

9 November 2012

Mr Neil Grummitt  
General Manager, Policy Development  
Policy, Research and Statistics  
Australian Prudential Regulation Authority  
GPO Box 9836  
SYDNEY NSW 2001

**Email:** [superannuation.policy@apra.gov.au](mailto:superannuation.policy@apra.gov.au)

Dear Mr Grummitt,

**AIST response to APRA public consultation draft  
Prudential Practice Guide SPG 410 Transition to MySuper**

In this letter, AIST provides its comments on the proposed Prudential Practice Guide SPG 410 Transition to MySuper issued by APRA (“PPG”)

The Australian Institute of Superannuation Trustees (AIST) is an independent, not-for-profit professional body whose mission is to protect the interests of Australia’s \$450 billion not-for-profit superannuation sector. AIST’s members are the trustee directors and staff of industry, corporate and public-sector superannuation funds, who manage the superannuation accounts of two-thirds of the Australian workforce.

Our comments are aimed at ensuring that clear, detailed and consistent information about transitional arrangements is provided by APRA to RSE licensees intending to seek authorisation to offer a MySuper product, and that the authorisation process and associated requirements are implemented in a way that is consistent with Government policy.

AIST is particularly concerned that the treatment of accrued default amounts be clearly subjected to a best interests of members test, and that APRA recognise all reasonably based expressions of a member exercising investment choice.

It is critical that implementation of the requirements in the PPG be aligned with the overall legislative framework for Stronger Super.

AIST has made many submissions on all aspects of the Stronger Super package of reforms, including the proposed MySuper authorisation requirements, and these comments are consistent with our earlier submissions.

These comments should be read in conjunction with the “AIST Response to MySuper Consultation Package”. That is, the AIST letter sent to APRA dated 29 June 2012.

## Key points

### About this guide

The introduction to the guide states that not all of the practices outlined in the PPG are relevant for every trustee. While we recognise that some aspects of implementation may vary according to the size and complexity of a fund, other than in relation to a fund rebadging an existing default option or not, it is not evident which practices may not be relevant for some trustees. If there are aspects that may not be relevant for some trustees, this should be made clearer in the PPG.

### Rebadging an existing default option

6. AIST notes that rebadging using an existing default option can include differential requirements in situations where some but not all members with an interest in an existing default option. We strongly support this practical approach to implementation.

7. Similarly, AIST supports the PPG flexibility in not requiring all members in the default option not to be in identical circumstances. AIST submits that this flexibility should be applied to cover situations where members being transferred to a MySuper product may have access to different insurance offerings in their existing default option.

It is noted that paragraph 4(b) of draft SPS410 allows access to the rebadging option where “insurance benefits no less and insurance premiums no higher than apply in the existing default option”. This does not preclude multiple insurance options in an existing default option being replicated in the rebadged MySuper option.

### Identifying accrued default amounts

9. AIST notes that the requirement to identify accrued default amounts no later than 31 March 2013 (and quarterly thereafter) in the draft SPS410 appears to be changed to 30 September 2013. While not commenting specifically on the 6 month delay, AIST asserts that every trustee should be required to identify all accrued default amounts within the fund prior to the trustee being granted authorisation to offer a MySuper product.

This is consistent with the proposed application process and should be explicitly stated in the PPG.

10. AIST supports the requirement for funds to be able to demonstrate that they have a process for determining whether or not a member has given a direction regarding the investment of their assets. AIST would support APRA reviewing the business processes of a super fund including historic documentation to establish this. AIST submits that these business processes should be sufficient in themselves to establish this and that a specific written direction from a member should not be required in all cases.

11. A fund may legitimately not hold a record of a member giving an investment decision where members may have become members of the fund through a successor fund transfer. Where these members (in a previous fund) have made an actual investment choice for their benefits, and that choice is not to have their benefits in the funds default option, a members identifiable and non-default investment choice should be recognised and respected. Therefore, these members should not be transferred to a MySuper product.

12. A particular problem with successor fund arrangements is that successor funds do not necessarily have ready access to all of the physical records of the previous fund after the merger where the previous fund used a third-party administrator. Rather, information from member-completed documents (including details of investment choice) is inputted into the fund's record-keeping system, and it is this information that is transferred to the succeeding fund. It can be shown from a fund's business rules that a fund would only do this on the basis of a written direction from the member concerned, and this would always be in fulfilment of a member's request. This should be accepted as the record of a member's choice.

#### **Transition plan**

15. AIST strongly supports the approach proposed by APRA to consider the best interest of members in deciding when to transfer accrued default amounts into a MySuper product.

16. In addition to considering the timing of the transition as well as any chance to benefits, APRA should also explicitly consider the impact on fees. The PPG should explicitly state that, *prima facie*, a trustee should be prohibited from charging additional or duplicate administration fees on accrued default amounts that are not transitioned to a member's MySuper products. The onus should be on the super fund to demonstrate why the charging of additional or duplicate administration fees is in the member's best interest.

22. AIST submits that the requirements under this clause should be strengthened beyond the requirement to have merely considered contractual arrangements, investments and other legislative matters. The requirement should be on funds to demonstrate that they have acted in accordance with the members best interest in addressing these matters.

For example in relation to long-dated or un-dated contractual arrangements there should be an obligation on trustees to specify how and when it plans to address any delay in the transfer of accrued default amounts to a MySuper product. Notwithstanding a contractual obstacles, APRA should require trustees to take all necessary steps to overcome these obstacles, including approaching other parties for the renegotiation of the contracts.

AIST notes APRA's comment that a trustee should consider whether or not a comprehensive change management plan is necessary in relation to the whole of the Stronger Super and Future of Financial Advice reform packages. While AIST understands the apparent merit of this approach, we call upon APRA to undertake further industry consultation on its expectations in relation to the plan, and to consider publication of further guidance and/or an approved template.

If you have any further questions regarding this submission, please contact David Haynes, Project Director on (03) 8677 3800 or [dhaynes@aist.asn.au](mailto:dhaynes@aist.asn.au).

Yours sincerely,

A handwritten signature in blue ink that reads 'Fiona Reynolds'.

Fiona Reynolds  
Chief Executive Officer