



April 2013

To all RSE licensees

## TRUSTEE RESPONSIBILITIES ARISING FROM CERTAIN SUPERSTREAM-RELATED MEASURES

On 15 March 2013, the Australian Taxation Office (ATO) and APRA jointly wrote outlining processes and timetables for implementation of the *Superannuation Data and Payment Standards* (the Standard) issued by the ATO in December 2012. The Standard forms part of the SuperStream reforms, which aim to introduce major efficiencies to the back office functions of superannuation funds.

APRA is the agency responsible for administering those sections of the *Superannuation Industry (Supervision) Act 1994* (the SIS Act) that require an RSE licensee to comply with the SuperStream measures, including the Standard. APRA recognises that compliance with these requirements represents new obligations for RSE licensees and that practices are likely to evolve over time.

### Three day processing of rollovers

An important change arising as part of the SuperStream reforms is the requirement in r. 6.34A of the *Superannuation Industry (Supervision) Regulations (1994)* (SIS Regulations), whereby an RSE licensee will generally need to complete rollover transactions within three working days from the date of receipt of a complete rollover request. This contrasts with the current position where an RSE licensee generally has 30 days in which to complete such transactions. Implementation of electronic transmission of data and money in accordance with the Standard is expected to assist an RSE licensee to meet the three day requirement.

While r. 6.34A comes into effect once the Standard commences on 1 July 2013, APRA recognises that the transition-in process for funds to initiate rollovers in accordance with the Standard will be phased in up until December 2013.

### Use of SuperTIC to validate member TFN

Another SuperStream requirement is for an RSE licensee to validate member details via the ATO under r. 6.33D(2) of the SIS Regulations prior to transferring a member's benefit to another fund. The ATO has created the SuperTIC service for the purposes of r. 6.33D(2) and use of SuperTIC is mandatory.

While r. 6.33D comes into effect once the Standard commences on 1 July 2013, APRA recognises that until a fund has completed the transition-in process, use of SuperTIC may not be fully integrated into an RSE licensee's processes.

**Breach reporting relating to three day processing of rollovers and the use of SuperTIC**

Generally, s. 29JA of the SIS Act requires an RSE licensee to report to APRA any “significant” breach of a licence condition. A standard licence condition for all RSE licensees is that the licensee must comply with RSE licensee law; hence a significant breach of any provision of RSE licensee law must be reported. Section 29JA(1A) defines a significant breach as one that is or will be significant having regard to any one or more of the following factors:

- a) the number or frequency of similar previous breaches;
- b) the impact the breach has or will have on the RSE licensee’s ability to fulfil its obligations as trustee of the superannuation entity;
- c) the extent to which the breach indicates that the RSE licensee’s arrangements to ensure compliance with the RSE licensee law might be inadequate; and
- d) the actual or potential financial loss arising or that will arise from the breach to the beneficiaries of the entity or to the RSE licensee.

APRA would consider that the frequency of breach of r. 6.34A would likely be the most common reason to warrant breach reporting. Delaying a single rollover by significantly more than the legislated period could also give rise to actual or potential financial loss to the member, and hence trigger a breach reporting requirement. RSE licensees should determine appropriate materiality thresholds considering both volume and value for reporting of breaches, as well as ensuring they have adequate compliance systems in place to meet their benefit payment obligations.

While APRA encourages RSE licensees to comply with the r. 6.34A and r. 6.33D(2) requirements as soon as possible, due to the transition-in process for rollover processing until December 2013 APRA will not expect that failure to comply with these requirements would be reported as a breach before 1 January 2014.

**APRA’s response to breaches of three day processing of rollovers and use of SuperTIC**

APRA’s response to breaches of r. 6.34A and r. 6.33D(2) will be similar to its general compliance and enforcement approach. APRA will engage with the RSE licensee to determine the causes of the breach and measures the RSE licensee has put in place to remedy those. APRA’s general approach is to work with RSE licensees to ensure that appropriate actions are taken to address any shortcomings in their processes. Should this approach not satisfactorily resolve the matter, APRA has available to it an array of regulatory tools that it may utilise should that be necessary.

Any questions regarding this letter should be raised with your APRA responsible supervisor.

Yours sincerely



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Supervisory Support