



# INSTRUCTION GUIDE

## Application form – Authority to offer a MySuper product

Updated 11 July 2019

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## Introduction

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This Guide provides general information on the authorisation of RSE licensees to offer a MySuper product. It does not constitute legal advice. There are two sections to the authorisation kit:

- the instructions for the application form (this document); and
- Application Form – Authority to offer a MySuper product.

For further information, visit APRA's website at [www.apra.gov.au](http://www.apra.gov.au) or contact your APRA responsible supervisor.

## Penalties for false information

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Applicants should note that giving false or misleading information is a serious offence (see s.136.1, s.137.1 and s.137.2 of the Criminal Code).

## Disclosure

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Where information is disclosed to APRA, APRA may in turn disclose that information in any of the circumstances permitted by s. 56 of the Australian Prudential Regulation Authority Act 1998.

## General information

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### Who needs to hold an authorisation?

An RSE licensee that intends to offer a MySuper product must seek authorisation from APRA. RSE licensees must apply for authorisation for each MySuper product they wish to offer.

APRA cannot authorise a MySuper product for a fund that has fewer than five members or is an eligible rollover fund (ERF). This excludes RSE licensees from offering MySuper products in small APRA-regulated funds.

As pooled superannuation trusts and approved deposit funds cannot accept superannuation guarantee contributions, they will not be able to contain a MySuper product.

## **Why is authorisation important?**

Authorisation is important as employers can only make superannuation guarantee contributions on behalf of employees who have not chosen a fund or have not elected in writing to have contributions paid to a specified choice product or products into a fund which offers an authorised MySuper product.

## **Is there a prescribed fee?**

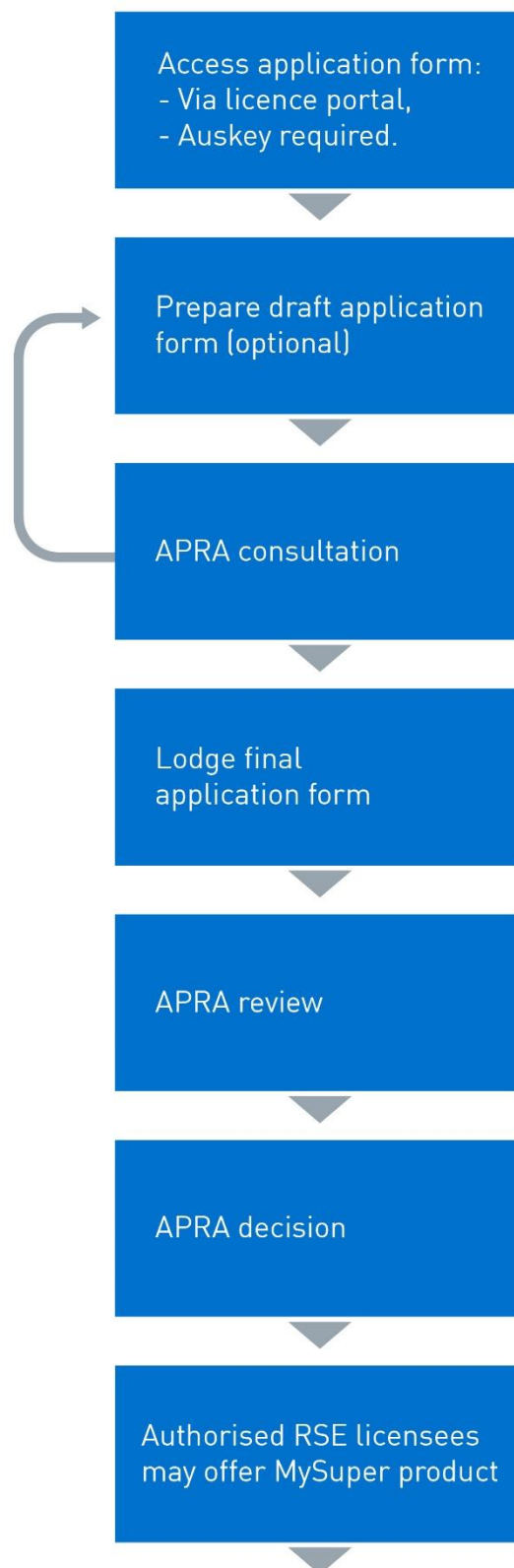
No.

## **What is the application process?**

The approved form is an electronic form available on the APRA website. An RSE licensee will be able to submit drafts of its application to APRA either online, by email or manually to enable consultation with the APRA responsible supervisor prior to formal lodgement of the application. The Applicant will have the ability to amend its application at any time up until it lodges the form in its final version. While there is no legal obligation for APRA to comment on draft applications, APRA will endeavour to provide comments as soon as practicable.

Applicants are encouraged to submit drafts as early as possible. Applicants are also strongly encouraged to consult with the APRA responsible supervisor before lodging a final application for authorisation.

# Application process



# The MySuper authorisation application form

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Applicants must complete all four parts of the application form. Some items will not apply to every Applicant. The electronic application will direct Applicants to items relevant to their circumstances. If an Applicant is submitting two or more applications for MySuper authorisation in the same RSE, the Applicant must complete the relevant sections of Parts A, B, C and D.

## Part A

Part A of the form requests details of the Applicant and other general information.

## Part B

Part B requests information from the Applicant to assist APRA in assessing whether APRA has no reason to believe that:

- the RSE licensee may fail to comply with its enhanced trustee obligations for MySuper products;
- the directors of the RSE licensee may fail to comply with its enhanced trustee obligations for MySuper products; and
- the RSE licensee may fail to comply with the general fees rules and the fees rules applying in relation to MySuper products,

in order to authorise an RSE licensee to offer a MySuper product.

## Part C

Part C contains attestations that will need to be made by the directors if the Applicant is a body corporate or constitutional corporation, or by each trustee if the Applicant is a group of individual trustees.

## Part D

Part D contains elections pursuant to ss. 29SAB and 29SAC of the SIS Act that will need to be made by the RSE licensee. Applicants should read this guidance and the application form closely to ensure they are completing the items appropriate to their situation.

# Further guidance on completing the application form

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The data items from the approved form are listed below together with commentary on selected items. Lodgement of each authorisation application, and each document required by the approved form, will need to be approved by the board of the RSE licensee or by each individual trustee if the Applicant is a group of individual trustees.

## Part A – Details of the Applicant and general information

There are separate sections for material goodwill applications, large employer applications and for previous applicants, as well as sections that all applicants must complete.

### Item A1

Requirement: Name of RSE licensee.

Instruction for completion: This field will be automatically pre-filled with the name of the RSE licensee as stated on the RSE licence, based on the Auskey security code entered by the Applicant.

Comment: Only an RSE licensee can apply for authorisation of a MySuper product.<sup>1</sup> Entities not yet licensed as an RSE licensee may submit simultaneous applications for an RSE licence and registration of an RSE and a draft authorisation application for a MySuper product. Once APRA has determined the RSE licence and registration applications the entity will be able to submit a completed MySuper authorisation application.

### Item A2

Requirement: Australian Business Number (ABN) of RSE licensee

Instruction for completion: This field will be automatically pre-filled with the ABN of the RSE licensee as stated on the RSE licence, based on the Auskey security code entered by the Applicant.

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



### **Item A3**

Requirement: Name of RSE as stated on the RSE registration.

Instruction for completion: This field will offer a drop down menu listing the names of all RSEs for which the RSE licensee is trustee, based on the Auskey code entered by the Applicant.

Comment: The authority to offer a MySuper product relates to a regulated superannuation fund.<sup>2</sup> If the superannuation fund is not registered at the time of application, an RSE licensee may submit simultaneously an application for registration of an RSE and a draft authorisation application for a MySuper product. Once APRA has determined the registration application, the entity will be able to submit a completed MySuper authorisation application.

### **Item A4**

Requirement: ABN of RSE.

Instruction for completion: This field will be automatically pre-filled with the ABN of the RSE as stated on the RSE registration, based on the name of the RSE selected by the Applicant.

### **Item A5**

Requirement: Attach an up-to-date copy of the trust deed and governing rules of the RSE.

Instruction for completion: Upload an electronic copy of the trust deed and, to the extent that the trust deed does not fully govern the establishment and operation of the RSE, the additional governing rules of the RSE.

Comment: Under ss. 29S(2)(d) and (e) of the SIS Act, the governing rules of the fund, which include the trust deed, are required to be attached to the application except to the extent that the governing rules are constituted by the law of the Commonwealth of Australia or by unwritten rules. The RSE licensee is required to attest at item C1 that the governing rules satisfy, in relation to the MySuper product which is the subject of the application, all the requirements specified in s. 29TC of the SIS Act.

#### **Item A5.1**

Requirement: Attach a statement setting out the basis on which the RSE licensee is satisfied that the governing rules require the MySuper product to have the features required by s. 29TC of the SIS Act.

Instruction for completion: Upload an electronic statement.

<sup>2</sup> Refer to s. 29S(1) of the SIS Act.

Comment: Before authorising an RSE licensee to offer a particular MySuper product, APRA must be satisfied that the offering complies with s. 29TC of the SIS Act. As part of the application for authorisation, the Applicant will be required to attest that this requirement is satisfied. At item A5.1, the Applicant must provide a statement setting out the basis on which it is able to make the relevant attestation. This may describe or include attached external advice or set out the internal due diligence conducted by the Applicant in order to achieve the required level of satisfaction.

## **Item A6**

Requirement: Details of contact person.

Instruction for completion: Provide the name, position title, telephone number and email address for the person to whom enquiries relating to this application should be directed.

Comment: This is the person to whom APRA will direct any enquiries.

## **Item A7**

Requirement: Name of MySuper product.

Instruction for completion: Name proposed by RSE licensee for inclusion in the Product Disclosure Statement (PDS) describing the MySuper product.

Comment: The provision by the RSE licensee of the name for the MySuper product does not prevent the 'white labelling' of a MySuper product; that is, the product being given different names when offered to members from a particular subset of the total membership of that product. This means RSE licensees are able to have more than one PDS for a single MySuper product. This includes using employer names to label a subset of the MySuper product or using an RSE licensee's brand names to label a subset of the MySuper product. However, this does not permit any variation in the features of the underlying MySuper product that is offered under a different label. Therefore, for example, two members that enter a MySuper product under different labels will have the same investment strategy and will be charged the same fee structure, subject to permitted variations in insurance premiums and employer-based administration fees.

## **Item A7.1**

Requirement: Provision under which authorisation is sought.

Instruction for completion: Select from the drop down menu. The choices are s. 29T(f)(i) (generic MySuper product) or otherwise if the product satisfies the criteria under s. 29TA (material goodwill provision) or s. 29TB (large employer provision) of the SIS Act.

Comment: Only one product may be authorised in any RSE (except where s. 29TA and s. 29TB of the SIS Act apply).

## Item A8

Requirement: Has the Applicant sought or been granted authorisation to offer any other MySuper product in this RSE?

Instruction for completion: Select 'yes' or 'no' from the drop down menu.

Comment: The electronic approved form will automatically direct the Applicant to the relevant next question depending on whether authority has been sought to offer any other MySuper product within the RSE.

## Item A9 – Only for Applicants seeking authorisation on the basis of the material goodwill provision set out in s. 29TA of the SIS Act.

Requirement: Attach a document outlining the basis, including supporting evidence, on which the RSE licensee considers that the MySuper product meets the criteria for the material goodwill provision.

Instruction for completion: Upload an electronic document setting out the circumstances of the transfer of benefits in the original fund to the RSE.<sup>3</sup>

The document should set out:

- evidence of the existence in the original fund of a product 'similar' to the proposed MySuper product. This will be a previously authorised MySuper product;
- evidence of the existence of goodwill in that class of interest in the original fund;
- evidence that the goodwill is material;
- an explanation of why the RSE licensee considers the goodwill could not be maintained other than by having a separate MySuper product within the hosting RSE (i.e. by maintaining a separate RSE or by retaining the brand name used for the product in the original fund as a separate label for the same underlying MySuper product with supporting documentation); and
- an explanation of why the RSE licensee considers it would be in the interests of all members of both the transferring and receiving RSEs for a separate MySuper product to be maintained with supporting documents.

Comment: APRA considers that 'goodwill' in this context refers to the goodwill, if any, that is the value for members that attaches to the brand name of the MySuper Product. Given that MySuper is a default product, an explanation of how goodwill exists in the MySuper product must be provided together with any supporting documentation. Further explanation and supporting documents should also be provided to show why such goodwill is "material". This may be with reference to the MySuper product's funds under management or some other relevant measure

<sup>3</sup> Original Fund is defined in s. 29TA(a) of the SIS Act.

## **Item A10 – Only for Applicants seeking authorisation on the basis of the large employer provision set out in s. 29TB of the SIS Act.**

Requirement: Specify the registered legal name and ABN of the employer-sponsor(s) of those members who will be eligible to hold an interest in the MySuper product if authorised under the large employer provision.

Instruction for completion: Insert the registered name(s) and ABN(s) of the employer-sponsor(s).

Comment: If it is proposed that one or more associates of the employer-sponsor contribute for members with an interest in the product, upload a document specifying the name and ABN of each contributing employer and the basis on which the RSE licensee has formed the view that they are associates of the first named employer-sponsor.

### **Item A10.1 – Only for Applicants seeking authorisation on the basis of the large employer provision set out in s. 29TB of the SIS Act.**

Requirement: Specify the number of members of the RSE, other than members who hold a defined benefit interest, who are employees of the employer or an associate of the employer in respect of whom the employer or an associate of the employer contributes at the time of the application or would, apart from a temporary cessation of contributions, contribute.

Instruction for completion: Insert the relevant number.

Comment: Note that, under s. 29TB(d)(i) of the SIS Act, the number must exclude any employee of the employer who is a defined benefit member of the fund.

#### **Item A10.1.1 – Only for Applicants seeking authorisation on the basis of the large employer provision set out in s. 29TB of the SIS Act and for which the number of members specified at item A10.1 is less than 500.**

Requirement: Specify the number of members of the RSE, other than members who hold a defined benefit interest, who are employees of the employer or an associate of the employer in respect of whom the Applicant expects the employer or an associate of the employer to contribute to the RSE within a specified period of the granting of the authority or would, apart from a temporary cessation of contributions, contribute.

Instruction for completion: Insert the relevant number.

Comment: Note that, under s. 29TB(d)(i) of the SIS Act, the number must exclude any employee of the employer who is a defined benefit member of the fund. Section 29TB(1)(b)(ii) of the SIS Act provides that the definition of a large employer is satisfied if, among other requirements, APRA is satisfied that if the authority to offer the MySuper product were given, the specified employer would be a large employer in relation to the fund by the end of the period specified in the authority.

This provision recognises that there will be circumstances where an RSE licensee may seek authorisation to offer a MySuper product in respect of members drawn from an employer-sponsor when the RSE is not, at the time of application, the default fund for those members. In those circumstances, the RSE licensee should consult with the responsible supervisor before submitting the application. Any evidence of a formal agreement between the RSE licensee and the employer-sponsor that the employer-sponsor will adopt the RSE as the default superannuation fund for its employees, subject to authorisation of the MySuper product, would be relevant to APRA's satisfaction as to whether the employer would meet the definition of a large employer.

**Item: A10.1.2 – Only for Applicants seeking authorisation on the basis of the large employer provision set out in s. 29TB of the SIS Act and for which the number of members specified at item A10.1 is less than 500.**

Requirement: Attach a document outlining the basis, including supporting evidence, on which the Applicant provided the response at item 10.1.1.

Instruction for completion: Upload a document specifying the period following any authorisation within which the Applicant considers that the named employer(s) would satisfy the definition of a large employer in relation to the fund, and providing the evidence on which the Applicant relied in making its consideration.

Comment: The length of time is a relevant factor for APRA to consider. Generally, the longer the stated period of time, the more difficult it will be for APRA to be satisfied that the employer will be a large employer under s. 29TB(1)(b)(ii) of the SIS Act.

**Item A10.2 – Only for Applicants seeking authorisation on the basis of the large employer provision set out in s. 29TB of the SIS Act and for which the number of members specified at item A10.1 is less than 1000.**

Requirement: Attach a contingency plan addressing the actions to be taken by the Applicant in the event that the employer-sponsor ceases to be a large employer under s. 29TB(2) of the SIS Act.

Instruction for completion: Upload an electronic document addressing the contingency that the employer-sponsor ceases to be a large employer under s. 29TB(2) of the SIS Act. The plan must address procedures, including timeframes and trigger points, for communication with relevant employers and members, the placement of new default contributions into an alternative MySuper product and the movement of existing member MySuper amounts into an alternative MySuper product. The plan must address any contractual issues which may arise from the change; for example, in relation to insurance or investment management. It should also address how the costs of the change will be borne.

Comment: Item 10.2 is only required to be completed by applicants who indicate at item 10.1 that the number of members who could hold an interest in the proposed MySuper product is less than 1000.

### **Item A11 – Only for Applicants who have previously held an authority to offer a MySuper product, or if the application is the result of an organisational restructure.**

Requirement: Explain why a new authority is required.

Instruction for completion: Based on APRA's experience, the following information may be relevant:

- an application for a new product from an RSE licensee which has previously applied for authorisation; or
- an application in relation to an existing product for which the RSE licensee has changed.

### **Item A12 – Only for Applicants who have previously held an authority to offer a MySuper product, or if the application is the result of an organisational restructure.**

Requirement: Provide details of:

1. historical investment performance, including the applicable cohort information for lifecycle products;
2. previous breaches reported to APRA in relation to a MySuper product;
3. the reason for the breaches;
4. how these breaches were resolved; and
5. outstanding breaches, with the timeframe for their resolution.

Instruction for completion: Upload an electronic copy of the historical investment performance data.

The reference to breaches in relation to a MySuper product refers to breaches of the enhanced trustee obligations in relation to MySuper products, the characteristics of MySuper products, the general fees rules and the fees rules in relation to MySuper products.

The Applicant should contact its APRA responsible supervisor if it seeks to attach extensive information in response to this question.

Comment: The amendment has been made to accommodate the legislative requirement that APRA must have no reason to believe that the Applicant may fail to comply with the enhanced trustee obligations for MySuper products, the general fees rules and the fees rules in relation to MySuper products in order to grant an authority to the Applicant to offer a MySuper product.

**Item A13 – Only for Applicants who have previously held an authority to offer a MySuper product, or if the application is the result of an organisational restructure.**

Requirement: Provide details of:

1. any adverse findings by APRA in relation to the operation of a MySuper product or the adequacy of its prudential framework;
2. any adverse findings made in each of the most recent comprehensive reviews required under the prudential standards;
3. any adverse findings raised in any independently commissioned review;
4. how these findings have been resolved; and
5. outstanding adverse findings, with the timeframe for their resolution.

Instruction for completion: The reference to adverse findings in relation to the operation of a MySuper product refers to breaches of the enhanced trustee obligations in relation to MySuper products, the characteristics of MySuper products, the general fees rules and the fees rules in relation to MySuper products.

The reference to any adverse findings made in relation to its prudential framework or in relation to the comprehensive reviews required under the prudential standards refers to the review of the risk management framework under *Prudential Standard SPS 220 Risk Management* (SPS 220), the review of the insurance management framework under *Prudential Standard SPS 250 Insurance in Superannuation* (SPS 250), the review of the conflicts management framework to be reviewed under *Prudential Standard SPS 521 Conflicts of Interest* (SPS 521) as well as the review of the investment governance framework to be reviewed under *Prudential Standard SPS 530 Investment Governance* (SPS 530).

The Applicant should contact its APRA responsible supervisor if it seeks to attach extensive information in response to this question.

Comment: The amendment has been made to accommodate the legislative requirement that APRA must have no reason to believe that the Applicant may fail to comply with the enhanced trustee obligations for MySuper products, the general fees rules and the fees rules in relation to MySuper products in order to grant an authority to the Applicant to offer a MySuper product.

## Part B - Information for APRA's assessment

### Part B.1 - Generic applications only - information required to assist APRA to determine it has no reason to believe that the RSE licensee and its directors may fail to comply with their enhanced trustee duties in relation to MySuper products

APRA must have no reason to believe that the RSE licensee and the directors may fail to comply with their enhanced trustee obligations for MySuper products in order to authorise an RSE licensee to offer a MySuper product.

APRA will perform a comprehensive assessment to determine whether it has no reason to believe that the RSE licensee and its directors may fail to comply with their enhanced trustee obligations for MySuper products.

The approved form in respect of further applications for authorisation of other MySuper products in the same RSE based on the large employer provision or material goodwill provision requires information specific to the product which would supplement and update as necessary the original assessment to determine whether there is any reason to believe that the RSE licensee and its directors may fail to comply with its obligations in respect of MySuper products in that RSE.

Central to this assessment of subsequent applications will be the summary table at Part B indicating how the proposed product differs from a MySuper product which has been previously authorised, or for which authorisation has been sought but not yet granted. To the extent that investment strategy, insurance strategy, outsourcing strategy and pricing policies differ from those of any other MySuper product within the RSE, copies of the relevant strategies or policies must be provided.

#### Item B1.1

Requirement: Attach a copy of the RSE licensee's conflicts management policy as required under *Prudential Standard SPS 521 Conflicts of Interest* (SPS 521).

Instruction for completion: Upload an electronic copy of the RSE licensee's conflicts management policy.

Comment: The authorisation application requires the Applicant to provide a copy of the conflicts management policy as required under SPS 521. It may be simpler for the RSE licensee to provide the conflicts management policy applicable to the RSE as a whole, rather than attempting to provide a version applicable to the MySuper product alone. If the Applicant wishes to submit a conflicts management policy that applies only in respect of its management of the MySuper product, it may do so. However, this should be discussed with



the APRA responsible supervisor prior to lodgement of the application so that the sustainability of the specific policy in the context of the RSE licensee's overall conflicts management framework can be assessed.

### **Item B1.1.1**

Requirement: Attach a copy of the RSE licensee's register of relevant duties and interests as required under SPS 521.

Instruction for completion: Upload an electronic copy.

Comment: SPS 521 defines the concepts of relevant duty and relevant interest.

### **Item B1.2**

Requirement: Attach a copy of the RSE licensee's insurance strategy as required under *Prudential Standard SPS 250 Insurance in Superannuation* (SPS 250).

Instruction for completion: Upload an electronic copy of the RSE licensee's insurance strategy.

Comment: The authorisation application requires the Applicant to provide a copy of the insurance strategy as required under SPS 250. It may be more convenient for the RSE licensee to provide the insurance strategy applicable to the RSE as a whole, rather than attempting to provide a version applicable to the MySuper product alone. If the Applicant wishes to submit an insurance strategy that applies only in respect of its management of the MySuper product, it may do so. However, this should be discussed with the APRA responsible supervisor prior to lodgement of the application so that the sustainability of the specific policy in the context of the RSE licensee's overall insurance strategy can be assessed.

To the extent that demographic data has been used in developing the insurance strategy that should be included in the document.

### **Item B1.2(a)**

Requirement: Explain how the Applicant has satisfied itself that the terms of the proposed insurance offering comply with the insurance covenant in s. 52(7) of the SIS Act.

Instruction for completion: The Applicant should contact its APRA responsible supervisor if it seeks to attach extensive information in response to this question.

### **Item B1.2(b)**

Requirement: Answer the question - Is any insurance to be provided by an associate of the Applicant?

Instruction for completion: Answer 'yes' or 'no'.

### Item B1.3

Requirement: Attach a copy of the RSE licensee's risk management strategy, including the risk appetite statement (possibly by separate document) as required under *Prudential Standard SPS 220 Risk Management* (SPS 220).

Instruction for completion: Upload an electronic copy of each document.

Comment: The authorisation application requires provision of a copy of the risk management strategy including the risk appetite statement as required under SPS 220. APRA anticipates that it may be simpler for the RSE licensee to provide the risk management strategy applicable to the RSE as a whole, rather than attempting to provide a version applicable to the MySuper product alone. If the Applicant wishes to submit a risk management framework that applies only in respect of its management of the MySuper product, it may do so. However, this should be discussed with the APRA responsible supervisor prior to lodgement of the application so that the sustainability of the specific policy in the context of the RSE licensee's overall risk management framework can be assessed.

### Item B1.4

Requirement: Attach copies of the investment objectives and investment strategy as required under *Prudential Standard SPS 530 Investment Governance* (SPS 530) for the MySuper product.

Instruction for completion: Upload an electronic copy of the RSE licensee's objectives and investment strategy as required for the MySuper product.

Comment: Under the terms of its governing rules, a MySuper product must have a single diversified investment strategy<sup>4</sup>, which may be a lifecycle strategy.<sup>5</sup> The authorisation application requires the Applicant to provide a copy of the investment strategy as required under SPS 530. The strategy must reflect the factors set out in the covenants created by s. 52(6)(a), 52(12) and 52(13) of the SIS Act. It must include the proposed asset allocation and ranges for the MySuper product.

### Item B1.5

Requirement: Attach a statement outlining the RSE licensee's approach to undertaking the annual outcomes assessment required under s. 52(9) of the SIS Act, including details of the methodology to be applied.

Instruction for completion: Upload an electronic copy of the RSE licensee's statement outlining the relevant processes.

<sup>4</sup> Refer to s. 29TC(1)(a) of the SIS Act.

<sup>5</sup> Refer to s. 29TC(2) of the SIS Act.

Comment: Section 52(9) of the SIS Act requires the RSE licensee to undertake an assessment to determine, on an annual basis, whether the financial interests of beneficiaries holding the MySuper product are being promoted. The intended approach must have regard to the requirements of s. 52(9), (10) and (11) of the SIS Act as well as any other relevant factors such as applicable regulations, APRA prudential standards, guidance and publications.

### **Item B1.6**

Requirement: Attach a copy of the ORFR Strategy, including details of the funding and replenishment plan to ensure compliance with *Prudential Standard SPS 114 Operational Risk Financial Requirement*.

Instruction for completion: Upload an electronic copy of the ORFR Strategy of the RSE licensee.

Comment: The ORFR Strategy and associated policies and procedures must be consistent with the RSE licensee's covenant to act fairly in dealing with classes of beneficiary within the entity and to act fairly in dealing with beneficiaries within a class.

Further details should be included where the ORFR Strategy does not specifically describe how the ORFR applies to this MySuper product.

### **Item B1.7**

Requirement: Attach the RSE licensee's business plan in respect of the proposed MySuper product.

Instruction for completion: Upload an electronic copy of the RSE licensee's business plan in respect of the proposed operation of the MySuper product.

Comment: APRA expects that the business plan would include projected business volumes, costs and fee income and that it would reflect member outcome expectations and adopted criteria. This in turn will provide insight to the RSE licensee's capacity to promote the financial interests of beneficiaries with an interest in the MySuper product. It is acknowledged that the business plan in respect of the proposed operation of the MySuper product may be separate from the whole-of-RSE business plan addressed in SPS 220, though it may form part of it.

### **Item B1.8**

Requirement: If the RSE licensee wishes to do so, provide any additional statement setting out matters the RSE licensee considers that APRA should take into account in determining that there is no reason to believe that the RSE licensee and its directors may fail to comply with the enhanced trustee obligations in relation to MySuper products.

Instruction for completion: This field is discretionary.

Comment: If the RSE licensee considers that there are matters, not otherwise sought in the approved form, that it wishes APRA to take into account, it should upload an electronic copy of a statement addressing those matters. This item in the application is intended to give the RSE licensee the opportunity to address any others areas it believes may be relevant to its application.

In addition to matters directly included in the application form, APRA's supervisory view of the RSE licensee and its directors may be relevant to its consideration of whether there is no reason to believe that the RSE licensee and its directors may fail the enhanced trustee obligations in relation to MySuper products. The weight to be given to this factor in assessing the likelihood of future compliance will depend on a number of matters including the circumstances surrounding any issues of concern, and the conduct since.

Before APRA makes a final decision to decline an application for authorisation, whether or not the Applicant's prior conduct is a factor, it will advise the Applicant of its preliminary view and the reasons for it. The Applicant will have the opportunity to show cause why the proposed decision should not be made, and its submission will be taken into account in APRA's final decision.

## **Part B.2 – Information required to assist APRA to determine that it has no reason to believe the RSE licensee may fail to comply with the general fees rules and the fees rules in relation to MySuper products.**

### **Item B2.1**

Requirement: Provide details of the proposed administration and investment fee structure for the MySuper product as charged directly by the RSE licensee.

Instruction for completion: Complete the table showing the maximum administration fee charged to each member with an interest in the MySuper product. If only a flat fee or a percentage of the member's interest is to be charged, record zero in the other applicable cell.

### **Item B2.2**

Requirement: Explain how the Applicant will comply with the fee cap required under s. 99G of the SIS Act.

Instruction for completion: Explain how the fee cap requirement under s. 99G of the SIS Act will operate in conjunction with the charged fees. The Applicant should contact its APRA responsible supervisor if it seeks to attach extensive information in response to this question.

### **Item B2.2.1**

Requirement: Answer the question - Does the Applicant seek authorisation of a MySuper product using a lifecycle investment strategy?

Instruction for completion: Answer 'yes' or 'no'.

### **Item B2.2.2(a) - Only for Applicants that answer 'no' at B2.2.1.**

Requirement: Provide details of the proposed investment fee structure for the MySuper product as charged directly by the RSE licensee.

Instruction for completion:

- Complete the table showing the investment fee charged to each member with an interest in the MySuper product;
- If only a flat fee or a percentage of the member's interest is to be charged, record zero in the other applicable cell; and
- Explain how the fee cap requirement under SIS s. 99G of the SIS Act will operate in conjunction with the charged fees.

### **Item B2.2.2(b) - Only for Applicants that answer 'yes' at B2.2.1.**

Requirement: Provide details of the proposed investment fee structure for each age, or other, cohort within the MySuper product as charged directly by the RSE licensee.

Instruction for completion: Complete the table showing the investment management fee charged to each member within each of up to four age, or other, cohorts with an interest in the MySuper product, together with the applicable age, or other, range. If only a flat fee or a percentage of the member's interest is to be charged, record zero in the other applicable cell.

### **Item B2.3**

Requirement: Specify the other fees which may be charged to members with an interest in the MySuper product.

Instruction for completion: Select as many items as are applicable from the drop down menu specifying buy-sell spread, switching fee, and activity fee.<sup>6</sup>

### **Item B2.4**

Requirement: If activity fees are charged to members with an interest in the MySuper product, specify the activities for which a fee may be charged.

<sup>6</sup> Refer to s. 29V(7) of the SIS Act.

Instruction for completion: In the table, record the activity for which the fee is to be charged.

Comment: An activity fee may be charged to a member to recover the transaction costs incurred by an RSE licensee that:

- are directly related to an activity that the RSE licensee has engaged in, on the member's request; or
- relate to the member as required by law.

Activity fees will allow RSE licensees to recover costs incurred as a result of a one-off transaction in relation to a member. If an RSE licensee charges an activity fee for a transaction, it must not recover the costs of that transaction as switching fees or buy-sell spreads. Examples of an activity fee include a family law fee, whereby a member is required to have their account split as a result of a family law settlement, or a death benefit nomination fee. Activity fees will be limited to cost recovery only for MySuper products.

## Item B2.5

Requirement: For each relevant fee category identified at items 2.3 and 2.4, attach a description of the mechanism by which the RSE licensee will establish that the fees charged do not exceed cost recovery.

Instruction for completion: Upload an electronic copy of the relevant policies and procedures of the RSE licensee.

Comment: APRA expects that a single document will describe the policies and procedures for establishing cost recovery across all relevant activity areas.

## Item B2.6

Requirement: Attach a description of the processes the RSE licensee will use to allocate shared costs between interests in the MySuper product and other products offered within the RSE.

Instruction for completion: Upload an electronic copy of the relevant policies and procedures of the RSE licensee.

Comment: APRA recognises that some costs of operating the RSE will be incurred at a whole-of-fund level, irrespective of whether members' interests are in a MySuper product, choice products or a combination. The RSE licensee has a duty to act fairly in dealing with classes of beneficiary within the entity<sup>7</sup> and to act fairly in dealing with beneficiaries within a class.<sup>8</sup> It is expected that, for an RSE licensee to satisfy APRA that it has no reason to believe

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

<sup>8</sup> Refer to s. 52(2)(f) of the SIS Act.

that it may fail to comply with the enhanced trustee obligations in respect of MySuper products, the policy and procedures for allocating costs between classes of members will reflect these principles.

### **Item B2.7**

Requirement: Provide details of outsourcing to service providers conducting a material business activity that relates to the offering of the MySuper product.

Instruction for completion: Complete the table as specified. If the contract does not have a term for renewal or expiry date, select the appropriate option from the drop down menu.

Comment: For the purpose of this application, 'contract' should be taken to refer to a material outsourcing arrangement as defined in *Prudential Standard SPS 231, Outsourcing* (SPS 231).

### **Item B2.8**

Requirement: Answer the question: Are any fees being paid by the Applicant to related parties?

Instructions for completion: Answer 'yes' or 'no'.

### **Item B2.9**

Requirement: Answer the question: If the Applicant's answer to Item B2.8 is 'yes', provide details of how the Applicant has satisfied itself that the fees charged by the related party or parties are reasonable and in members' best financial interests.

## **Part B – Only applicable for RSE licensees applying for authorisation on the basis of the material goodwill provision or the large employer provision.**

Requirement: Specify the extent to which the information to be provided in this application differs from that provided to APRA in respect of any other MySuper product to be offered in this RSE for which the Applicant has previously applied for authorisation.

Instruction for completion: A yes/no choice is provided at each cell in column 2 of the table at Part B of the application form.

If the applicable answer is yes, the Applicant should enter the name of the MySuper product for which the relevant document is identical. If there are multiple such products, enter the name of the generic MySuper product if applicable, or else the first authorised product for

which the relevant information is identical. If the information is identical to another MySuper product for which authorisation has been granted, enter the name of any such product.

If the answer is no, two documents should be uploaded at the applicable cell in column 3. The first should be the policy statement or response corresponding to the data item in the application form. The second should be an explanation of how and why the product differs from the generic MySuper product.

## **Part C – Attestations**

### **Item C1 – Governing rules**

Requirement: Indicate whether the Applicant attests that the governing rules of the RSE comply with s. 29TC and, to the extent relevant, with ss. 29TB(1)(a), (c) and (d) of the SIS Act.

Instruction for completion: Select yes or no from the drop down menu.

Comment: 'Yes' should only be selected if the RSE licensee has formally determined that the governing rules of the RSE comply with s. 29TC of the SIS Act and, to the extent relevant, with ss. 29TB(1)(a), (c) and (d) of the SIS Act. Making a false attestation may have serious consequences for the RSE licensee.

### **Item C2 – Information contained in the Application**

Requirement: Indicate whether the Applicant attests that the information contained in the application is: lodged with authority of the Applicant; is correct at the time the application is lodged; and will be notified to APRA as soon as practicable if found to change.

Instruction for completion: Select yes or no from the drop down menu.

Comment: 'Yes' should only be selected if the RSE licensee has formally determined that the information contained in the application is accurate at the time of submission and will be updated as soon as practicable if found to change. Making a false attestation may have serious consequences for the RSE licensee.

## **Part D – Elections**

### **Item D1 – Transfer of assets attributed to a MySuper product if authorisation is cancelled**

Requirement: In accordance with s. 29SAB of the SIS Act, the Applicant elects:

(a) to take the action required under the prudential standards in relation to any asset or assets of the fund that are attributed to the MySuper product if the authority to offer the relevant class of beneficial interest in the fund as a MySuper product is cancelled under subsection 29U(1) of the SIS Act; and



(b) to do so before the end of a period of 90 days beginning on the day on which notice of cancellation is given to the RSE licensee under subsection 29U(3) of the SIS Act.

Instruction for completion: Select yes or no from the drop down menu.

Comment: Under s. 29U(2)(j) of the SIS Act, failure to give effect to an election given in accordance with s. 29SAA (election to transfer accrued default amounts to a MySuper product) provides grounds for APRA to revoke the authorisation of an RSE licensee to offer a MySuper product.

## **Item D2 – Charging related to conflicted remuneration**

Requirement: In accordance with s. 29SAC of the SIS Act, the Applicant elects that, if the authority is given, it will not charge a MySuper member a fee in relation to the MySuper product, all or part of which relates directly or indirectly to costs incurred by it:

(a) in paying conflicted remuneration to a financial services licensee, or a representative of a financial services licensee; or

(b) in paying an amount to another person that the Applicant knows, or reasonably ought to know, relates to conflicted remuneration paid by that other person to a financial services licensee, or a representative of a financial services licensee.

Instruction for completion: Select yes or no from the drop down menu.

Comment: Under s. 29U(2)(k) of the SIS Act, failure to give effect to an election given in accordance with s. 29SAC provides grounds for APRA to revoke the authorisation of an RSE licensee to offer a MySuper product.

## Glossary

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<b>ABN</b>	Australian Business Number
<b>Applicant</b>	RSE licensee applying for authority to offer a MySuper product
<b>APRA</b>	Australian Prudential Regulation Authority
<b>ERF.</b>	eligible rollover fund.
<b>PDS.</b>	Product Disclosure Statement.
<b>RSE</b>	registrable superannuation entity as defined in s. 10 of the SIS Act
<b>RSE licensee</b>	<i>a constitutional corporation, body corporate or group of individual trustees that holds an RSE licence granted under s. 29D of the SIS Act</i>
<b>SIS Act</b>	<i>Superannuation Industry (Supervision) Act 1993</i>



 **APRA**