



Prudential Practice Guide

SPG 270 – Contribution and Benefit Accrual Standards

November 2013

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About this guide

Prudential Practice Guides (PPGs) provide guidance on APRA's view of sound practice in particular areas. PPGs frequently discuss legal requirements from legislation, regulations or APRA's prudential standards, but do not themselves create enforceable requirements.

The *Superannuation Industry (Supervision) Act 1993* (SIS Act) and Part 7 of the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) set out the circumstances and forms in which an RSE licensee may accept contributions or grant benefit accruals in respect of a member of a registrable superannuation entity (RSE) that is an APRA-regulated superannuation fund. The SIS Act, the SIS Regulations and the *Superannuation Data and Payment Standards 2012* (superannuation data and payment standard) also set out the requirements for common data standards and processing requirements for contributions.¹

This PPG aims to assist an RSE licensee in complying with the requirements of the SIS Act and Part 7 of the SIS Regulations (contribution and benefit accrual standards), the superannuation data and payment regulations and standards and, more generally, to outline prudent practices in relation to accepting contributions and granting benefit accruals.²

For the purposes of this guide, and consistent with the requirements of the SIS Act and SIS Regulations, 'RSE licensee' and RSE have the meaning given in the SIS Act, subject to the term RSE excluding approved deposit funds and pooled superannuation trusts.

Subject to the requirements of the contribution and benefit accrual standards and the superannuation data and payment regulations and standards, an RSE licensee has the flexibility to structure its business operations in the way most suited to achieving its business objectives. Not all practices outlined in this PPG will be relevant for every RSE licensee and some aspects may vary depending upon the size, business mix, complexity and benefit design features of the RSE licensee's business operations.

¹ Superannuation data and payment standard as defined in s. 10 of the SIS Act.

² Superannuation data and payment regulations and standards as defined in s. 10 of the SIS Act.

Introduction

1. An important function of an RSE licensee is to accept and efficiently process contributions for beneficiaries of an RSE or grant benefit accruals in the case of a defined benefit fund.³
2. The framework provided for in the contribution and benefit accrual standards aims to ensure that contributions made to concessional RSEs are used for genuine retirement and approved ancillary purposes, and that contributions are accepted, allocated efficiently and in accordance with relevant legislation. The standards outline:
 - (a) the requirements for a valid contribution;
 - (b) the consequences of accepting an ineligible contribution; and
 - (c) the timing rules for allocating a contribution.
3. The standards also apply to a rollover or transfer from outside the superannuation system, e.g. a transfer from a foreign fund.⁴
4. The standards do not apply to proceeds from an insurance policy, e.g. for a claim paid in respect of a member's life or disability insurance policy, or to superannuation interests subject to a payment split as provided for under Part 7A of the SIS Regulations.⁵
5. Requirements have been introduced, under the superannuation data and payment regulations and standards, for common data standards and processing requirements to simplify and streamline administrative processes for RSE licensees and employers dealing with RSEs (SuperStream). The measures require greater use of members' tax file numbers to assist the identification of member accounts and to facilitate account consolidation, electronic transmission requirements and a new timeframe for the processing of contributions, rollovers and transfers of benefits.

³ For the purposes of this PPG the term 'contribution' is taken to include the term 'benefit accrual' for defined benefit funds unless otherwise stated or clearly implied.

⁴ Superannuation system as defined in r. 5.01(1) of the SIS Regulations. The transfer of amounts from a New Zealand KiwiSaver scheme that complies with the Trans-Tasman retirement savings portability requirements is to be treated as a contribution when received by an RSE, however, special provisions apply to the transfer of these amounts.

⁵ Superannuation interests subject to a payment split are also subject to Part VIIIIB of the *Family Law Act 1975*.

6. An RSE licensee is responsible for ensuring that the processing of contributions is performed in a way that is compliant with the requirements of the SIS Act, the SIS Regulations, the superannuation data and payment regulations and standards, the governing rules of the RSE and any other requirements for the acceptance of contributions, including the application of taxation and other applicable laws.⁶ An RSE licensee is also responsible for managing risks associated with the processing of contributions.
7. The governing rules of an RSE may prescribe requirements with regard to contributions that are more restrictive than the SIS Act and the SIS Regulations. For example, legislation may provide for, but not necessarily require, an RSE to accept a range of contributions. Where the governing rules of an RSE seek to restrict acceptance of certain contributions, an RSE licensee is expected to obtain its own legal advice to resolve any anomalies between the governing rules and legislative requirements.
8. Contributions may be made in-specie (i.e. assets other than cash) if permitted by the RSE's governing rules and made by a person other than a related party or, if from a related party, the contribution complies with the requirements of the SIS Act.⁷

Risk management framework

9. Under *Prudential Standard SPS 220 Risk Management*, an RSE licensee is responsible for ensuring that it identifies, manages and regularly reviews all material risks to its business operations through its risk management framework. An RSE licensee must also have and maintain a Board-approved Risk Management Strategy (RMS). While an RSE licensee may have a number of different approaches to the development of its risk management framework, the following paragraphs provide guidance that may assist an RSE licensee in this regard.

⁶ Governing rules as defined in s. 10 of the SIS Act.

⁷ Refer to s. 66 of the SIS Act.

10. An RSE licensee would ordinarily consider the risks arising from the acceptance and processing of contributions and address these risks, as appropriate, in its risk management framework and RMS. Particular emphasis may be appropriate in regard to operational risk and outsourcing risk.
11. Data reliability is a key operational risk in the context of contributions. A prudent RSE licensee would ensure the reliability of contributions data and establish procedures to improve the reliability of data where weaknesses exist. Key data items in relation to contributions would typically include the source and amount of the contribution, classification of the contribution such as taxation status and the identity of the recipient member and investment option within the RSE.
12. A prudent RSE licensee would establish a system for the processing and validation of contributions within its risk management framework. The system may include processes to estimate expected receipts from an employer and/or expected contributions for a member, processes to test against the planned estimates and processes to assess any impacts on the RSE licensee's revenue or cash flow or any other impacts such as compliance obligations. It may also include processes for dealing with contributions that are unable to be allocated and take into account the RSE licensee's obligations for generally processing contributions within three business days in accordance with the superannuation data and payment regulations and standards.
13. A prudent RSE licensee would establish an appropriate action plan to address any concerns identified from the above processes. This may include follow-up action with the relevant employer(s) or member(s) and, if necessary, a revision to the RSE licensee's business plan or risk management processes.

Administration

14. APRA expects that an RSE licensee would ordinarily establish, monitor and review policies and procedures regarding the acceptance, classification and allocation of contributions. Such policies and procedures would contain measures that an RSE licensee would take (or require an outsourced service provider to take) in the case of a breach of the contribution and benefit accrual standards.
15. An RSE licensee would ordinarily ensure that, in addition to complying with its legal obligations to collect certain data, it would also collect and record additional data that may be relevant to and facilitate the effective processing of contributions.⁸ This may include details related to the chosen investment option, and the relative amounts for each option in relation to the contribution and, for members aged 65 or over, recording the gainful employment status of that member for any financial year in which a contribution is accepted.
16. It is good practice for an RSE licensee to classify each contribution according to its appropriate income tax status (e.g. concessional, non-concessional). This may enable an RSE licensee to ensure that all appropriate financial, cash flow and taxation records are able to be generated for the RSE. Such classification would also ensure that equity is maintained across the RSE's membership in terms of tax paid or payable.
17. It is also good practice for an RSE licensee to ensure that appropriate information relating to contributions and the RSE's policies and procedures relating to contributions are communicated to members and potential members (e.g. via its website, product disclosure documents (PDS) or other RSE documents). Appropriate information may include legal and taxation matters such as contribution caps, concessional contributions and the potential consequences of exceeding allowable limits and/or not complying with particular provisions.

⁸ Refer to superannuation data and payment regulations and standards as defined in s.10 of the SIS Act.

18. APRA considers the processing of contributions to be a material business activity of an RSE licensee. To the extent that some or all of the function is outsourced, including arrangements to ensure the processing of contributions complies with the superannuation data and payment regulations and standards, the arrangements are expected to meet the requirements of *Prudential Standard SPS 231 Outsourcing*.
19. An RSE licensee or its external administrator may use an additional service provider, such as a gateway service, to assist in ensuring compliance with the superannuation data and payment regulations and standards. APRA considers that it is the RSE licensee's responsibility to determine whether this element of contributions processing is of itself a material business activity. For example, an RSE licensee may consider whether there would be a significant impact on the RSE licensee's ability to meet its regulatory requirements should the gateway service fail.
20. Where an RSE licensee has outsourced its administration function, APRA expects the RSE licensee to ensure its administration agreement makes specific reference to compliance with the superannuation data and payment regulations and standards and the approach for ensuring that the administrator is able to deliver the required service, including any element it may subcontract to a gateway or other service provider.

Fund-capped contribution limit

21. The fund-capped contribution limit is a restriction imposed by the SIS Regulations on an RSE licensee's acceptance of single contributions on a contribution-by-contribution basis.⁹ In APRA's view, a prudent RSE licensee's contribution processing systems would:
 - (a) recognise any single contribution that comes within the definition of a fund-capped contribution¹⁰;

- (b) determine whether the single contribution exceeds the fund-capped contribution limit on a contribution-by-contribution basis¹¹; and
- (c) deal with the excessive contribution accordingly.

Non-member contributions

22. Under the SIS Regulations, an RSE must only accept contributions in respect of a member.¹² In some exceptional circumstances, contributions may be received in advance of receipt of a formal member application. An RSE licensee would ordinarily develop policies and procedures that address such exceptional circumstances to ensure that it complies with the SIS Regulations and, at the same time, is able to implement efficient processing practices.
23. Where the governing rules of an RSE impose additional restrictions, such as restrictions on eligibility for membership and/or on contributors (e.g. contributing employers), APRA expects that an RSE licensee would establish and follow procedures to ensure that any such restrictions are complied with.¹³

Contributions made in error

24. From time to time, a member, employer, clearing house, payroll processor, administrator or RSE licensee may claim that a contribution to an RSE has been made in error and request that the amount be returned, reversed or otherwise dealt with.¹⁴
25. The term 'contributions made in error' refers to a wide range of errors in different circumstances. The appropriate treatment of such amounts will depend on a variety of factors that may include, but are not limited to, the contributor's intention at the time the contribution was made and the level of documented evidence supporting a claim of an error. Circumstances may be subject to legal precedents or covered in Australian Taxation Office (ATO) publications (e.g. rulings or determinations).

⁹ Refer to r. 7.04 of the SIS Regulations. The ATO has a specific legislative power to administer the contribution caps for tax purposes.

¹⁰ Refer to r. 7.04(7) of the SIS Regulations.

¹¹ Refer to r. 7.04(3) of the SIS Regulations.

¹² Refer to r. 7.03 of the SIS Regulations.

¹³ Any additional restrictions on contributions must not be inconsistent with Part 7 of the SIS Regulations, e.g. r. 7.04A regarding membership and employer-sponsors of public offer superannuation funds.

¹⁴ In this section, the generic term 'amount' will be used in place of the terms 'rollover' and 'contribution' that have their own legal meaning.

It would be prudent for an RSE licensee to ensure it is aware of the nature and relevance of these situations and consequences, to give appropriate consideration to any ATO guidance and to obtain legal advice where appropriate.

26. It is good practice for an RSE licensee to establish a policy on the classification and treatment of contributions made in error and communicate relevant details to members and potential members. The following paragraphs provide guidance that may assist an RSE licensee in formulating such a policy.
27. An RSE licensee would ordinarily consider establishing a process of recording and classifying all transactions made in error. This information would form the basis of improvements to the monitoring and rectification of such problems, as well as revealing any systemic problems that may be relevant to the risk management framework.
28. An 'administrative error' may be rectified without reference to APRA. APRA nevertheless expects that an RSE licensee would ensure that the determination of a transaction as an administrative error is based on documented evidence from the entity responsible for making the error. It would also consider whether the amount is a valid contribution and whether the contributor may be entitled to the remedy of legal rectification in relation to the error. Where an error may be rectified as a result of specific legislation, this may be classified as an 'administrative error'; however, appropriate documentary evidence would be expected to be held.
29. Administrative errors may have arisen from issues in communicating or processing an instruction or from a transposition or a computer error. Examples might include: the wrong person paid in error, or the amount being paid to the wrong RSE or investment option; employer 'contributions' that may have been overpaid as a result of a clerical error or computer malfunction; or contributions made by the employer on behalf of the member that were not in accordance with the member's instructions. Where appropriate, APRA expects an RSE licensee to notify the member and other appropriate parties, e.g. the employer or clearing house, as to the error and its rectification.
30. A 'non administrative error' is generally where the contributor has acknowledged the validity of the contribution at the time it was made. An RSE licensee is not authorised to rectify non administrative errors, but may make an application for APRA to modify the operation of the SIS Regulations to enable the error to be rectified if it is able to demonstrate extraordinary circumstances to support the application.¹⁵
31. Other amounts may be claimed by the member to be errors. However, these 'other errors' may not fit the circumstances outlined above. Where there is a lack of documented evidence to demonstrate that an administrative error has occurred or an RSE licensee has other concerns regarding the validity of the error, it is expected that the RSE licensee cannot be satisfied that an administrative error has occurred and therefore the 'error' cannot be rectified.

¹⁵ Refer to r. 6.17(2) of the SIS Regulations.

32. Other than any specific exceptions outlined above, none of the following situations is likely to be regarded as 'extraordinary circumstances':
- (a) adverse taxation consequences;
 - (b) where the decision to pay the amount is based in part or wholly on the member's incorrect or inadequate knowledge or on incorrect or inadequate advice provided to the member. For example, where the member considers they have received poor advice, it may be appropriate for the member to take action against the provider of the poor advice; or
 - (c) where the member's intention in paying such an amount was to make a contribution to a superannuation fund but the member claims they did not know or understand the consequences of making the contribution (e.g. that it would be preserved, breach a contribution cap or that the contribution was not deductible).
33. Where an administrative error has occurred and can be rectified without reference to APRA, generally the amount still remains a preserved superannuation amount and cannot be cashed-out in accordance with the 'cooling-off period' provisions under the *Corporations Act 2001*.¹⁶
34. Where an administrative error concerns the amount of a contribution, e.g. due to a transposition error, it is APRA's view that a corrective measure may include a return of the excess amount (or the full amount where applicable) without being a breach of the preservation rules. For example, where \$100 is to be contributed but a transposition error means that \$1000 is mistakenly contributed, APRA considers that the additional \$900 may, in principle, be refunded without being a breach of the preservation rules assuming there is sufficient documentary evidence to support this being a genuine transposition error.
35. An RSE licensee is expected to ensure that the appropriate taxation treatment is applied to all contributions made in error. Further guidance on the taxation implications should be sought from the ATO.
36. It is APRA's view that rectifications that are permitted under the circumstances outlined in the paragraphs above generally do not constitute a contravention of a member's right under Regulation 13.16 of the SIS Regulations (that prohibits a member's accrued benefit being adversely altered by an RSE licensee).

Timing of contribution

37. The timing of a contribution (i.e. the date on which the contribution is taken to have been made) is important as:
- (a) the validity of a contribution under the SIS Regulations may be dependent on the age or gainful employment status of the member at the time of the contribution;
 - (b) the operation of the fund-capped contribution rule (and the contribution caps for tax purposes) is dependent on the date of making the contribution to determine which financial year of income is affected;
 - (c) a deduction for a contribution may be claimed by an employer or member only for the financial year of income in which the contribution is made;
 - (d) contributions in relation to an accumulation interest are subject to a performance standard regarding the timeframe for processing a contribution, with contributions now generally required to be allocated to the member within three business days of receipt in accordance with the superannuation data and payment regulations and standards¹⁷; and

¹⁶ Refer to Division 5 of Part 7.9 of the *Corporations Act 2001* and r. 7.9.66 of the *Corporations Regulations 2001*.

¹⁷ Refer to r. 7.07H of the SIS Regulations and superannuation data and payment regulations and standards as defined in s. 10 of the SIS Act.

- (e) the timing of a contribution may also affect which unit price applies to the contribution. It is good practice for an RSE licensee to establish, and appropriately advise, members and potential members of the policy and procedures to be applied in the timing of processing and allocation of contributions and their subsequent investment.

- 38. As a general rule, a contribution is considered to be made when it is received by the RSE. Where a contribution is by electronic funds transfer, APRA generally considers that the contribution is made when the amount is credited to the RSE's bank account. Under the superannuation data and payment regulations and standards, employer contributions are generally required to be transacted electronically unless they are considered to be non-standard contributions. Otherwise, where a contribution is by cheque, APRA generally considers that the contribution is made on the date the RSE receives the cheque (unless the cheque is subsequently dishonoured).
- 39. The timing of a contribution is formally determined by a combination of RSE procedures and rules, but is subject to the legal interpretation of Part 7 of the SIS Regulations. An RSE licensee may also consider guidance on this issue that has been provided to self-managed superannuation funds (SMSFs) by the ATO.¹⁸
- 40. A prudent RSE licensee would take particular care in defining or determining the timing of a contribution where an RSE has outsourced its administration or accepts contributions through a clearing house arrangement.

Accepting contributions outside age or gainful employment test

- 41. The SIS Regulations enable an RSE licensee (or its duly delegated agent) to determine that a particular contribution in respect of a member is made in respect of an earlier eligible contribution period and can be accepted.¹⁹ APRA expects that an RSE licensee would only apply this in circumstances such as the following:
 - (a) it is an employer contribution paid after the end of a period of gainful employment but clearly related to an earlier employment period that was a valid contribution period for the member; or
 - (b) it is a contribution that was erroneously allocated to another member during a valid contribution period for the correct member and the late contribution is merely a corrective transaction to reverse the original error.

A Government co-contribution may be accepted by an RSE at any time because it is made in respect of a period during which the member's contribution that gave rise to the co-contribution was validly made.

Contributions made via a clearing house

- 42. A clearing house refers to a service where an employer makes a single payment to a clearing house account (usually through a direct debit authority) and the clearing house then distributes the contributions to the relevant RSEs on behalf of the employer.
- 43. A clearing house account is a bank account operated by the clearing house and used to receive and disburse contributions (although it may also include non-superannuation deductions and contributions, e.g. health insurance premiums). In a clearing house context, all (or nearly all) transactions are likely to be electronic.

¹⁸ Guidance available on the ATO website: www.ato.gov.au

¹⁹ Refer to r. 7.04(6) and r. 7.05(5) of the SIS Regulations.

44. Contributions received by a clearing house account are generally considered to have not yet entered the superannuation system. For the purposes of the SIS Act and SIS Regulations, a contribution enters the superannuation system when it is received by an RSE. An exception applies when a contribution is received by an 'approved clearing house'.
45. Under Section 23B of the *Superannuation Guarantee Administration Act 1992*, where an employer pays an amount to an 'approved clearing house' and that amount is accepted by that clearing house, the employer is taken to have paid the amount to the relevant RSE for the purposes of satisfying its superannuation guarantee obligations, though not necessarily for income tax deductibility purposes.
46. Where an RSE licensee uses a clearing house service, APRA expects the risks arising from the use of this service to be considered within the RSE licensee's risk management framework. The risks associated with this service may include, but are not limited to, risks related to timing of contributions received and the transfer of monies from the clearing house to the RSE, including the need to ensure that all such monies are RSE monies.
47. Where an RSE licensee operates its own clearing house service, APRA considers that there may be additional risks, particularly regarding the separation of RSE monies from clearing house monies. To avoid mixing non-superannuation monies received as part of the clearing house function with monies of the RSE, an RSE licensee is expected to ensure that the clearing house account is separate to any bank accounts of the RSE.

Defined benefit issues

48. It is good practice for an RSE licensee of a defined benefit fund to ensure that the contribution processing system clearly distinguishes different types of member entitlements, including defined benefit and accumulation (defined contribution) entitlements, whether or not these are held in different sub-funds.²⁰
49. Where an employer makes a contribution in respect of defined benefit interests in a defined benefit fund, the age or work requirements outlined in Regulation 7.04(1) of the SIS Regulations do not apply to that contribution because it is made in relation to the pool of defined benefit interests rather than any particular member's defined benefit interest.
50. APRA considers that it would be good practice for an RSE licensee of a defined benefit fund to develop appropriate processes to monitor, review and act upon data for the purpose of ensuring that the financial position of the defined benefit fund is maintained at a sound level.²¹ As a minimum, this would include monitoring:
 - (a) contributions received to ensure that the employer contributions have been paid as per the actuarially agreed level; and
 - (b) the financial experience and funding levels of the defined benefit fund to identify whether the actuarially agreed level of contributions should be reviewed prior to the next scheduled actuarial review. This could include provisions outlining the measures that the RSE licensee, actuary and employer-sponsor(s) are required to undertake if particular funding thresholds are breached.

²⁰ A defined benefit fund and sub-fund as defined in *Prudential Standard SPS 160 Defined Benefit Matters* (SPS 160).

²¹ A defined benefit fund is subject to the funding and solvency requirements as set out in Part 9 of the SIS Regulations and SPS 160. *Prudential Practice Guide SPG 160 Defined Benefit Matters* provides further guidance.

Spouse contributions

51. If an RSE licensee offers spouse contribution splitting to members, APRA expects an RSE licensee would take particular account of the following two matters:
- (a) the definition of spouse includes a member's unmarried partner of the same or opposite sex where they are living in a genuine domestic basis, or whose relationship is registered in a State or Territory relationship register where such a register exists; and
 - (b) contributions cannot be split for a spouse who, at the time the RSE receives the contribution splitting application, is either aged 65 or more, or is aged between the relevant preservation age and 65, and has satisfied the retirement condition of release.²²

²² Refer to r. 6.44 of the SIS Regulations and item 101 of Schedule 1 to the SIS Regulations.



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