



 APRA

# PRUDENTIAL PRACTICE GUIDE

SPG 280 – Payment Standards

June 2017

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# Contents

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<b>Contents</b>	<b>2</b>
<b>About this guide</b>	<b>4</b>
Introduction	5
Risk management framework	6
Administration	6
Conditions of release	8
Retirement definitions	8
Early release of benefits	9
Rollovers and transfers	10
Illegal early release and identity crimes	11
Portability rules	12
Pension issues	14
Death benefit payments	15
Rectification of errors	16

## About this guide

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Prudential Practice Guides (PPGs) provide guidance on APRA's view of sound practice in particular areas. PPGs frequently discuss legal requirements from legislation, regulations or APRA's prudential standards, but do not themselves create enforceable requirements.

The *Superannuation Industry (Supervision) Act 1993* (SIS Act) and Part 6 of the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) set out the circumstances and forms in which an RSE licensee must or may pay member benefits from a registrable superannuation entity (RSE). The SIS Act, the SIS Regulations and the *Superannuation Data and Payment Standard 2012* (superannuation data and payment standard) also set out the requirements for common data standards and processing requirements for benefit payments paid as rollovers or transfers.<sup>1</sup>

This PPG aims to assist an RSE licensee in complying with the requirements of the SIS Act and Part 6 of the SIS Regulations (payment standards), the superannuation data and payment regulations and standards and, more generally, to outline prudent practices in relation to paying benefits.<sup>2</sup>

This PPG applies only to an RSE that is an APRA regulated superannuation fund or an approved deposit fund (ADF), and to an exempt public sector superannuation scheme (EPSSS) to the extent that it is involved in a rollover or transfer to or from an RSE.

This PPG does not apply to an RSE that is a pooled superannuation trust (PST). For the purposes of this guide, and consistent with the requirements of the SIS Act and SIS Regulations, 'RSE licensee', RSE and EPSSS have the meaning given in the SIS Act.

Subject to the requirements of the payment standards and the superannuation data and payment regulations and standards, an RSE licensee has the flexibility to structure its business operations in the way most suited to achieving its business objectives. Not all practices outlined in this PPG will be relevant for every RSE licensee and some aspects may vary depending upon the size, business mix, complexity and benefit design features of the RSE licensee's business operations.

<sup>1</sup> Superannuation data and payment standard as defined in s. 10 of the SIS Act.

<sup>2</sup> Superannuation data and payment regulations and standards as defined in s. 10 of the SIS Act.

## Introduction

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1. An important function of an RSE licensee is to pay benefits out of the superannuation system to beneficiaries and between RSEs including where the benefits are rolled over or transferred.<sup>3</sup> Although the terms 'rolled over' and 'transferred' are often used interchangeably, these terms are defined in the SIS Regulations. A member benefit is rolled over if a condition of release has been satisfied and it is paid as a superannuation lump sum within the superannuation system rather than the benefit being paid out of the system. A member benefit is considered to be transferred if it is paid to another superannuation entity other than upon satisfaction of a condition of release.<sup>4</sup>
2. The framework provided for in the payment standards aims to ensure that benefit payments made from, rolled over or transferred between RSEs are used for genuine retirement and approved ancillary purposes, and that benefits are paid correctly and efficiently. The standards outline the circumstances and manner in which a member's benefits:
  - a) must be cashed – i.e. the compulsory cashing rule that applies on the death of a member;
  - b) may be cashed – i.e. the voluntary cashing rules;
  - c) must be rolled over or transferred to another superannuation entity – e.g. 'lost' superannuation members; and
  - d) may be rolled over or transferred to another superannuation entity.
3. The standards provide that a benefit can be accessed upon the occurrence of specific events that constitute a 'condition of release'. Such conditions are generally for the purpose of retirement or other specific conditions such as death, disability or terminal medical conditions.<sup>5</sup> The payment standards operate in conjunction with the sole purpose test to regulate the timing and manner of payment of benefits.<sup>6</sup>
4. Requirements have been introduced, under the superannuation data and payment regulations and standards, for common data standards and processing requirements to simplify and streamline administrative processes for RSE licensees and employers dealing with RSEs (SuperStream). The measures require greater use of members' tax file numbers to assist the identification of member accounts and to facilitate account consolidation, electronic transmission requirements and a new timeframe for the processing of contributions, rollovers and transfers of benefits.
5. An RSE licensee is responsible for ensuring that each benefit payment is processed in a way that is compliant with the requirements of the SIS Act, the SIS Regulations, the

<sup>3</sup> 'Superannuation system', 'rolled over' and 'transferred' as defined in r. 5.01 of the SIS Regulations.

<sup>4</sup> For the purposes of this guide, a 'superannuation entity' is an entity within the superannuation system and is not restricted to an RSE or EPSSS, which this guidance deals with.

<sup>5</sup> Refer to Schedule 1 to the SIS Regulations.

<sup>6</sup> Refer to s. 62 of the SIS Act.

superannuation data and payment regulations and standards (for rollovers and transfers), the governing rules of the RSE and any other requirements for the payment of benefits, including the application of taxation and other applicable laws.<sup>7</sup> An RSE licensee is also responsible for managing risks associated with the processing of a benefit payment.

6. The governing rules of an RSE may prescribe requirements with regard to payments that are more restrictive than legislative requirements. For example, where the governing rules provide for stricter preservation rules, the governing rules take precedence and it is good practice for an RSE licensee to disclose this fact to members. An RSE licensee is expected to obtain its own legal advice as to the effect of such provisions and to resolve any anomalies between the governing rules and legislative requirements.

## Risk management framework

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7. Under *Prudential Standard SPS 220 Risk Management* (SPS 220), an RSE licensee is responsible for ensuring that it identifies, manages and regularly reviews all material risks to its business operations through its risk management framework. An RSE licensee must also have and maintain a Board-approved Risk Management Strategy (RMS). While an RSE licensee may have a number of different approaches to the development of its risk management framework, the following guidance may assist an RSE licensee in this regard.
8. APRA expects that an RSE licensee would consider the risks arising from processing and paying benefits and address these risks, as appropriate, in its risk management framework and RMS. Particular emphasis may be appropriate on the following risk areas: liquidity and cash flow risk and how these are affected by the requirement under the superannuation data and payment regulations and standards to generally pay benefits within three business days, operational risk, outsourcing risk and fraud risk.

## Administration

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9. A prudent RSE licensee would establish, monitor and review policies and procedures regarding the acceptance, identification and processing of applications to pay, transfer or rollover benefits. Such policies and procedures would ordinarily contain measures that an RSE licensee would take (or require an outsourced service provider to take) in the case of a breach of the payment standards. This may include identifying which parties are to be notified (e.g. member, receiving RSE, paying institution, Board or Board committee, regulators), procedures for rectification, disclosure to members and the basis of reporting to the relevant party.
10. APRA expects that an RSE licensee's policies and procedures would clearly outline typical and maximum timeframes for the payment of different types of benefits and also contain details of the application of the investment policy and the unit pricing policy/crediting rate policy in relation to benefit payments once notified by the member. An RSE licensee would also ensure there is equitable treatment amongst members when

<sup>7</sup> Governing rules as defined in s. 10 of the SIS Act.

paying benefits and that members are not disadvantaged due to delays between the date of receipt of the benefit payment application and the payment date. It would also be prudent for the RSE licensee to include in its policy, details on how the risks of these timing differences are managed.

11. APRA envisages that an RSE licensee would ensure that the data storage and benefit processing systems for each RSE it manages are adequate to ensure the correct and timely payment of benefits in any form. The systems would ordinarily keep up-to-date records of benefits, including changes to benefits, e.g. according to each event that constitutes a condition of release, in a way that permits the different amounts for each member account to be classified correctly.
12. An adequate data storage and processing system would ordinarily record the taxable and non-taxable components of each benefit. It would also be able to re-calculate the amounts in each preservation category (and the tax components where required) in response to changes that may impact on tax or preservation status and conditions of release.<sup>8</sup> These changes may include the member's age, the member satisfying a condition of release and/or correctly recording the impact of earnings growth on the relevant components of the benefit.
13. APRA considers the processing of benefit payments to be a material business activity of an RSE licensee. To the extent that some or all of the function is outsourced, including arrangements to ensure the processing of rollovers and transfers complies with the superannuation data and payment regulations and standards, the arrangements are expected to meet the requirements of *Prudential Standard SPS 231 Outsourcing*.
14. An RSE licensee or its external administrator may use an additional service provider, such as a gateway service, to assist in ensuring compliance with the superannuation data and payment regulations and standards. APRA considers that it is the RSE licensee's responsibility to determine whether this element of payment processing is of itself a material business activity. For example, an RSE licensee may consider whether there would be a significant impact on the RSE licensee's ability to meet its regulatory requirements should the gateway service fail.
15. Where an RSE licensee has outsourced its administration function, APRA expects the RSE licensee to ensure its administration agreement makes specific reference to compliance with the superannuation data and payment regulations and standards and to the approach to compliance to ensure that the administrator is able to deliver the required service, including any element it may subcontract to a gateway or other service provider.

<sup>8</sup> Refer to *Prudential Practice Guide CPG 234 Management of Security Risk in Information and Information Technology* for more information on APRA's expectations in relation to data storage, recovery and management.

## Conditions of release

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16. Under the SIS Act and SIS Regulations, an RSE licensee must ensure that each benefit payment is administered in accordance with the conditions of release provisions, including those provisions that apply to temporary residents.<sup>9</sup>
17. The cooling-off provisions in the *Corporations Regulations 2001* that provide for the return of a superannuation product do not constitute a condition of release for the purposes of the SIS Regulations.<sup>10</sup> As such, regardless of whether a member decides to utilise the cooling-off provisions regarding a contribution or a rollover, the amount must be retained in the superannuation system until a condition of release is met.

## Retirement definitions

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18. The SIS Regulations include two alternative age-related definitions of retirement.<sup>11</sup>
19. The first definition of retirement applies where a member has reached their preservation age and this is less than 60. In these circumstances, the member's 'retirement' occurs when an arrangement under which the member was gainfully employed has come to an end *and* the RSE licensee is reasonably satisfied that the member intends never again to become gainfully employed either on a full-time or a part-time basis (i.e. for 10 or more hours per week).<sup>12</sup>
20. The second definition of retirement applies when a member has reached the age of 60. In these circumstances, a member's retirement is considered to have occurred if an arrangement under which the member was gainfully employed has come to an end on or after the member attained the age of 60, *or* the RSE licensee is reasonably satisfied that the member intends never again to become gainfully employed either on a full-time or a part-time basis.
21. The two definitions of retirement have slightly different tests applicable to them. Under the first definition of retirement (where preservation age is less than 60), an RSE licensee must be reasonably satisfied that the member intends never again to become gainfully employed on a full-time or part-time basis. Under the second definition of retirement (where preservation age is 60), an RSE licensee only needs to be satisfied of the same matter where the member ceased gainful employment *prior* to age 60 (i.e. where the member ceased gainful employment *after* age 60, this is sufficient evidence of retirement and the member's intentions for future employment are not a consideration in these circumstances). In either case, proof of age will be required. Where the RSE licensee must be reasonably satisfied that the member intends never again to become gainfully employed, additional evidence will be required to support this. Proof of retirement may be satisfied by obtaining evidence that the member's gainful employment has ceased (e.g. a

<sup>9</sup> Refer to Part 6 of the SIS Regulations and Schedule 1 to the SIS Regulations.

<sup>10</sup> Refer to Division 5 of Part 7.9 of the *Corporations Act 2001*, and r. 7.9.66 of the *Corporations Regulations 2001*.

<sup>11</sup> Refer to r. 6.01(7) of the SIS Regulations.

<sup>12</sup> 'Gainfully employed' as defined in r. 1.03 of the SIS Regulations and 'gainfully employed on a part-time basis' as defined in r. 7.01 of the SIS Regulations.



statement from the employer) and of the member's intention, at the time of the claim, to never again be gainfully employed either on a full-time or a part-time basis (e.g. a statutory declaration from the member).

22. Where a member has reached the age of 60, is in two or more employment arrangements at the same time, and ceases one of these employment arrangements, this is a valid condition of release in respect of all preserved and restricted non-preserved benefits accumulated up until that time. However, it is APRA's view that this will not change the character of any preserved or restricted non-preserved benefits that accrue after the condition of release has occurred. A member will not be able to cash any further benefits or investment earnings accrued from another existing employment arrangement, or any benefits or investment earnings from a new employment arrangement, until a further condition of release occurs.

## Early release of benefits

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23. Before considering applications for early release of benefits under severe financial hardship or specified compassionate grounds, it is good practice for an RSE licensee to ensure that no other means of release are available to the member (e.g. cashing unrestricted non-preserved amounts or satisfaction of other conditions of release such as retirement).
24. A prudent RSE licensee would have a clear policy, set of criteria and the relevant forms and information readily available to deal with applications for early release of benefits under severe financial hardship in a prudent and timely manner.
25. The policy would typically cover severe financial hardship arising from circumstances such as prolonged unemployment and emergency situations such as domestic and family violence or large-scale adverse events (e.g. floods and bushfires).
26. One of the tests for release of benefits on grounds of severe financial hardship is that the person is unable to meet 'reasonable and immediate family living expenses'. An RSE licensee's policy may provide examples of what are such expenses in a variety of circumstances. These would ordinarily include expenses such as housing or accommodation costs, food, essential travel and other essential living costs. The policy may also consider matters such as loss of savings, loss of access to housing, loss of/or reduced access to continuing employment and the member's need for additional assistance.
27. A prudent RSE licensee's policy may take into account whether the member is entitled to other Commonwealth government assistance from the Department of Human Services, i.e. general assistance unrelated to superannuation. After considering other Commonwealth government assistance that may be available in emergencies and depending on personal circumstances, a member who is ineligible to access superannuation benefits under the severe financial hardship provision may be able to apply for release of benefits on specified compassionate grounds.

28. Applications for release of superannuation benefits on specified compassionate grounds are made to the Department of Human Services.<sup>13</sup>

## Rollovers and transfers

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29. Under the payment standards, a member's benefit must not be rolled over or transferred (in whole or in part) from an RSE, unless any of the following apply:

- a) the member has given consent;
- b) the transfer is to a 'successor fund'<sup>14</sup>;
- c) the transfer is of an accrued default amount to a MySuper product pursuant to *Prudential Standard SPS 410 MySuper Transition*;
- d) the transfer is to an eligible rollover fund pursuant to *Prudential Standard SPS 450 Eligible Rollover Fund (ERF) Transition*<sup>15</sup>;
- e) the transfer is to the Commonwealth pursuant to the provisions of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; or
- f) the transfer is to a superannuation interest of the member's spouse pursuant to the *Family Law Act 1975*.

30. A member's consent may be written or it may be provided in any other manner that complies with the standard form produced by the Australian Taxation Office (ATO) and APRA for use by the industry. The form reflects the APRA Determination that sets out the factors to ensure adequacy of non-written consent (e.g. oral or electronic).<sup>16</sup> No further documentation would normally be required unless the RSE licensee has reasonable grounds for suspicion regarding the applicant's identity.

31. APRA expects that an RSE licensee would consult with it in regard to successor fund transfers prior to making such transfers.

32. Before rolling over or transferring any member benefits to an RSE or a self-managed superannuation fund (SMSF), APRA expects an RSE licensee to make use of the electronic services provided by the ATO to confirm identity, validate tax file numbers and provide other essential fund data including bank account details, etc. Such electronic services include the ATO's Super Fund Lookup database ([www.superfundlookup.gov.au](http://www.superfundlookup.gov.au)), the SMSF Member Verification System (to verify the member is a member of the SMSF), and other electronic services. Further information on the use of these systems is available from the ATO. In addition to the use of any such electronic services, a prudent RSE licensee would consider whether any additional assurance is required as to the

<sup>13</sup> For further information refer to the Department of Human Services website: [www.humanservices.gov.au](http://www.humanservices.gov.au).

<sup>14</sup> Refer to r. 1.03 of the SIS Regulations.

<sup>15</sup> Refer to Part 24 of the SIS Act and Part 10 of the SIS Regulations.

<sup>16</sup> Refer to APRA Determination for the 'Form of Non Written Consent Sufficient for Rolling Over or Transferring Benefits' available on the APRA website.

identity of the member and/or membership of the RSE or SMSF. Further details on such checks, and the risks of illegal early release of benefits, are outlined below.

## Illegal early release and identity crimes

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33. Illegal access to preserved benefits through illegal early release (IER) schemes and identity crimes (including identity theft and identity fraud) are significant risks to the superannuation industry. APRA expects an RSE licensee would ensure these risks are identified and mitigated. An RSE licensee may be in breach of the payment standards or its risk management obligations in the event of illegal early release or identity crimes. Depending on the circumstances and controls in place within an RSE, an RSE licensee may be liable to an affected member who is a victim of such a fraudulent scheme for the loss of their benefit. The risks of IER schemes and identity crimes are typically higher in respect of SMSFs; however, the risks are relevant in respect of all RSEs and SMSFs.
34. APRA has identified various instances where preserved benefits have been accessed through IER schemes, often involving identity theft and fraud. These include, but are not limited to, the following situations:
- a) a member rolls over their preserved benefits to an SMSF to gain early access to their benefits. This may or may not involve an IER scheme promoter. Where a promoter is involved, the promoter often takes a large portion as a 'fee' and, in some situations, takes the whole benefit;
  - b) a member's identity information is stolen and used to request a rollover from an RSE to an SMSF in order to steal the member's benefit; or
  - c) the identity of an existing RSE is stolen and a request made for a rollover from that RSE to a similar sounding SMSF controlled by a fraudulent operator.
35. An RSE licensee would ordinarily include provisions in its risk management framework to establish appropriate, robust systems and procedures that substantially mitigate the risk of, and opportunity for, IER schemes and identity crimes. Such systems and procedures would be designed to ensure that benefits are paid to the proper party (i.e. member, dependant or rollover RSE) using the ATO's electronic services outlined above.
36. APRA, the ATO and the Australian Securities and Investments Commission (ASIC) have continued to work together to reduce illegal activity involving RSEs and SMSFs. As part of this process, APRA issued a letter to RSE licensees on managing the risks of rollovers and transfers to SMSFs. The letter outlines details of some of the electronic services provided by the ATO and also outlines expectations and recommendations in relation to the checking procedures that a prudent RSE licensee is expected to adopt. These include thorough checks for proof of identity, membership of the RSE or SMSF and checks on the validity of the entity's payment details, plus the recommended actions to be taken where any concerns are identified.<sup>17</sup>

<sup>17</sup> Refer to APRA's Letter to Trustees: *Managing the risk of rollovers and transfers to SMSFs* dated 28 October 2010.

37. Generally, once an RSE licensee has completed its risk checks, APRA expects the amount to be rolled over or transferred to the RSE or SMSF according to the member's valid request and the portability rules outlined below. However, where reasonable grounds for suspicion remain, a prudent RSE licensee would make additional inquiries to resolve any concerns identified before it rolls over or transfers the amount. An RSE licensee might have reasonable grounds for suspicion in situations such as a change to member details (e.g. address) just prior to a request for a rollover or transfer.
38. If an RSE licensee's concerns are not able to be resolved, APRA recommends that the RSE licensee does not proceed with the rollover or transfer but instead reports the matter to APRA and the ATO ([super-IER@ato.gov.au](mailto:super-IER@ato.gov.au)). Depending on the nature of the issue or suspicion, it may also be appropriate for the RSE licensee to consider reporting requirements in relation to AML/CTF legislation and report the matter to AUSTRAC and, in the case of identity theft or fraud, the relevant State police.

## Portability rules

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39. The portability provisions of the superannuation data and payment regulations and standards generally require an RSE licensee to rollover or transfer the whole or the nominated part of a member's benefit as soon as practicable and normally within three business days of the member requesting this in writing. The superannuation data and payment regulations and standards also outline provisions, including different timeframes, for rollovers and transfers completed as non-standard transactions, where a member has made an investment choice in respect of the benefit and where any part of the member's benefit is an illiquid investment.<sup>18</sup>
40. Where the three business day processing requirement applies (i.e. for standard rollovers or transfers), this applies from when an RSE licensee has received all the mandatory information required from the member. A prudent RSE licensee would ensure that the three business day processing requirement has been factored into its asset allocation, liquidity and cash flow planning for the RSE or the individual investment strategy. In addition, an RSE licensee would be expected to give consideration to other relevant matters such as normal settlement timeframes for specific types of investments and whether the location of the investments may impact on settlement, e.g. where the investments may be located in overseas jurisdictions.
41. The three business day processing requirement of the superannuation data and payment regulations and standards does not apply to a closed product or an illiquid investment where an RSE licensee has obtained member consent that a longer redemption period may apply (e.g. because of the illiquid nature of the investment) or where APRA has suspended or varied an RSE licensee's obligation under the portability provisions.<sup>19</sup> Further, APRA considers the standards will generally not apply to unfunded interests, defined benefit interests, pensions other than account-based or allocated pensions or to

<sup>18</sup> Refer to r. 6.34A of the SIS Regulations.

<sup>19</sup> Closed product as defined in clause 6 of the *Superannuation Data and Payment Standards 2012*.

a rollover or transfer to a New Zealand KiwiSaver scheme.<sup>20</sup> In APRA's view, an RSE licensee would not generally be in breach of the three business day portability requirement where there is either:

- a) an inexplicable mismatch between information on the application form and the RSE's data or in any of the electronic services provided by the ATO; or
- b) a suspicious matter has been referred to the ATO IER group and it remains under investigation.

42. APRA has the power to suspend or vary an RSE licensee's obligation to rollover or transfer amounts under the portability provisions, upon application by the RSE licensee under the SIS Regulations.<sup>21</sup> For these applications, APRA expects an RSE licensee to be able to demonstrate that a rollover or transfer of an amount would have a significant adverse effect on the financial position of the RSE or the interests of other members of the RSE. Factors that would typically be considered relevant include investments becoming illiquid, where successor fund or intra-fund transfers are occurring, and other transition issues such as blackout periods for the transfer of data and/ or investments. If APRA believes on reasonable grounds that there will be a significant adverse effect, it may exercise its discretion to grant relief.

43. In applying for such portability relief and in order to ensure a timely response from APRA, APRA expects an RSE licensee to:

- a) submit the application to APRA as soon as possible before the three business day portability date expires or the 30-day portability date in the case of a non-standard rollover or transfer. With the introduction of the three business day processing requirement for standard rollovers and transfers, a prudent RSE licensee will seek portability relief as soon as it is reasonably expected that it may be needed (i.e. not wait until a redemption request is submitted);
- b) submit to APRA any application to renew or extend portability relief already granted prior to expiry of the initial relief;
- c) provide an explanation or reasons for the inability to comply with the member's rollover or transfer request. For example, an explanation as to how the RSE licensee is satisfied that the significant adverse effect test has been met;
- d) provide an action plan, demonstrating how the RSE licensee will make the payment(s) and include projected timelines and cash flows. For example, this may take the form of a project plan/change management plan to address the issues<sup>22</sup>;
- e) ensure there is appropriate disclosure to members (e.g. significant event notice), particularly to all affected members who have applied for a withdrawal, rollover or

<sup>20</sup> Special provisions apply to a rollover or transfer to a New Zealand KiwiSaver scheme that complies with the Trans-Tasman retirement savings portability requirements and which include an obligation on an RSE licensee to undertake a rollover or transfer to a Kiwisaver scheme where requested by a member.

<sup>21</sup> Refer to r. 6.37 of the SIS Regulations.

<sup>22</sup> Refer to APRA's Letter to Trustees: *Operational and governance risk issues to consider when implementing change* dated 28 February 2011.

transfer. A prudent RSE licensee will ensure that copies of the disclosure documents, including draft documents, are provided to APRA as soon as possible; and

- f) depending on the reasons for seeking portability relief, provide a copy of any relevant trust deed amendment, deed of transfer or other relevant legal document (either in draft or final form) that evidences the transfer.

## Pension issues

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- 44. Where an RSE offers pensions, APRA envisages that an RSE licensee would ensure that its policies and procedures include appropriate measures and controls to deal with the complexity of regulatory restrictions and cash flow issues that relate to the types of pensions offered.
- 45. Such policies and procedures would address any commutation restrictions that apply to certain types of pensions (e.g. lifetime pensions, non-commutable pensions, transition to retirement pensions) to ensure that these pensions are not commuted contrary to regulatory requirements, or the RSE's governing rules if these are more restrictive.
- 46. An RSE licensee that provides pension products would ordinarily have appropriate controls, detailed in its policies and procedures, to ensure adequate cash flow is available to pay each pension. A prudent RSE licensee may also consider the use of restrictions in the choice of underlying assets that may be used to support pensions, and limits on the percentage of each member's pension invested in more illiquid investment options, e.g. mortgage, property and infrastructure investment options.
- 47. An RSE licensee would ordinarily conduct comprehensive cash flow planning that considers short-term and longer-term cash flow needs, and includes allowance for possible commutations should these be permitted by the terms of the pension. A sound approach would be for an RSE licensee to ensure that, for each account-based or allocated pension, sufficient assets are set aside to ensure payment of the pension for a minimum period (e.g. one to two years). In a more difficult economic environment, a prudent RSE licensee would consider extending the minimum period (e.g. at least three years), and for a sufficient level of assets to support the pension to be invested in appropriately liquid investments to ensure access to adequate cash flow at all times.
- 48. It would be good practice for an RSE licensee to have a policy describing the RSE's treatment of deferred tax liabilities and deferred tax assets, particularly the impact where a member moves from the accumulation stage to the pension-paying stage, and how the RSE licensee considers the need for equitable treatment between members. In particular, a prudent RSE licensee would consider inter-generational equity between incoming and outgoing members and would also ensure its policy outlines how these considerations are balanced with the need to avoid undue complexity and costs in administering the RSE.

## Death benefit payments

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49. Death benefits may be paid under five different types of death benefit arrangements,<sup>23</sup> each with its own requirements and consequences. A prudent RSE licensee would carefully consider which death benefit arrangements are suitable to offer through the RSE and seek legal advice to support its decision.
50. The discretionary nature of the payment of death benefits can be difficult and costly for an RSE licensee, particularly if a deceased member has complex or unknown relationships. The Superannuation Complaints Tribunal commonly receives complaints that deal with death benefits. Therefore, it is important that an RSE licensee has appropriate policies, systems and procedures to adequately manage all aspects of the data collection, verification and decision-making procedures involved in the death benefit payment process.
51. A prudent RSE licensee's policies and procedures dealing with the payment of death benefits would not only ensure compliance with SIS requirements, an RSE's governing rules and any binding nominations, but would also take into account practical concerns, the sensitive nature of such payments and processes to ensure that decisions are fair and reasonable.
52. It is prudent practice for an RSE licensee to ensure that the systems involved in processing the payment of death benefits include a check to ensure the recipients meet the criteria to be a recipient of a death benefit.<sup>24</sup>
53. Where an RSE licensee has adopted binding nominations, this would ordinarily include establishing a process to identify which members have made a nomination, and a procedure to notify relevant members at the appropriate time that their nomination is about to lapse, explaining the consequences of its lapsing and what steps members can take to renew or alter their nomination. A prudent RSE licensee would ensure it considers any legal requirements which determine when death benefit nominations may lapse and would also ensure its policy covers situations where nominations may no longer be applicable due to changed circumstances.
54. An RSE licensee is required to process and pay death benefits as soon as practicable after notification of the member's death.<sup>25</sup> APRA expects that an RSE licensee would have processes to arrange for the timely cessation of any pension payments that were being paid to the deceased member and, if relevant, commence payment of any reversionary pensions or lump-sum payments to any persons nominated in binding death benefit nominations.
55. As part of an RSE licensee's obligations to act in the best interests of members and other beneficiaries, APRA recommends that death benefit payment procedures and systems

<sup>23</sup> The death benefit arrangements are: automatic reversionary benefit; non-binding nomination; binding nomination; non-lapsing nomination or complete RSE licensee discretion.

<sup>24</sup> Refer to r. 6.22 of the SIS Regulations. 'Dependant' as defined in s. 10 of the SIS Act.

<sup>25</sup> Refer to r. 6.21 of the SIS Regulations.

specifically cover the RSE licensee's policy regarding the payment of augmented or anti-detriment lump-sum death benefits to dependants.

## Rectification of errors

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56. Where an error in the payment of benefits results in a former member of an RSE being paid less than their full entitlement, an RSE licensee may satisfy its obligation to compensate the former member for the shortfall by rolling over the shortfall amount to the former member's current superannuation account in their new RSE. Where the shortfall is under the threshold in the SIS Regulations and the former member has satisfied a relevant condition of release, an RSE licensee may pay the amount to the former member in cash.<sup>26</sup> Where the shortfall is under the threshold but a condition of release has not been met for the former member, an RSE licensee may make an application to APRA for relief from the payment standards, setting out the relevant circumstances.
57. Where payment or benefit errors have arisen from unit pricing or crediting rate errors, an RSE licensee should refer to the guidelines provided in the APRA/ASIC *publication Unit Pricing Guide to Good Practice*.

<sup>26</sup> Refer to items 104 and 111 of Schedule 1 of the SIS Regulations.





 **APRA**