



Law Council  
OF AUSTRALIA

*Legal Practice Section*

**18 February 2026**

Australian Securities and Investments Commission  
GPO Box 9827  
Melbourne VIC 3001

By email: [rri.consultation@asic.gov.au](mailto:rri.consultation@asic.gov.au)

Dear Sir/Madam,

### **Proposed extension of relief for intra-fund transfers**

1. The Legal Practice Section of the Law Council of Australia appreciates the opportunity to provide feedback on the proposed updates to *ASIC Corporations (Superannuation: Accrued Default Amount and Intra-Fund Transfers) Instrument 2016/64 (Instrument)*.
2. This submission is made by the Legal Practice Section's Superannuation Committee (the **Committee**).
3. The Instrument exempts trustees of regulated superannuation funds from the application form requirements in section 1016A of the *Corporations Act 2001* for intra-fund transfers if conditions are met. It also exempts trustees of regulated superannuation funds from the cooling-off period requirements under section 1019A of the *Corporations Act* if the same conditions are met.
4. The Committee supports the proposed updates to the Instrument to remove the outdated references to accrued default amounts.
5. However, the Committee takes this opportunity to provide some commentary below in respect of two changes that we submit would further enhance the efficacy of the Instrument.

### ***Requirement to apply to APRA to vary the trustee's RSE licence***


6. The Committee submits that the requirement that has been in the Instrument since inception regarding the need for the fund's trustee to have a condition on its RSE licence to reflect the detailed specifications in the Instrument is unnecessary and cumbersome. It involves an application having to be made by the fund's trustee to APRA to vary its licence conditions in circumstances where the very same result can be achieved simply by the Instrument requiring compliance with the condition. In other words, whether the RSE licence contains the condition that must be complied with or the Instrument requires that the specified condition be complied with leads to the same outcome. Removing the requirement for the RSE licence to be varied would reduce regulatory red tape without affecting the result.

7. The Committee notes ASIC's comments set out in CS44 that ASIC has "assessed that the relief is operating effectively and continues to form a necessary part of the legislative framework". We agree that the relief is a useful part of the legislative framework to provide relief from the application form requirements for intra-fund transfers, where an application form would otherwise be required. However, the Committee is uncertain as to whether the relief is operating "effectively" given the regulatory hurdle involved in seeking from APRA an RSE licence variation, as explained in the previous paragraph. The Committee notes ASIC's views, but queries whether there is any data regarding the number of superannuation fund trustees who have sought a variation to their RSE licence to include the condition. As RSE licence conditions are not publicly available, the Committee could not verify this—but based on the experience of the legal practitioners who comprise the Committee's membership, we are not aware of there being many such variations.
8. For the reasons set out above, we suggest that paragraph (1A)(a) of the Instrument be deleted and consequential drafting changes be made.

#### *Technical amendment regarding PDS giving requirement*

9. In paragraph (1A)(iii) of the Instrument, it is a condition that the transferring member be given both a significant event notice (under section 1017B) as well as a Product Disclosure Statement (**PDS**). Because of the possibility that an exemption may apply in relation to the PDS-giving requirement (for example, under section 1012D), the Committee submits that the words "unless otherwise exempt under this Act" be included.

#### *Conclusion*

10. In case it is of assistance, the Committee has prepared an amendment to the Instrument to indicate the changes that we suggest would be beneficial having regard to the submissions above. This is **attached**.
11. The Committee appreciates the opportunity to contribute to this consultation. If you require further information or clarification, please contact the Superannuation Chair,  


Yours sincerely,



**Greg McIntyre SC**  
**Chair, Legal Practice Section**