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Discussion paper - Strategic and transfer planning: enhancing member outcomes

Thank you for the opportunity to provide a submission on APRA's Discussion paper – Strategic and transfer planning: enhancing member outcomes.

Australian Retirement Trust (ART) is one of Australia's largest superannuation funds. 2.3 million Australians trust us to take care of over $260 billion of their retirement savings[1].

ART is broadly supportive of the draft *Prudential Standard SPS 515 Strategic Planning and Member Outcomes* (SPS 515) and the associated Prudential Practice Guides *SPG 515 Strategic and Transfer Planning* (SPG 515) and *SPG 516 Business Performance Review* (SPG 516).

Our submission addresses the sections of Chapters 2 and 3 of APRA's discussion paper. ART has commented on sections where we feel we can add most value to APRA's considerations.

We trust this feedback will be beneficial and would welcome the opportunity to discuss our submission in further detail. [redacted], Senior Manager Policy and Government Relations, is the primary Australian Retirement Trust contact regarding our submission and can be contacted at [redacted]

Yours sincerely,

[redacted]

Chief Strategy Officer
Australian Retirement Trust

[1] As at 1 October 2023

Strategic and transfer planning: enhancing member outcomes – Australian Retirement Trust responses

Chapter 2 – Strategic planning and member outcomes

2.1 Strategic objectives and member outcomes

ART has no objections to strategic objectives being more aligned to specific member outcomes. ART proposes the updated guidance does not make member outcomes overly granular or prescriptive as this has the potential to add rigidity to the development of outcomes and strategic objectives and may make the proposed intent of the changes less effective.

2.2 Business planning and financial projections

ART has no objections to including costings and the funding source for key strategic initiatives in the business plan. We note that any costings would be an estimate and would be subject to change.

2.3.2 Reserving practices and management of other financial resources

ART is supportive of elevating existing guidance on the prudent management of reserves to new principles-based requirements within SPS 515. Furthermore, ART is supportive of the proposed wording of new paragraphs 18 and 19 of the amended SPS 515, especially in relation to the development of target ranges for specific reserves and adoption of principles for the creation, use and replenishment of such reserves.

2.3.3 Expenditure

ART has no objection to the requirement that all expenditure decisions in connection with its business operations should be in the best financial interests of beneficiaries and the sole purpose test. ART notes and is supportive of the requirement to justify the purpose of expenditure incurred in its business operations and whether the expenditure incurred has achieved its intended purpose.

ART agrees with APRA's expectation that documentary evidence to support the review and expenditure decision making process should be commensurate with the nature, complexity, regularity and size of the expenditure.

2.6 Annual outcomes assessment

ART makes the following comments on the Annual outcomes assessment sections of the new draft SPS 515 and SPG 516:

- **Data conflicts have been improved but requirements are still inconsistent between MySuper and Choice.**
  Draft SPS 515 stipulates that the data methodology in APRA form 705 should be used for MySuper returns and fees analysis (required by s52(10) of the SIS Act). This appears to have aligned some definitions for data points between the Annual outcomes assessment and performance test. However, draft SPS515 remains silent on the required methodology for Choice returns and fees analysis (required under s52 10A of the SIS Act). ART believes it would be beneficial for APRA to state if it is intending to align the data methodology between MySuper and Choice analysis, and, if so, a proposed timeline for implementation.
- **Paragraph 27(b) in the draft SPS 515 is unclear.**
  The paragraph states that '*Where a product, or part of a product is assessed under the legislated annual performance assessment under Part 6A of the SIS Act, an RSE licensee's*

methodology must demonstrate how it has taken into account the population of products against which it was assessed'. We ask APRA to clarify what this means.

Chapter 3 – Remedial actions and transfer planning

3.2 Planning for transfers

Paragraph 32 of SPS 515 states *'an RSE licensee must notify APRA if it has activated a plan made for the purposes of this paragraph'*. ART notes a timeframe for such notification is not mentioned. There is a reference to regulation 11.08 of the *Superannuation Industry (Supervision) Regulations 1994* (Cth), which sets out the timeframes for notifying APRA where the plan includes transferring member benefits to another fund and/or winding up of the fund, but there is no general timeframe specified for notifying APRA where the plan does not include these actions so it is not clear whether notification to APRA is required in those circumstances and, if so, by when. Paragraph 60 of SPG 515 indicates a period of 90 days, although this paragraph is specifically in response to a notification (by APRA) of the cancellation of an RSE's MySuper product license, and so is considered a separate matter.

ART notes that at the point an RSE decides to undertake a transfer it is unlikely there would be a receiving RSE to conduct its own planning. Any plan would require a tender phase, extending over months, with due diligence to be undertaken by both transferor and potential transferees ahead of any decision being made.

3.3 Understanding the phases of a transfer

Paragraph 36 of SPS 515 says that should APRA notify an RSE licensee that its authority to offer a MySuper product may be cancelled the RSE *'must document, within a time specified by APRA, a plan that demonstrates preparedness to transfer any MySuper product assets to another MySuper product'.*

Paragraph 60 of SPG 515 states an RSE has *'to take the action required under the prudential standards'* and has a period of 90 days to do this.

ART has a great deal of experience in the design and implementation of successor fund transfers (SFTs). While ART acknowledges (and as APRA has stated in paragraph 60 of SPG 515) that an action of this nature to transfer members would not be an SFT within the definition of successor fund in the SIS Regulations, ART thinks the process would be analogous in terms of size and complexity of work required.

ART considers that a 90-day timeframe to conclude this process is unlikely to be achievable.

Should a transfer be required, 90 days is likely to provide enough time to design and begin a tender process for the action required under the standards, although that tender process is unlikely to be completed within that timeframe. Concurrently, a high-level plan could be compiled concerning the transfer and covering the transfer of assets, member liabilities, member insurances, etc.

Following the conclusion of a successful tender process, ART expects a detailed plan for any transfer of the MySuper product(s) would take up to 12 months to properly design *and implement*, working in concert with the chosen target RSE and its custodian.

3.4 Transfers of MySuper product assets

Paragraph 62 of SPG 515 provides for an RSE to *'document all necessary steps to demonstrate preparedness to complete the transfer of MySuper product assets within 90 days of cancellation of a MySuper authority'*. ART interprets this as demonstrating preparedness within 90 days, and not completing the transfer within 90 days, although we note the guidance is not clear.

Similarly to the concerns raised above, ART considers that completing the transfer within a 90-day timeframe is unlikely to be achieved, depending on the features of the product. For example, if ART was required to find a suitable external RSE who agrees to accept a transfer of its combined MySuper assets and members that would involve a project of circa. 12-months duration extending across a tender phase, due diligence, legal work, planning and implementation.

3.5 Barriers to transfers

Paragraph 38 of SPS 515 lays out various minimum requirements for an RSE's MySuper asset transfer plan. ART recommends APRA consider providing guidance on a situation where there is no receiving RSE following a tender process. i.e. what actions does a trustee need to take if no other fund decides it is in position to accept the assets and liabilities of a MySuper product(s)?

The SPS 515 discussion paper lists various barriers to transfer, and they are all valid. In addition, ART would like to highlight due diligence and legal work (and the time involved to conduct that work) associated with the planned transfer of various unlisted assets, as well as the need to secure waivers against potential pre-emptive rights regimes that may apply to those transfers (where possible) or the time taken to launch and complete pre-emptive rights processes (if not).