



5 February 2014

To all RSE licensees

Consultation on proposed Modification Declaration - *Superannuation Industry (Supervision) Regulations 1994*, r. 4.07E(8)

APRA has received enquiries regarding the operation of r. 4.07E of the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) which governs the continuation of self-insured benefits in defined benefit (DB) funds and sub-funds after 1 July 2013.

Under r. 4.07E, an RSE that was self-insuring in respect of DB members on 1 July 2013 (and this self-insurance did not breach a condition of the RSE licence), may continue the self-insurance arrangement beyond the transition period ending on 1 July 2016 (refer to r. 4.07E(8)).

The SIS Regulations, as currently in force, prevent an RSE licensee from accepting successor fund transfers (SFTs) of members of DB funds where the transferring fund is permitted to self-insure, unless the receiving RSE licensee is otherwise permitted by virtue of their RSE licence to self-insure.

APRA has been requested to consider granting relief from the operation of this regulation to allow RSE licensees to accept an SFT from a self-insuring DB RSE whilst preserving the self-insured nature of the benefits of the DB members of the original RSE.

APRA proposes, therefore, to issue a modification declaration to modify the operation of r. 4.07E(8) by adding two new sub-regulations ((8A) and (8B)) to allow an RSE licensee to receive an SFT of members of DB funds with self-insurance arrangements, subject to an application to APRA to vary RSE licence Condition B.1.¹

The proposed text of the modification declaration is provided as an attachment to this letter.

APRA welcomes feedback on the proposed modification declaration. Written submissions should be forwarded to superannuation.policy@apra.gov.au by Tuesday, 18 February 2014.

¹ RSE licence Condition B.1 states: If the RSE licensee undertakes to provide any benefits that are life insurance (including disability) benefits to members, those benefits must be wholly determined by reference to life policies issued to the trustee from a company registered under the *Life Insurance Act 1995*.

Yours sincerely



Helen Rowell
Member
Australian Prudential Regulation Authority

Attachment - Proposed Modification Declaration

(8A) Subregulations (2) and (4) do not apply, in relation to a defined benefit member of the fund, if:

- (a) on or after 1 July 2013, the member transferred to the fund from another fund (the *original fund*); and
- (b) the fund is a successor fund of the original fund; and
- (c) immediately before the transfer:
 - (i) the member was a defined benefit member of the original fund; and
 - (ii) the original fund self-insured in relation to the member and the risk; and
- (d) the original fund complied with paragraphs (8)(a) and (b).

(8B) Subregulation (8A) applies subject to any condition imposed by APRA under subsection 29EA(1) of the Act on the licence of the RSE licensee of the fund.

Cost-benefit analysis information

To improve the quality of regulation, the Australian Government requires all proposals to undergo a preliminary assessment to establish whether it is likely that there will be business compliance costs. APRA's view is that this proposal is of a minor or machinery nature, with no material compliance costs and may reduce business costs. If respondents consider that there will be compliance costs or cost savings associated with the proposal, APRA requests that actual cost estimates are provided.

Respondents are requested to use the Business Cost Calculator (BCC) to estimate costs to ensure that the data supplied to APRA can be aggregated and used in an industry-wide assessment. APRA would appreciate being provided with the input to the BCC as well as the final result. The BCC can be accessed at <https://bcc.obpr.gov.au/>.

Important Disclosure Notice - Publication of Submissions

All information in submissions will be made available to the public on the APRA website unless a respondent expressly requests that all or part of the submission is to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain in confidence should provide this information marked as confidential in a separate attachment.

Submissions may be the subject of a request for access made under the *Freedom of Information Act 1982* (FOIA). APRA will determine such requests, if any, in accordance with the provisions of the FOIA. Information in the submission about any APRA regulated entity which is not in the public domain and which is identified as confidential will be protected by section 56 of the *Australian Prudential Regulation Authority Act 1998* and therefore will ordinarily be exempt from production under the FOIA.