

## **EXPLANATORY MEMORANDUM TO PROFESSIONAL STANDARD 409 SEGREGATED SUPERANNUATION ASSETS CERTIFICATES**

**June 2019**

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### **1. ABOUT THIS EXPLANATORY MEMORANDUM**

This Explanatory Memorandum has been prepared by the Superannuation Practice Committee (SPC) to assist Members in understanding the rationale underlying the drafting of the new Professional Standard 409 Segregated Superannuation Assets Certificates (PS 409), which relates to preparation of Actuary's Certificates in respect of Segregated Current Pension Assets and Segregated Non-current Assets in accordance with the Income Tax Assessment Act 1997 (ITAA 1997).

PS 409 will replace Guidance Note 452 – Segregated Assets Certificates by Actuaries under Section 273A and 273B of the Income Tax Assessment Act (ITAA 1936) (GN 452).

### **2. BACKGROUND**

A draft of PS 409 was exposed to Members in March 2019 and comments were also sought from the Australian Taxation Office (ATO). No feedback was received from Members. The ATO advised that it had no major concerns with the draft but made a small number of observations which led to the tightening of some legislative references to better reflect the legislative requirements and the addition of a new heading (5.5) to better reflect the content of the subsequent paragraphs.

### **3. REASONS FOR CHANGE**

- 3.1. The Institute of Actuaries of Australia policy is that mandatory guidance notes should be replaced by professional standards.
- 3.2. The relevant law has changed, including:
  - (a) ITAA 1936 sections 273A and 273B have been replaced by ITAA 1997 sections 295-385 and 295-395;
  - (b) The relevant income streams are now defined as "Retirement Phase Superannuation Income Streams" in ITAA 1997 section 307-75 and ITAR 995-1.01;
  - (c) A definition of "Disregarded Small fund Assets" has been introduced into ITAA 1997 affecting the classification of assets as "Segregated Current Pension Assets" and as "Segregated non-Current Assets";

- (d) Superannuation Industry (Supervision) Regulations 9.29 has been amended and partially replaced by APRA Standard SPS 160;
- (e) The Australian Taxation Office (ATO) has in a letter dated 23 August 2017 expressed a view on when assets are “Segregated Current Pension Assets”.

PS409 has been drafted to reflect current legislative requirements.

- 3.3. Professional Standard 400 Investigations of the Financial Condition of Defined Benefit Superannuation Funds (PS400) has also been updated by the Institute.

PS409 has been drafted (e.g. by use of PS400 definitions) for consistency with the new PS400.

- 3.4. The GN452 brief treatment of reversionary pension liabilities warrants a more detailed commentary in light of current legislation.

Section 5.4 of PS409 includes more detailed information relating to the treatment of reversionary pension liabilities having regard to the new concept and definition of “Retirement Phase Superannuation Income Streams” and other legislative updates.

- 3.5. Under ITAA 1997 the ATO no longer has the power to specify requirements for the form of Actuary’s Certificates for segregated assets. These requirements were formerly set out in Income Tax Ruling IT2617 issued under ITAA 1936.

The ATO’s anticipated requirements have been included in PS409 and the SPC is seeking input from the ATO on the contents of the Actuary’s Certificates and PS 409 more broadly.

- 3.6. Other updates include:

- (a) Requirements regarding valuations has been updated for consistency with Professional Standard 406 Unsegregated Superannuation Liabilities;
- (b) More information has been included on the segregated assets being maintained at a level appropriate to the relevant liabilities (paragraph 6.1).

#### **4. COMMENCEMENT DATE**

PS 409 will apply to Actuary’s Certificates in respect of financial years commencing on or after 1 July 2018 that are issued on or after 1 July 2019.

## **END OF EXPLANATORY MEMORANDUM**