



# PRUDENTIAL PRACTICE GUIDE

## SPG 227 – Successor Fund Transfers and Wind-ups

July 2017

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## 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.

*Prudential Standard SPS 220 Risk Management (SPS 220)* sets out APRA requirements for a registrable superannuation entity (RSE) licensee (RSE licensee) to have systems for identifying, assessing, managing, mitigating and monitoring material risks that may affect its ability to meet its obligations to beneficiaries.

This PPG aims to assist an RSE licensee in addressing the particular risks that occur when undertaking successor fund transfers (SFTs). This guide does not attempt to cover all possible issues related to SFTs as these will vary according to the particular circumstances.

For the purposes of this guide, and consistent with the application of SPS 220, 'RSE licensee' has the same meaning given in the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

Subject to the requirements of SPS 220, 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 and complexity of the RSE licensee's business operations.

## Introduction

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1. An SFT is a transfer of the members' benefits from a registrable superannuation entity (RSE) to a different RSE (a successor fund) where the consent of the individual members with those benefits is not required.<sup>1</sup> Such transfers of members' benefits between RSEs gives rise to a number of risks to the affected members and the RSE licensees undertaking the transfer. Effective management of these risks assists an RSE licensee in meeting its legal obligations and ensuring the orderly and timely transfer of members' benefits.<sup>2</sup>
2. The key requirement of an SFT is the agreement between the transferring RSE licensee and the receiving RSE licensee that the successor fund will confer on the members 'equivalent rights' to those rights the members had in the transferring RSE in respect of their benefits.<sup>3</sup>
3. This PPG provides guidance for situations where a transferring RSE licensee is considering an SFT or has already decided to carry out an SFT. An SFT may involve the transfer of all the members' benefits from a transferring RSE or the transfer of a group of members' benefits, for example, all the members' benefits in a sub-fund (a partial SFT). An SFT may involve the transfer of members' benefits to an RSE of a different RSE licensee (a receiving RSE licensee) or to another RSE (a receiving RSE) within the business operations of the same RSE licensee. An SFT may involve the transfer of the members' benefits to a newly established RSE or to an existing receiving RSE, and may involve the establishment of a new sub-fund or a new division in a receiving RSE (including a new division in a master trust arrangement).
4. Whilst this PPG focuses on SFTs, the guidance on planning and carrying out an SFT, project planning, governance and managing conflicts is generally relevant to a bulk transfer by member consent or from an eligible rollover fund to an active superannuation account.<sup>4</sup> This PPG does not deal with the transfer of individual members' benefits.<sup>5</sup>

## RSE licensee obligations

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5. In undertaking an SFT, a transferring RSE licensee and a receiving RSE licensee must ensure that the transferring members' rights in respect of the benefits in the successor

<sup>1</sup> Refer to r. 1.03(1) of the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) for the definition of successor fund.

<sup>2</sup> For the purposes of this PPG, 'an RSE licensee' refers to both a transferring RSE licensee and a receiving RSE licensee.

<sup>3</sup> For the purposes of this PPG, a 'transferring RSE licensee' is the RSE licensee of the existing RSE (transferring RSE) from which the members' benefits are to be transferred. A 'receiving RSE licensee' is the RSE licensee of the successor fund (receiving RSE).

<sup>4</sup> Refer to r. 6.29 of the SIS Regulations.

<sup>5</sup> Refer to *Prudential Practice Guide SPG 280 Payment Standards* for guidance relating to the transfer of individual benefits.

fund are equivalent to their rights in respect of the benefits in the transferring RSE ('equivalent rights').<sup>6</sup>

6. Under the SIS Act, an RSE licensee has a general obligation to act in the best interests of the beneficiaries at all times.<sup>7</sup> An RSE licensee of a MySuper product also has additional obligations which include the requirement to promote the financial interests of the beneficiaries of the RSE who hold the MySuper product.<sup>8</sup>
7. As a result, an RSE licensee that is contemplating or undertaking an SFT must act in the best interests of the members as a whole (ahead of all other interests). A transferring RSE licensee must give due consideration to the rights and benefits of the members as a whole, including those of the members being transferred to the receiving RSE and those of the members that may remain in the transferring RSE (in the case of a partial SFT). A transferring RSE licensee's best interest obligations remain in place throughout the process of transferring members' benefits up until such point that the transferring RSE licensee is no longer acting as RSE licensee for the members being transferred.<sup>9</sup>
8. Further, a receiving RSE licensee, in acting in members' best interests, must give due consideration to the rights and benefits of the members of the receiving RSE as a whole.
9. The SIS Regulations require a transferring RSE licensee to inform APRA of a decision to transfer members' benefits from an RSE without the members' consent as soon as practicable after the decision to undertake the SFT is made or, if the RSE is being wound up, before the winding up is commenced.<sup>10</sup> In practice, APRA would expect a transferring RSE licensee to advise APRA of plans to wind-up an RSE as soon as practicable.

## The best interests of beneficiaries

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10. APRA expects both a transferring RSE licensee and a receiving RSE licensee would decide to undertake an SFT where doing so is, in their assessment, in the best interests of its beneficiaries.
11. Specific reasons for undertaking an SFT may include, but are not limited to:
  - a) to enhance member outcomes or experience;
  - b) access to greater economies of scale which may provide benefits, including a greater choice of product features, for example, more diversified investment choice, lower fees, or more favourable insurance arrangements;

<sup>6</sup> Refer to r. 1.03(1) of the SIS Regulations for the definition of successor fund.

<sup>7</sup> Refer to s. 52(2)(c) and s. 52A(2)(c) of the SIS Act.

<sup>8</sup> Refer to s. 29VN of the SIS Act.

<sup>9</sup> Refer to s. s. 52(2) and s. 52A(2) of the SIS Act.

<sup>10</sup> Refer to r. 11.08 of the SIS Regulations.

- c) a view that a receiving RSE may have access to superior internal or external resources, for example, well-resourced governance, administration or investment management arrangements;
  - d) insolvency or wind-up of the RSE; or
  - e) a decision by a transferring RSE licensee to transfer members to another RSE following an event that has a significant impact on the RSE. Such events may include the transfer by consent of a large group of members to another RSE, an employer sponsor's decision to change its default RSE, cease to support the RSE and commence to support another RSE, or as a result of a takeover, wind-up or liquidation of an employer sponsor.<sup>11</sup>
12. APRA expects that an RSE licensee would have clearly documented reasons for deciding to undertake an SFT, including the basis for concluding that the decision is in the best interests of the beneficiaries as a whole.
13. There are various approaches available to a transferring RSE licensee when undertaking an SFT that would satisfy beneficiaries' best interests. For example, a transferring RSE licensee may consider that it is in the beneficiaries' best interests to transfer some members to one RSE and other members to another RSE.
14. Alternatively, an RSE licensee may decide to undertake an SFT in stages, for example, the initial transfer of a group of members to a receiving RSE and, at a later stage, the transfer of another group of members to the same, or another, receiving RSE.

## 'Equivalent rights' assessment

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15. Under the SIS Regulations, an RSE can only be considered to be a successor fund if:
- a. the receiving RSE confers on the member equivalent rights to those rights, in respect of the member's benefits, the member had in the transferring RSE; and
  - b. before the transfer, the receiving RSE licensee has agreed with the transferring RSE licensee that the receiving RSE will confer on the member rights equivalent to the rights, in respect of the member's benefits, the member had under the transferring RSE.<sup>12</sup>
16. Identifying the rights of members in respect of their benefits is essential when undertaking the 'equivalent rights' assessment. APRA considers that a 'right' is a legally enforceable right. Legally enforceable rights may arise under an RSE's governing rules, the general law and legislation. These rights may be able to be altered by action taken by an RSE licensee, for example, by amendment of the governing rules (where permitted), or they may be unalterable.<sup>13</sup>

<sup>11</sup> Refer to s. 16(1) of the SIS Act for the definition of employer sponsor.

<sup>12</sup> Refer to r. 1.03(1) of the SIS Regulations.

<sup>13</sup> Refer to s. 10(1) of the SIS Act for the definition of governing rules.

17. APRA's view is that rights can be distinguished from features of an RSE. Features which are determined, and can be changed, at the discretion of an RSE licensee provide no ongoing entitlement to a member, and are therefore not rights. Ultimately, what are features and what are rights will be determinable by an RSE's governing rules. Generally, features may include the amount of fees that will be charged to a member, product features and particular investment options.
18. APRA notes that what is a right in one RSE may be only a feature in another RSE. A prudent RSE licensee, therefore, would ordinarily give careful consideration to what may be a right and what may be a feature, having regard to each RSE's governing rules.
19. Features in a member's existing RSE and in a proposed successor fund can differ without affecting the equivalency of the member's rights in respect of the member's benefits. Notwithstanding this, APRA expects an RSE licensee would conduct a thorough assessment of the features of an existing RSE and a proposed successor fund in considering whether an SFT is in the best interests of beneficiaries.
20. In making an assessment of 'equivalent rights', APRA expects that a transferring RSE licensee and a receiving RSE licensee would conduct a thorough assessment and comparison of the members' rights in respect of the members' benefits in both the transferring RSE and the receiving RSE, with reference to the governing rules of both RSEs and all relevant legislative requirements.
21. APRA considers that the assessment of 'equivalent rights' means that the members' rights in the receiving RSE are required to be equivalent, but not equal, to their rights in the transferring RSE. Accordingly, APRA expects a transferring RSE licensee and a receiving RSE licensee would undertake the assessment of equivalent rights on a 'bundle of rights' basis. In determining which rights are to be bundled and considered together, APRA expects an RSE licensee would give appropriate weighting to significant rights and the materiality of any changes to individual rights. APRA considers that a 'line by line' comparison of every right is unlikely to be required.
22. While the SIS Regulations require that equivalent rights be assessed on the basis of the member, APRA considers that it would be open to an RSE licensee to consider equivalent rights based on groups of members with common rights. Groups of members that may suggest separate consideration include, but are not limited to, default members, choice members, defined benefit members, retained members and members with pension benefits. In grouping members for the purpose of considering whether their rights are equivalent, an RSE licensee must at all times comply with the trustee covenants, including the duty to act fairly in dealing with different classes of beneficiaries and beneficiaries within a class.<sup>14</sup>

<sup>14</sup> Refer to s. 52(2) of the SIS Act.



## MySuper-to-MySuper successor fund transfers

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23. APRA considers that a successor fund transfer of members from a transferring RSE's MySuper product to a receiving RSE's MySuper product would generally satisfy the equivalence test.
24. All MySuper products must, to be considered to be a MySuper product, comply with the provisions of Part 2C of the SIS Act. This results in all MySuper products having the same core characteristics. APRA therefore considers that MySuper members do not generally have a right to be in a particular MySuper product. Accordingly, for the equivalence test to be met, APRA's view is that it is not necessary for a MySuper product in a proposed receiving RSE to have the same features as the MySuper product in the transferring RSE.
25. APRA considers that the equivalence test will generally be met, and an SFT will usually be able to occur, in the following types of scenarios:
  - a) a transfer from a transferring RSE's MySuper product with a single diversified investment strategy to a receiving RSE's MySuper product with a single diversified investment strategy or a lifecycle investment option, and vice versa; and
  - b) a transfer between MySuper products with different features, for example, different asset allocation, different investment strategy, different applicable fees or different insurance offerings.
26. An RSE licensee must promote the financial interests of the beneficiaries of the RSE who hold the MySuper product.<sup>15</sup> Accordingly, in addition to meeting the equivalent rights test, APRA expects a prudent transferring RSE licensee would also consider the features of a proposed receiving RSE in selecting or narrowing the range of suitable MySuper products for an SFT. Features that would be expected to be considered include the investment strategy, return target and recent investment performance of the transferring RSE and the receiving RSE, in addition to factors such as whether the members are entitled to other benefits such as fee subsidisation by an employer.<sup>16</sup> Similar to the approach for the equivalent rights assessment, APRA considers that a 'line by line' comparison of every feature is unlikely to be necessary, i.e. the features of the proposed receiving RSE would not generally be expected to be the same. APRA considers that a thorough evaluation of the features of a proposed receiving RSE would assist a transferring RSE licensee to demonstrate that it has acted to promote the financial interests of the beneficiaries of the transferring RSE who hold the MySuper product.

<sup>15</sup> Refer to s. 29VN of the SIS Act.

<sup>16</sup> Refer to s. 29TC(1)(e) of the SIS Act.

## Planning and carrying out an SFT

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27. Prior to contemplating an SFT, a transferring RSE licensee would ordinarily confirm that an RSE's governing rules provide it with the power to transfer members' benefits to a successor fund. Generally this power is conferred on an RSE licensee by an RSE's trust deed.
28. APRA expects an RSE licensee would be able to demonstrate that a decision to undertake an SFT is the result of a rigorous decision-making process and that the decision has been formally documented. A decision to undertake an SFT would ordinarily be documented in the minutes of the meeting where the decision was made. This would include an outline of the reasons for the SFT and why the SFT is considered to be in the best interests of beneficiaries, and would be accompanied by any documentation supporting the decision.
29. It is likely that a decision to undertake an SFT would be consistent with the strategic direction and business plan of an RSE licensee. For example, a receiving RSE licensee may have contemplated future growth opportunities for its RSE, or a transferring RSE licensee may have considered issues related to the future sustainability of its RSE, such as reducing scale and/or increased fees.
30. Alternatively, an RSE licensee may decide to undertake an SFT without having previously contemplated an SFT in the past. For example, an RSE licensee might decide to undertake an SFT where an opportunity arises unexpectedly or following an assessment of up to date information that demonstrates adverse performance for an RSE.
31. APRA expects a receiving RSE licensee would review its strategic direction and business plan following an SFT to reflect the addition of the new membership into its business operations. Where a transferring RSE licensee will continue to operate an RSE after an SFT, for example, in the case of a partial SFT or where the transferring RSE licensee has other RSEs remaining in its business operations, APRA expects the RSE licensee would review its strategic direction and business plan to reflect the reduced or adjusted scope of its business operations, including any immediate and long-term impacts of the SFT.
32. APRA expects a transferring RSE licensee would have a documented due diligence and risk assessment process for assessing RSEs under consideration that may potentially receive the transferred members. A prudent transferring RSE licensee would generally document the reasons why, after comparing the rights and features of candidate RSEs and after undertaking the equivalent rights assessment, a particular receiving RSE has been chosen. In circumstances where a limited number of candidate RSEs is being considered, APRA expects an RSE licensee would document the criteria and basis for considering only a limited number of RSEs and the basis for its view that this decision is in the best interests of beneficiaries.
33. Similarly, APRA expects a receiving RSE licensee would have a documented due diligence and risk assessment process for assessing the impact of receiving the transferred members into the receiving RSE.

34. APRA's view is that a prudent RSE licensee would consider establishing a board committee or appoint a person with responsibility for overseeing all activities relating to an SFT. If a board committee is established or a person is appointed to oversee the SFT, APRA expects that the committee or person would report directly to the Board.
35. A prudent RSE licensee would normally obtain and consider expert advice, including but not limited to legal, actuarial, tax, data, investment, audit or assurance advice, prior to making any formal decision to undertake an SFT and throughout the SFT process, as necessary.
36. If a proposed SFT does not proceed as expected, for example if legal issues cannot be resolved, APRA expects a transferring RSE licensee would determine an appropriate course of action that is in the beneficiaries' best interests. In this situation, a transferring RSE licensee would be expected to review its plans, reconsider whether an SFT is still in beneficiaries' best interests and, where appropriate, revisit its due diligence and risk assessment process for assessing alternative suitable RSEs.

## Project planning

37. A successfully implemented SFT is generally the result of a well-planned and well-executed process. APRA expects a transferring RSE licensee and a receiving RSE licensee would have a documented project plan for undertaking an SFT.
38. APRA expects a project plan would outline clear timeframes for achievement of the various stages of an SFT, with the aim to complete the SFT as soon as practicable. In any event, APRA would not expect an SFT to take longer than 18 months.
39. APRA considers that a well-managed process will generally identify likely issues in advance, i.e. during the earlier due diligence and risk assessment process. APRA expects an RSE licensee undertaking an SFT would be able to manage known issues and any new issues that may arise during the process.
40. Key matters to consider early in the planning process might include:
  - a) whether the governing rules of the transferring RSE or the receiving RSE require amendment to enable the SFT to occur;
  - b) conflicts of interest that may arise as a result of the decision and whether the conflicts are considered to be manageable or whether they must be avoided<sup>17</sup>;

<sup>17</sup> Refer to s. 52(2)(d) and s. 52A(2)(d) of the SIS Act, *Prudential Standard SPS 521 Conflicts of Interest* (SPS 521) and *Prudential Practice Guide SPG 521 Conflicts of Interest* (SPG 521).

- c) how financial resources held to meet the operational risk financial requirement (ORFR) and any reserves in the RSEs will be treated in a manner that is consistent with the respective policies of the transferring RSE and the receiving RSE<sup>18</sup>;
- d) a review of outsourcing agreements to understand termination provisions. A prudent transferring RSE licensee would, as soon as practicable, enter into discussions with the receiving RSE licensee's third-party outsourcing providers to ensure transition arrangements are managed effectively<sup>19</sup>;
- e) a review of the business continuity planning process to facilitate and manage potential disruptions to critical business activities that may arise during the wind-up of a transferring RSE or the SFT process<sup>20</sup>;
- f) insurance issues, including:
  - i) whether existing insured benefits and insurance policies will be transferred to the receiving RSE;
  - ii) the extent to which members' insured benefits may be altered by any changes to the level of cover, premiums or terms and conditions;
  - iii) how claims incurred but not finalised will be managed; and
  - iv) the process for ensuring that appropriate records of insurance data will be transferred to the receiving RSE, particularly where there is a change of insurer<sup>21</sup>;
- g) fees and costs associated with the SFT. APRA expects that fees charged by RSEs would be on a cost recovery basis only, i.e. that fees would be based on the costs incurred in undertaking the SFT;
- h) the timing of the SFT. Where relevant, a prudent transferring RSE licensee would consider whether any macro-economic events or other issues may potentially adversely affect investment markets or members' benefits at the time of transfer;
- i) taxation, including capital gains tax, issues;
- j) any issues that may need to be resolved with other regulators, for example, the Australian Taxation Office, the Australian Securities and Investments Commission (ASIC), and regulators of other countries, where applicable;

<sup>18</sup> Refer to s. 52(8)(b) of the SIS Act and *Prudential Standard SPS 114 Operational Risk Financial Requirement* (SPS 114) and *Prudential Practice Guide SPG 114 Operational Risk Financial Requirement* (SPG 114) for information relevant to the ORFR and s. 52(2)(i) of the SIS Act relating to the management of reserves.

<sup>19</sup> Refer to *Prudential Standard SPS 231 Outsourcing* (SPS 231) for requirements relating to the notification to APRA of outsourcing agreements.

<sup>20</sup> Refer to *Prudential Standard SPS 232 Business Continuity Management*.

<sup>21</sup> Refer to *Prudential Standard SPS 250 Insurance in Superannuation* and *Prudential Practice Guide SPG 250 Insurance in Superannuation* for requirements and guidance in relation to the maintenance of sufficiently detailed insurance records.

- k) whether the SFT will give rise to any portability issues as a consequence of interim blackout periods or other liquidity concerns<sup>22</sup>;
  - l) processes for capturing and transmitting member data and assets to the receiving RSE;
  - m) processes for completion of the auditor's report<sup>23</sup>; and
  - n) contingency plans for dealing with unforeseen delays or events that could impede the proposed SFT, including critical dependencies and associated monitoring and reporting processes.
41. Where an SFT is taking place between two RSEs with the same RSE licensee, an RSE licensee may be considered to be unable to contract with itself, i.e. the RSE licensee cannot legally agree with itself that the receiving RSE will confer on the members equivalent rights to the rights the members had under the original RSE. APRA recommends that an RSE licensee contemplating such an SFT applies to APRA for a modification declaration concerning r. 1.03(1) of the SIS Regulations, as it applies to r. 6.29 of the SIS Regulations, to facilitate the RSE licensee's 'equivalent rights' agreement in respect of the SFT.<sup>24</sup>
42. Where an exemption or a modification declaration is in force for a transferring RSE and is considered to be still appropriate, APRA recommends that the receiving RSE licensee approach APRA in advance to discuss options for the application of the exemption or modification declaration to the receiving RSE.

## Governance and managing conflicts

43. SPS 521 requires an RSE licensee to have in place a conflicts management framework to ensure that the RSE licensee identifies all potential and actual conflicts in the RSE licensee's business operations and takes all reasonably practicable actions to ensure that they are avoided or prudently managed.
44. APRA expects a transferring RSE licensee and a receiving RSE licensee would each establish a process that ensures conflicts of interest that have been identified under the conflicts management framework or that are unique to the proposed SFT are properly evaluated and managed by the Board during all phases of the SFT. By way of illustration, conflicts that are unique to SFTs include where directors or other responsible persons have interests in the transferring RSE, the receiving RSE or any other entities that may be positively or negatively affected by the SFT.

<sup>22</sup> Refer to APRA's letter 'Operational and governance risks issues to consider when implementing change' of 28 February 2011 at: <http://www.apra.gov.au/Super/Publications/Pages/other-publications-for-superannuation-entities.aspx>

<sup>23</sup> Refer to paragraph 15 of *Prudential Standard SPS 310 Audit and Related Matters*.

<sup>24</sup> Refer to APRA's letter 'Operational and governance risks issues to consider when implementing change' of 28 February 2011. Note that r. 1.03(1) of the SIS Regulations includes a requirement that, before the transfer, the RSE licensee of the receiving RSE must have agreed with the RSE licensee of the original RSE that equivalent rights will be conferred on the members.

## Member communications

45. The *Corporations Act 2001* outlines requirements for the ongoing disclosure of material changes and significant events for the holders of financial products, with these requirements administered by ASIC.<sup>25</sup> APRA expects a transferring RSE licensee and a receiving RSE licensee would keep members informed about a decision to conduct an SFT, the planned actions to give effect to the SFT, details of any material changes to the benefit structure and future superannuation arrangements, the continuity or otherwise of existing insurance cover and how any claims in progress are to be managed, details of how disputes or concerns can be raised with the transferring RSE licensee, and any other matters relevant to the members.
46. APRA expects a transferring RSE licensee and a receiving RSE licensee would take all reasonable steps to ensure that all responsible persons, other employees of the RSE licensee and any relevant outsourced service providers, are informed and understand the decision to undertake an SFT.
47. APRA expects a transferring RSE licensee would clearly document the timing and methods for providing information to members including, but not limited to:
- a) significant event notices;
  - b) communication that demonstrates that members' benefits have been successfully transferred; and
  - c) contact details for the receiving RSE licensee and individual membership details in the receiving RSE.

## Operational risk financial requirement (ORFR)

48. *Prudential Standard SPS 114 Operational Risk Financial Requirement* (SPS 114) requires an RSE licensee to determine an operational risk financial requirement (ORFR) target amount that is appropriate to the operational risks to which it is exposed. Where an SFT is being contemplated, possible differences in the ORFR financial resources, the ORFR target amount or the strategy for managing the ORFR target amount, between a transferring RSE licensee and a receiving RSE licensee may include:
- a) the ORFR financial resources in a transferring RSE may be held as a reserve, whilst a receiving RSE may hold the ORFR financial resources as capital, or vice versa;
  - b) the ORFR financial resources in a transferring RSE may have been funded by the members, whilst the ORFR financial resources in a receiving RSE may have been funded through trustee capital, or vice versa;
  - c) the required ORFR target amount may be set at different levels for each RSE; and

<sup>25</sup> Refer to s. 1017B of the *Corporations Act 2001* and <http://asic.gov.au/regulatory-resources/superannuation-funds/further-resources-on-superannuation/notifying-members-about-superannuation-transfers-without-consent/for-requirements-relating-to-ongoing-disclosure-and-significant-event-notice/>.

- d) either the transferring RSE or the receiving RSE, or both, may be currently in shortfall or may have suffered an operational risk event.
49. It is APRA's view that differences in the ORFR financial resources, the ORFR target amount or the ORFR strategy would not generally, of themselves, prevent an SFT occurring, as the ORFR is only one of a number of factors relevant in an SFT.
50. When undertaking an SFT, APRA expects that a transferring RSE licensee and a receiving RSE licensee would consider how the ORFR financial resources in both the transferring RSE and the receiving RSE have been funded and how they will continue to be funded in the future. In evaluating the two sets of ORFR financial resources, a prudent RSE licensee would ensure that appropriate consideration is given to all affected members. Where applicable, in addition to the members transferring into a receiving RSE, APRA expects a receiving RSE licensee would also consider the effect on the existing members of the receiving RSE. Further, in the case of a partial SFT, APRA expects a transferring RSE licensee would also consider the effect on any members remaining in the transferring RSE.
51. In keeping with the requirement for an RSE licensee to act in beneficiaries' best interests at all times, APRA expects a transferring RSE licensee and a receiving RSE licensee involved in discussions concerning an SFT would work together to determine an arrangement for the ORFR financial resources that would produce the most equitable outcome for all affected members. The most appropriate arrangement will vary depending on the specific circumstances of an SFT.
52. Where there are differences in the ORFR financial resources, the ORFR target amount or the ORFR strategy, a transferring RSE licensee or a receiving RSE licensee may determine that an adjustment to one, or a number of these factors, may be appropriate prior to the SFT taking place. Prior to any changes being made to its ORFR, an RSE licensee would be expected to ensure it remains in compliance with all relevant legislative requirements including in relation to the charging of fees and with any requirements of SPS 114, including any requirements to review the ORFR and to notify APRA of any relevant changes to the ORFR.<sup>26</sup>
53. For example, a transferring RSE may hold ORFR financial resources of 0.25 per cent of funds under management (FUM) and a receiving RSE may hold ORFR financial resources of 0.27 per cent of FUM. Where a transferring RSE licensee and a receiving RSE licensee decide that the equalisation of the ORFR reserve prior to transfer would be in the best interests of all affected members, the transferring RSE licensee may determine to increase the ORFR financial resources in the transferring RSE to 0.27 per cent of FUM prior to the SFT.
54. Where there will be a change made to the ORFR financial resources, ORFR target amount or the ORFR strategy as a result of an SFT, a prudent RSE licensee would document the reasons for its decision and the basis for its view that the changes to the ORFR are in the beneficiaries' best interests.

<sup>26</sup> Refer to ss. 99A to 99F of the SIS Act, for the general fees rules, and to ss. 29V to s29VE of the SIS Act for the fees rules that apply to MySuper products.

## Calculating benefits

55. APRA expects a transferring RSE licensee would have processes in place to ensure that each member's entitlements have been fully assessed and allocated to the member. A prudent transferring RSE licensee would consider obtaining specialist advice on the calculation and verification of benefits, and ensure that final balances are signed off by the external auditor (and actuary where the benefits of defined benefit members are being transferred).
56. If a member's benefits have not yet accrued but are in the course of accruing, for example, where a condition of release has not yet occurred, APRA expects a transferring RSE licensee and a receiving RSE licensee would ensure the protection of the benefits that have not yet accrued. APRA considers this would generally include ensuring that the method of accrual of the member's benefit, at least to the date of transfer, or the amount signed off by the actuary, is protected by being preserved in the governing rules of a receiving RSE. APRA expects that a transferring RSE licensee and a receiving RSE licensee would fully document the details of any adverse change to the method of calculation of such benefits, or reduction in the amount signed off by the actuary, and the basis for determining that this change is considered to be in the member's best interests.
57. Where relevant, APRA expects a transferring RSE licensee would have processes in place to ensure that the final crediting rate/unit price is fair and equitable.
58. APRA expects a transferring RSE licensee would have processes in place to confirm the valuation placed on the assets at the time of transfer and to ensure that the transfer of all assets is fully documented.

## Data management

59. APRA's view is that a prudent RSE licensee would ensure robust data risk management processes are applied during an SFT.
60. APRA expects a transferring RSE licensee would ensure that the data being transferred is of sound quality. At a minimum, APRA expects a transferring RSE licensee would perform a data cleansing exercise before the assets and liabilities are transferred to a receiving RSE. It may be prudent to engage appropriate specialists to assist in assessing the quality and accuracy of the data. An RSE licensee may refer to guidance issued by the ATO on the transfer of data for successor fund transfers, including SuperStream requirements. The guidance is outlined in the ATO's 'Involuntary Superannuation Account Transfer (ISAT) Protocol'.<sup>27</sup>
61. After the completion of an SFT, APRA expects a transferring RSE licensee and a receiving RSE licensee would each conduct a reconciliation of the member benefits, assets and liabilities transferred as part of the SFT.

<sup>27</sup> Refer to the ATO's Involuntary Superannuation Account Transfer (ISAT) Protocol available at: <https://www.ato.gov.au/Super/APRA-regulated-funds/In-detail/APRA-resources/Protocols/Involuntary-superannuation-account-transfer-protocol/>



## Wind-up of an RSE after a successor fund transfer

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62. Where an SFT involves a complete transfer of all the members' benefits out of an RSE, the process will include the wind-up and subsequent cancellation of the registration of the transferring RSE.<sup>28</sup> Where an SFT involves a complete transfer of all the members' benefits out of a MySuper product, the process would ordinarily be concluded with the authority to offer the MySuper product being cancelled.<sup>29</sup>
63. Before a wind-up is finalised, APRA expects a transferring RSE licensee and a receiving RSE licensee would formally agree on how minor residual assets or liabilities, for example, taxes, legal fees, outstanding APRA levies or unexpected receipts are to be managed after the SFT has been completed. Such agreements would ordinarily be documented in the arrangement between the transferring RSE licensee and the receiving RSE licensee.
64. A prudent transferring RSE licensee would ensure it has the necessary arrangements in place to ensure it can meet its ongoing reporting obligations until such time as all wind-up reporting has been completed.
65. *Reporting Standard SRS 602.0 Wind-up* (SRS 602.0) sets out the requirements for lodgement of a wind-up return with APRA within three months of the wind-up date. APRA expects a transferring RSE licensee would have a process in place to confirm that lodgement of a wind-up return and cancellation of registration has occurred.
66. Where there are no other RSEs under trusteeship, APRA expects that a transferring RSE licensee would apply to APRA to have its RSE licence cancelled after completion of the SFT.<sup>30</sup>

<sup>28</sup> Refer to s. 29N of the SIS Act. A reference to 'winding up' in this PPG can also be read as a reference to cancelling the registration of an RSE.

<sup>29</sup> Refer to s. 29U of the SIS Act.

<sup>30</sup> Refer to s. 29G(2)(a) of the SIS Act.



 **APRA**