



Prudential Standard SPS 512

Governance Transition

Objective and key requirements of this Prudential Standard

This Prudential Standard sets out minimum requirements for RSE licensees in relation to [Part 3 of the *Superannuation Industry (Supervision) Act 1993* (SIS Act)] and *Prudential Standard SPS 510 Governance* (SPS 510) during the transition period.

The key requirements of this Prudential Standard include:

- a preliminary assessment of the extent to which an RSE licensee's governance arrangements and business operations comply with [Part 9 of the SIS Act (as amended)] and the new requirements in SPS 510;
- the preparation and implementation of a transition plan which outlines an RSE licensee's processes and procedures to ensure compliance with [Part 9 of the SIS Act (as amended)] and the new requirements in SPS 510 by the end of the transition period;
- for an RSE licensee not intending to comply with [Part 9 of the SIS Act (as amended)] and the new requirements in SPS 510, the preparation and implementation of an exit plan which outlines the RSE licensee's processes and procedures to ensure that it ceases to operate by the end of the transition period;
- regular review of the transition plan or exit plan (as applicable) by an RSE licensee; and
- notifying APRA where an RSE licensee becomes aware that it will not comply with [Part 9 of the SIS Act (as amended)] and the new requirements in SPS 510, or will cease to operate, by the end of the transition period.

Authority

1. This Prudential Standard is made under section 34C of the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

Application

2. This Prudential Standard applies to all registrable superannuation entity (RSE) licensees under the SIS Act, other than RSE licensees that are licensed on or after the commencement of this Prudential Standard.¹
3. All RSE licensees to which this Prudential Standard applies must comply with this Prudential Standard in its entirety, unless otherwise expressly indicated.
4. For the purposes of this Prudential Standard, a reference to ‘the new governance requirements’ is a reference to the requirements of [Part 9 of the SIS Act (as amended)] and *Prudential Standard SPS 510 Governance* (SPS 510).
5. This Prudential Standard commences on the [date of registration on the Federal Register of Legislative Instruments].

Preliminary assessment (all RSE licensees)

6. By 1 July 2016, an RSE licensee must undertake an assessment of the extent to which its governance arrangements and business operations comply with the new governance requirements (preliminary assessment) and notify APRA whether it²:
 - (a) complies with the new governance requirements (complying RSE licensee);
 - (b) intends to comply with the new governance requirements by the end of the transition period (transitioning RSE licensee)³; or
 - (c) intends to cease operating by the end of the transition period (ceasing RSE licensee).⁴
7. A transitioning RSE licensee must, as part of its preliminary assessment, consider:

¹ For the purposes of this Prudential Standard, ‘RSE licensee’ has the meaning given in section 10(1) of the SIS Act.

² For the purposes of this Prudential Standard, an ‘RSE licensee’s business operations’ includes all activities as an RSE licensee (including the activities of each RSE of which it is the licensee), and all other activities of the RSE licensee to the extent that they are relevant to, or may impact on, its activities as an RSE licensee.

³ For the purpose of this Prudential Standard, a reference to ‘the transition period’ is a reference to the transition period defined in [proposed section 23 of the SIS Act].

⁴ For the purposes of this Prudential Standard, an RSE licensee is taken to have ceased operating when APRA has cancelled its RSE licence under section 29G of the SIS Act.

- (a) the key changes required to the RSE licensee's governance framework and risk management framework for the RSE licensee to comply with the new governance requirements;
- (b) whether each existing director, including the chairperson of the Board, is independent within the meaning in [proposed section 87 of the SIS Act]⁵; and
- (c) the number of directors the Board of the RSE licensee (the Board) intends to have at the end of the transition period, including the number of independent directors the Board will have in order to meet the obligations in [proposed section 86 of the SIS Act].

Transition plan (transitioning RSE licensees)

- 8. Paragraphs 9 to 13 inclusive of this Prudential Standard apply only to transitioning RSE licensees.
- 9. A transitioning RSE licensee must develop a detailed transition plan, approved by the Board, that sets out the actions it will take (and the proposed timeframes for those actions) in order to comply with the new governance requirements by the end of the transition period. The plan must be provided to APRA within 10 business days of Board approval, and in any event, by no later than 1 January 2017.
- 10. The transition plan must, at a minimum, describe:
 - (a) key milestones for making the necessary changes to the RSE licensee's governance framework and risk management framework, how it will monitor progress against these milestones and the persons or board committees responsible for making these key changes;
 - (b) the process to ensure an orderly transition for any changes in board membership required for the RSE licensee to comply with the new governance requirements, including the timeframes for such changes;
 - (c) the date by which the Board expects to appoint an independent director as chair of the Board (if the Board does not already have an independent chair)⁶;
 - (d) when the RSE licensee expects to comply with the new governance requirements; and
 - (e) potential impediments to the RSE licensee complying with the new governance requirements by the end of the transition period.

⁵ For the purposes of this Prudential Standard, a reference to 'the Board' is a reference to the Board of directors or group of individual trustees of an RSE licensee and 'group of individual trustees' has the meaning given in section 10(1) of the SIS Act. Also, a reference to 'a director' is a reference to a director of an RSE licensee which has a Board of directors or, in the case of a group of individual trustees, an individual trustee.

⁶ Refer to [proposed section 86(1)(b) of the SIS Act].

11. A transitioning RSE licensee must regularly review its progress against the milestones in its transition plan. A transitioning RSE licensee must also review the appropriateness and adequacy of the transition plan following any material change to the size, business mix and complexity of the RSE licensee's business operations or other change in circumstances that may warrant such a review.
12. A transitioning RSE licensee must submit to APRA any material changes to the transition plan within 10 business days of the Board approving the changes, together with an explanation of the reasons for the changes.
13. APRA may require a transitioning RSE licensee to amend its transition plan if the plan does not adequately address the matters set out in paragraphs 9 and 10.

Exit plan (ceasing RSE licensees)

14. Paragraphs 15 to 20 inclusive of this Prudential Standard apply only to ceasing RSE licensees.
15. A ceasing RSE licensee must develop an exit plan, approved by the Board, that sets out the actions it will take (and the proposed timeframes for those actions) in order to cease operating by the end of the transition period. The plan must be provided to APRA within 10 business days of Board approval, and in any event, by no later than 1 January 2017.
16. The exit plan must, at a minimum state the processes and expected timeframes to ensure that:
 - (a) members of RSEs within the RSE licensee's business operations are informed about the RSE licensee's intention to cease operating in a timely manner,
 - (b) members' benefits are appropriately transferred out of the RSE licensee's business operations without undue delays or detriment; and
 - (c) the relevant governing rules and any relevant legislation applying to the RSE licensee ceasing to operate are followed.
17. A ceasing RSE licensee must regularly review its progress against the milestones in the exit plan. A ceasing RSE licensee must also review the appropriateness and adequacy of the transition plan following any material change to the size, business mix and complexity of the RSE licensee's business operations or other change in circumstances that may warrant such a review.
18. A ceasing RSE licensee must submit to APRA any material changes to the exit plan within 10 business days of the Board approving the changes, together with an explanation of the reasons for the changes.
19. APRA may require a ceasing RSE licensee to amend its exit plan if the plan does not adequately address the matters set out in paragraphs 15 and 16 inclusive.

20. If a ceasing RSE licensee no longer intends to cease operating as an RSE licensee before the end of the transition period, the ceasing RSE licensee will become a transitioning RSE licensee and must:
 - (a) submit to APRA a copy of the Board's determination to not cease operating within 10 business days of that decision being made; and
 - (b) comply with any requirements of this Prudential Standard which apply to transitioning RSE licensees.

Notification to APRA

21. APRA must be notified within 10 business days where:
 - (a) a transitioning RSE licensee becomes aware that it will not comply with the new governance requirements by the end of the transition period; or
 - (b) a ceasing RSE licensee becomes aware that it will not cease operating by the end of the transition period.

Adjustments and exclusions

22. APRA may, by notice in writing to an RSE licensee, adjust or exclude a specific prudential requirement in this Prudential Standard in relation to that RSE licensee.⁷

⁷ Refer to section 34C(5) of the SIS Act.