



**ASIC**

Australian Securities & Investments Commission



**APRA**

21 March 2014

To all RSE licensees

## THE ADMINISTRATION OF SECTION 29QC AND APRA'S REPORTING STANDARDS

It has recently come to the attention of both APRA and ASIC that there is some industry concern about the relationship between the disclosure requirements administered by ASIC and the data that is required to be reported under APRA's reporting standards as a result of section 29QC of the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

### Background

Section 29QC requires that if an RSE licensee provides information calculated in a particular way to APRA under a reporting standard and the RSE licensee gives the same or equivalent information to another person, including on a website, then the RSE licensee must ensure that this information is calculated in the same way as the information given to APRA.

The purpose behind this requirement is to improve the comparability of information about superannuation products. The Explanatory Memorandum for the introduction of section 29QC into the SIS Act outlines concerns that the provision of inconsistent information through multiple means can be detrimental to members and can inhibit informed decision-making. Given the compulsory nature of superannuation, it is appropriate that RSE licensees do everything they reasonably can to ensure there is adequate transparency and to support improved comparability.

### The role of the regulators

APRA is responsible for the reporting standards made under the *Financial Sector (Collection of Data) Act 2001*. APRA collects data under reporting standards for a number of purposes. These include assisting APRA in the prudential regulation or monitoring of superannuation entities, the publication of data about superannuation entities and assisting other financial sector agencies, including ASIC, to perform their functions or exercise their powers. As a result, APRA may share this information with ASIC for the purpose of ASIC's administration of section 29QC.

Some of the recently implemented reporting standards for the superannuation industry have the express purpose of collecting information from RSE licensees that has some connection with information that is required to be generated by an RSE licensee for inclusion in disclosure material.

For example, data required to be submitted under *Reporting Standard SRS 700.0 Product Dashboard* (SRS 700.0) is also expressly required to be included in an RSE licensee's disclosure material. Data required to be submitted under *Reporting Standard SRS 533.0 Asset Allocation* (SRS 533.0), *Reporting Standard SRS 702.0 Investment Performance* (SRS 702.0) and *Reporting Standard SRS 703.0 Fees Disclosed* (SRS 703.0) is related to information a licensee is required to disclose under the *Corporations Act 2001* or regulations.

Although there is express mention of APRA's reporting standards in section 29QC, ASIC is responsible for the administration of section 29QC. Breaches of this section should be reported to ASIC, and any further action taken as a result of a breach of this section would be taken by ASIC. ASIC's approach to its administration of section 29QC is provided below.

### Implications of section 29QC

As a result of section 29QC, an RSE licensee is required to adopt the calculation methodology prescribed by APRA in a reporting standard where the RSE licensee gives information to another person that is the same or equivalent to information provided to APRA under that reporting standard. APRA and ASIC have received a number of specific queries relating to the operation of section 29QC, specifically the impact of section 29QC on an RSE licensee's disclosure obligations relating to investment performance, return targets and asset allocation.

Whilst, compliance with the law is ultimately a matter for RSE licensees, APRA and ASIC wish to provide the following clarification on the operation of section 29QC based on the most frequently asked questions.

**Investment performance:** SRS 702.0 includes a calculation methodology for both a net investment return and a net return. The operation of section 29QC, therefore, means that whenever a net investment return or net return is quoted in disclosure material, the methodology in SRS 702.0 must be applied when calculating this information.

**Return targets:** SRS 700.0 requires an RSE licensee to calculate a return target for the purpose of information to be included in a MySuper product dashboard. This methodology requires the calculation of this return target to represent the mean annualised estimate of the percentage rate of net return that exceeds the growth in the CPI over ten years. ASIC considers that "investment return objective" information for an investment option required to be disclosed in a shorter PDS under Schedule 10D of the Corporations Regulations 2001 is equivalent to "return target" information required to be provided to APRA for a MySuper product under SRS 700.0. This means that investment return objective information disclosed in a shorter PDS will need to be calculated in the same way as the return target information provided to APRA.

**Asset allocation:** ASIC considers that asset allocation disclosure requirements are impacted by SRS 533.0. To the extent that an RSE licensee provides information in their disclosure material about asset allocation, the RSE licensee is required to adopt the asset class types as defined by SRS 533.0 so as to calculate asset allocation information in the same way as provided to APRA.

Although SRS 533.0 requires detailed information, such as movements in asset allocation, to be provided to APRA, this information need not be included in disclosure material simply because it is required to be reported to APRA. Section 29QC when read with SRS 533.0 does not affect the way in which information about asset allocation that is not the same or equivalent information to that provided to APRA is to be disclosed. An RSE licensee could provide additional information about the assets of their fund if they wish to do so. For example, an RSE licensee may opt to give information about the top 10 share holdings or the split of growth and defensive

assets and will not be required to calculate this information in a particular way given it is not the same or equivalent information to that provided to APRA.

**Fees and costs:** an RSE licensee is required to disclose fees and costs information in its PDS in accordance with Schedule 10 and 10D. Subclause 204(7) of Schedule 10 requires that a cost or amount paid or payable must include, if applicable, GST (less any reduced inputs tax credits) and stamp duty.

From 1 July 2014, SRS 703.0 will require RSE licensees to report fees and costs information required to be disclosed in their PDS. Prior to this date, APRA intends to update SRS 703.0 to ensure that the calculation methodology for that information is fully aligned with the requirements in the regulations for PDSs and consistent with the Explanatory Statement for the regulations which provides that fees and costs be disclosed gross of income tax.

As a result, from 1 July 2014 any fees and costs information that is disclosed by RSE licensees that is the same as or equivalent to that set out in the PDS, will have to be calculated in the same way as the relevant information in the PDS.

### **Additional information**

Whether information that is given by an RSE licensee to another person is the "same or equivalent" information to that provided to APRA under a reporting standard for the purposes of section 29QC will depend on whether the information in an RSE licensee's disclosure is aimed at telling a person the same or substantially the same thing as the information provided to APRA. What is sought to be communicated by any piece of information will generally depend on the context in which it is disclosed or given.

An RSE licensee may opt to provide additional information to a person in order to explain the RSE licensee's disclosures. The RSE licensee is not required to calculate the additional information in a particular way if that information is not the same or equivalent to the information provided to APRA. For example, where an RSE licensee provides the "level of investment risk" for a MySuper product to APRA under SRS 700.0 and opts to provide additional information, for example, about market risk or longevity risk, the RSE licensee is not required to calculate that information in a particular way because the information is not the same or equivalent information to that provided to APRA.

### **ASIC's compliance approach**

ASIC's views about the key areas that are critical for transparency and consistency of information, and which will be ASIC's areas of focus when considering RSE licensee compliance with its disclosure obligations, are:

- Aspects of asset allocation; and
- Return information.

Finally, ASIC wants to remind the industry that it is taking a facilitative compliance approach for super reforms until 1 July 2014. ASIC will adopt a measured approach where inadvertent breaches arise or systems changes are underway, provided industry participants are making reasonable efforts to comply. This applies in relation to section 29QC requirements.

ASIC and APRA will also share information to assist with the administration of this section. This means that ASIC may have access to data that you provide to APRA for the purposes of checking your compliance with section 29QC. Further, if an RSE licensee does not follow the calculation methodology in APRA's instructions to the reporting standards, ASIC may take appropriate disclosure action. For example, if APRA has provided a calculation methodology for the return target in the product dashboard and an RSE licensee uses a different methodology for its product dashboard, ASIC may impose a stop order on that product dashboard.

### Treatment of emerging issues and further information

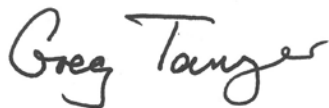
Both APRA and ASIC meet regularly to discuss issues as they arise, including issues in relation to the application of section 29QC. This helps us coordinate the guidance issued to industry. We will be making further efforts to coordinate our guidance in the future.

To this end, we invite industry to contact the relevant regulator where issues with the application of section 29QC and the reporting standards are identified. This feedback helps us provide useful and relevant guidance to industry, and to resolve issues as quickly as possible.

The views outlined in this letter are also reflected in FAQs issued by both APRA and ASIC. These FAQs are updated on a regular basis and are available on our websites as follows:

- For ASIC, all guidance, is available on the superannuation page of the ASIC website [www.asic.gov.au](http://www.asic.gov.au). This also includes ASIC's information sheet 167 Disclosure requirements for superannuation trustees: s29QC that was released last year. ASIC encourages you to review this guidance at your earliest opportunity. ASIC updates this website as changes occur. If you have queries about the superannuation reforms, please contact ASIC at [StrongerSuperReforms@asic.gov.au](mailto:StrongerSuperReforms@asic.gov.au).
- For APRA, reporting FAQs are available on the APRA website at: <http://www.apra.gov.au/Super/ReportingFramework/Pages/Reporting-Framework-Frequently-Asked-Questions.aspx>. If you have queries about the reporting standards, please contact APRA at [super.statistic@apra.gov.au](mailto:super.statistic@apra.gov.au).

Yours sincerely



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