decision.</p> <p>Recommendation</p> <p>amend SPG 250 paragraph 46, for example:</p> <p>"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 the RSE licensee's decision making the assessment. The certification must be obtained ahead of the RSE licensee's decision to enter, renew or materially alter an insurance arrangement."</p>
<p>SPG 250, paragraph 48</p> <p>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</p>	<p>Strengthen the required attributes / experience of the independent expert</p> <p>The current wording of this paragraph appears to be ambiguous. For example, is it the firm which must be "recognised in the superannuation and insurance industries" or the individual person? Or both?</p>



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.

Recommendation

SPS 250 and/or SPG 250 should be enhanced to include a detailed statement of the requirements for a person providing an independent certification, including:

- that the requirements apply to both the individual and their firm, where applicable
- that they should have detailed knowledge and experience in benefit design, claims experience analysis, premium determination, terms and conditions, service levels / delivery models.

Independence

Further guidance is required on independence. Should reference be made to arm's length and fit and proper in other APRA standards and guidance to assist with determining independence? Over what period should the person (or firm or both) have not provided other advice or services to the RSE to establish their independence?

The current draft provides no guidance as to the pre-requisites for independence, in relation to the person carrying out the certification.

Recommendation

We recommend that:

- "independent" should be defined in SPS 250.
- both the person providing certification and their employer / firm and associated companies must be independent.



SPG 250 paragraphs 50 to 58:

New paragraphs covering the circumstances when independent certification of an insurance arrangement is required

Provide examples of when independent certification is and is not required

We support the concept of independent certification in appropriate circumstances. However, whilst SPG 250 provides lists of what APRA considers to be attributes of an insurance arrangement that could be considered to confer priority or privilege upon an insurer or reinsurer, the guidance would be improved if it included specific examples.

Recommendation

SPG 250 be enhanced to give examples of circumstances where independent certification is and is not required.

The table below provides some hypothetical simplified examples that we suggest could be included in SPG 250. We suggest APRA develop further examples. In each case, we have included an example view of whether there would be a requirement for independent certification. However, this should not be taken as a definitive view. There is a range of views within the Actuaries Institute on what constitutes a situation requiring certification.

The insurer in all cases is not a connected entity.

Circumstances	Certification required (?)
The incumbent insurer, which is not a connected entity, is reappointed without a tender, through a selection process that meets the requirements of paragraphs 22 and 23 of SPS 250	Yes
The current insurance contract contains no clauses that confer a priority or privilege. A tender is run, in accordance with the fund's insurer selection process, with four insurers invited to tender. None of the insurers are connected entities.	No



	<p>The government introduces new legislation, similar to PYS and PMIF (for example, the potential legislation in the Treasury Laws Amendment (Measures for consultation) Bill 2020). The current insurance contract does not confer any priority or privilege on the insurer / reinsurer. Given the short space of time available to amend the insurance arrangement, the trustee decides to negotiate revised terms with the incumbent insurer</p>	No
	<p>The trustee appoints a new insurer under example 2. The new contract states that the current insurer must be invited to tender at the end of the current rate guarantee period.</p>	Yes
	<p>The current insurance contract contains a clause stating that the current rate guarantee terminates in the event of a pandemic. "Pandemic" is clearly defined in the contract. The current insurance contract does not confer any priority or privilege on the insurer / reinsurer. A pandemic occurs (during an existing rate guarantee period), the pandemic clause is triggered, and the trustee and insurer negotiate revised terms, in accordance with a process set out in the Insurance Management Framework</p>	No
	<p>The current insurance contract states that the current insurer, which is not a connected entity, will be amongst those invited to tender at the end of the current rate guarantee period. The trustee runs a tender at the end of the rate guarantee period and wishes to re-appoint the incumbent insurer.</p>	Yes