



SUPERANNUATION PRACTICE COMMITTEE

Discussion Note: Actuarial Requirements of Superannuation Prudential Standard 160

July 2020

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A. Purpose and status of Discussion Note

1. Superannuation Prudential Standard [SPS 160 Defined Benefit Matters](#) ("SPS 160") – and the related Prudential Practice Guide [SPG 160 Defined Benefit Matters](#) ("SPG 160") – deal with a range of matters affecting defined benefit funds, including self-insurance arrangements. It is expected that any actuary providing advice in respect to a defined benefit fund, or sub-fund, will have detailed knowledge of SPS 160 and SPG 160. This Discussion Note is based on, and refers to, the June 2013 version of SPS 160 and the November 2013 version of SPG 160.
2. This Discussion Note was prepared by the Superannuation Practice Committee ("SPC") of the Actuaries Institute ("Institute") and is intended to assist actuaries providing advice to an RSE licensee ("trustee" in this Discussion Note) in relation to various aspects of SPS 160. Note that other material prepared by the SPC relating to SPS 160 includes:
 - ▶ Information Note: *Shortfall Limit in Superannuation Prudential Standard 160* – regarding advice to trustees on determining an appropriate shortfall limit
 - ▶ Discussion Note: *Self-insurance Arrangements and Superannuation Prudential Standard 160* – regarding the requirements of SPS 160 for funds with self-insured benefits.
3. This Discussion Note does not represent a Professional Standard or Practice Guideline of the Institute.
4. This Discussion Note does not constitute legal advice. Any interpretation or commentary within this Discussion Note regarding specific legislative or regulatory requirements reflects the expectations of the Institute but does not guarantee compliance under applicable legislation or regulations. Accordingly, Members should seek clarification from the relevant regulator and/or seek legal advice in the event they are unsure or require specific guidance regarding their legal or regulatory obligations.
5. Feedback from Institute Members is encouraged and should be forwarded to the SPC via Paul Shallue (paul.shallue@mercero.com).
6. This is the second version of this Discussion Note. The first version was dated March 2014. The main changes incorporated into this second version are to remove comments from this Discussion Note that have been superseded by updates made to [Professional Standard 400 Investigations of the Financial Condition of Defined Benefit Superannuation Funds](#) (PS 400). Paragraph 4 has also been added in accordance with current Institute policy.

B. Introduction

7. SPS 160 is directed at establishing requirements for a trustee of a defined benefit fund to manage the fund with the objective of enabling the assets of the fund to meet the liabilities of the fund as they become due.
8. The requirements of SPS 160 also apply to defined benefit sub-funds. However, SPS 160 does not apply to self-managed superannuation funds. Note that SPS 160 includes special provisions relating to unfunded or partly unfunded public sector schemes, however this Discussion Note is not directed at such schemes.
9. The key requirements of SPS 160 include requirements:
 - (a) regarding the timing of regular actuarial investigations and the content and timing of the reports on those investigations;
 - (b) for interim actuarial investigations in some circumstances;
 - (c) regarding the content and timing of the reports on interim actuarial investigations;
 - (d) regarding shortfall limits;
 - (e) for actuaries and trustees where a fund falls into an unsatisfactory financial position and/or is in breach of its shortfall limit; and
 - (f) for actuaries and trustees for a fund with self-insured benefits.
10. For the purposes of SPS 160:
 - ▶ an “unsatisfactory financial position” (“UFP”) is defined as the situation where the value of the fund’s assets (excluding assets held to meet the Operational Risk Financial Requirement (“ORFR”)) is not adequate to cover the liabilities in respect of the fund’s vested benefits; and
 - ▶ a fund not in a UFP is in a “satisfactory financial position” (“SFP”).
11. In determining vested benefits for funds with benefits other than immediate lump sums, actuaries should be aware of the definitions of vested benefits in Superannuation Reporting Standards [SRS 160.0 Defined Benefit Matters](#) and [SRS 160.1 Defined Benefit Member Flows](#). These require that, for APRA reporting purposes, the value of a member’s ‘vested benefit’ should include an allowance for any option the member could exercise where this is consistent with the funding calculation. Whilst these standards relate to APRA reporting, the SPC’s understanding is that the vested benefits definition also applies

for other purposes. PS 400 now clarifies that it is a requirement that vested benefits include allowance for vested entitlements other than immediate lump sum benefits on a basis consistent with the funding assumptions.

12. It is important that actuaries strive to ensure that trustees do not lose sight of the fact that, whilst the defined terms 'satisfactory financial position' and 'unsatisfactory financial position' are based on the adequacy of assets to cover vested benefits, this is only one measure of the adequacy of funding. In particular, the assessment of a fund's financial position and a suitable funding program also needs to consider the adequacy of funding of the accrued benefit liabilities (which for some funds may materially exceed vested benefits) and that paragraph 23(c) of SPS 160 requires the actuary to comment on this aspect in regular investigation reports.

B.1 Superannuation Industry (Supervision) Act 1993 (Cth) – section 130 UFP reporting requirements

13. Actuaries are reminded that the reporting requirements under section 130 of the Superannuation Industry (Supervision) Act 1993 (Cth) ("SIS Act") apply whilst carrying out actuarial functions under the prudential standards. Hence, for example, an actuary performing an actuarial function under SPS 160 who forms the opinion that the fund's financial position may be, or may be about to become, unsatisfactory, is required to immediately inform the trustee and APRA. Actuaries should refer to Practice Guideline PG 499.03 *Prudential Reporting under the SIS Act* (PG 499.03) for further guidance.
14. Whilst it appears that, technically, the ORFR would not be required to be excluded from fund assets for the purposes of section 130 of the SIS Act, it would seem a practical approach to exclude the ORFR as required under SPS 160. In any event, given the size of ORFRs, inclusion or exclusion of the ORFR is unlikely to be a determining factor in the vast majority of UFP cases.

B.2 SIS Act – technical insolvency requirements

15. SPS 160 specifically provides that the SPS 160 UFP requirements do not apply if the fund is technically insolvent. The SIS Act specifies requirements in relation to a fund that is technical insolvent, along with the requirements for funding and solvency certificates. It is noted that this results in the arguably anomalous situation whereby a technically insolvent fund is permitted to have a restoration period of up to 5 years to return to a solvent position (which will still usually be a UFP), whereas a fund which is in a UFP but not technically insolvent has a maximum restoration period of 3 years to a SFP (unless otherwise agreed with APRA).

16. Nevertheless, even though the SIS Act requirements permit a restoration period (to a solvent position) of up to 5 years where a fund is technically insolvent, it would be expected that the actuary and trustee would put in place a restoration plan which aimed to restore a SFP within the shortest practical period, which would usually be shorter than 5 years.

C. Monitoring of financial position against shortfall limit

17. SPS 160 states:

“13. The Board must determine and implement a monitoring process designed to detect, on a timely basis, when the fund has, or may have, fallen into an unsatisfactory financial position and/or breached the shortfall limit.

18. SPG 160 states:

23. SPS 160 requires the Board to determine and implement a monitoring process so that deterioration in the defined benefit fund's financial position may be detected in a timely manner. In APRA's view, a monitoring process might include a regular estimate of vested benefits and of the value of fund assets. Alternatively, the process might be based on the regular monitoring of investment returns, with adverse experience triggering an estimate of vested benefits and the value of fund assets. The frequency at which such estimates are undertaken would be expected to increase with market volatility, and may also be related to the margin by which current and projected VBI exceeds 100 per cent. For example, an annual review may be adequate where the fund has a sufficient buffer above 100 per cent VBI, with the sufficiency of the buffer assessed after taking into account the extent to which vested benefits are linked to the investment return on defined benefit assets. Some form of stress testing may be needed to determine the potential impact of movements in investment markets on the fund's VBI level.”

19. Whilst the Board is responsible for determining and implementing a monitoring process, it is likely the actuary will be asked to advise on an appropriate process. It is also possible that the actuary could be involved in preparing or reviewing the figures underlying the VBI calculation.

20. Ideally, the monitoring process will provide appropriate monitoring information on a timely basis without imposing unnecessary additional work.
21. In general, monitoring on a quarterly basis would seem to be appropriate. However, as indicated in SPG 160, for a fund in a strong financial position it may only be necessary to monitor the VBI on an annual basis. (It is also worth noting that Reporting Standard SRS 160.1 ("SRS 160.1") requires vested benefits in respect of defined benefit interests to be reported to APRA quarterly.)
22. SPG 160 indicates that the frequency of monitoring would be expected to increase with market volatility. It is expected that this comment would often relate to where there is an unusually large market fall. Whether additional monitoring is appropriate will depend on factors such as:
 - (a) the frequency of monitoring (if the monitoring is only annual, then it is more likely additional monitoring would be appropriate);
 - (b) the level of the VBI and its sensitivity to adverse investment experience (accumulation components of benefits may reduce the impact of investment experience on the VBI);
 - (c) the investment strategy – additional monitoring is more likely to be appropriate the more sensitive the investment returns are to market falls (for example, a high exposure to listed equities); and
 - (d) the impact of cash flow on the VBI and the risk of having to redeem assets with depressed values to meet short term benefit payments.
23. A reasonable process in such circumstances would be for the trustee to seek the advice of the actuary as to whether it was considered necessary to bring forward the next scheduled monitoring date (say from the end of the current quarter). Where monitoring is quarterly, it is expected that the need to bring forward a quarterly review because of a market downturn would arise very infrequently.
24. It is noted that SPG 160 refers to estimates of vested benefits and assets. There are several areas where it may be appropriate to use estimated values where the VBI is being calculated at a date other than the fund's year end. Examples include:
 - (a) the use of "roll-forward" methods for assets or liabilities;
 - (b) valuing pensions;

- (c) valuing benefit options; and
 - (d) estimating contribution accruals.
25. In determining whether it would suffice for an estimated (rather than actual) value to be used, it is expected that consideration would generally be given to the potential variation between the estimated and actual amounts and the value of the particular item relative to the total value of vested benefits or assets. Another relevant consideration would be how close the VBI is to 100%.
26. It would also generally be expected that:
- (a) the values and estimates used when monitoring the shortfall limit would be consistent with the values and estimates used for reporting under SRS 160.1; and
 - (b) the method of calculating vested benefits and assets, particularly any estimates used, would be consistent from period to period.
27. Other items which could be included as part of the monitoring process are:
- (a) the total minimum requisite benefits ("MRBs") and the coverage of MRBs (the "MRBI"); or
 - (b) an indication of the level of the VBI which would correspond to an MRBI of 100%.

D. Action on breach of shortfall limit

28. SPS 160 states:

"17. An RSE licensee must:

- (a) appoint an RSE actuary to carry out an actuarial investigation for a defined benefit fund as soon as practicable if:
 - (i) it appears to the RSE licensee that the fund is or may be in breach of its shortfall limit; and
 - (ii) a regular investigation scheduled under paragraph 14 is not due for six months or more; or

- (b) seek actuarial advice from an RSE actuary as to whether action should be taken prior to the completion of the next regular investigation if:
 - (i) it appears to the RSE licensee that the fund is or may be in breach of its shortfall limit; and
 - (ii) the next regular actuarial investigation under paragraph 14 is due to commence within six monthsunless an investigation is currently taking place, a restoration plan is already in place under paragraph 32 or the fund is technically insolvent."

29. SPG 160 states:

"25. If, during the period between regular investigations, it appears to an RSE licensee that the defined benefit fund is or may be in an unsatisfactory financial position and also is or may be in breach of its shortfall limit, SPS 160 requires that it appoint an RSE actuary to undertake certain actions. If the next regular investigation is not due for six months or more, it may be brought forward. Alternatively, an interim investigation could be undertaken which, at a minimum, must contain a reasonable estimate of vested benefits and of the value of fund assets and a finding as to whether that value breaches the shortfall limit. If the next regular investigation is due within six months, the RSE licensee must seek the advice of an RSE actuary as to whether earlier action should be taken."

D.1 Regular actuarial investigation not due within 6 months (paragraph 17(a) of SPS 160)

30. It is understood that, in paragraph 17(a)(ii) of SPS 160, the words "a regular investigation scheduled under paragraph 14 is not due for six months or more" is intended to be read as "a regular investigation scheduled under paragraph 14 is not due to commence for six months or more", consistent with the wording of paragraph 17(b)(ii) of SPS 160. Further, the date an actuarial investigation is 'due' or 'due to commence' means the 'valuation date', being the effective date of the actuarial investigation as per paragraph 21 of SPS 160.

31. If it appears that the shortfall limit has been breached, and the effective date (valuation date) of the next regular actuarial investigation is not within 6 months, either an interim investigation is required (refer section E of this Discussion Note) or the next regular actuarial investigation can be brought forward to a date within 6 months. If the latter action is taken, paragraph 17(b) of SPS 160 then applies.
32. Matters to consider in deciding whether or not to recommend bringing forward a regular investigation may include:
 - (a) the availability of sufficiently reliable member and financial data at a suitable date within the next 6 months;
 - (b) whether the fund's annual review date can be used – if not, then if the next regular investigation is brought forward, the following regular investigation period may also need to be shorter than the usual 1 or 3 years;
 - (c) whether the reasons for the shortfall limit breach are apparent – if it is not feasibly due to known or readily identifiable experience (for example, investment returns), a thorough analysis of the financial position via a regular investigation may be desirable; and
 - (d) the requirements of PS 400 and SPS 160 in regard to regular actuarial investigations.
33. It is also noted that a fund found to be in a UFP but above its shortfall limit is not required to establish a restoration plan if the investigation is an interim investigation, but is required to establish a restoration plan if the investigation is a regular investigation.

D.2 Regular actuarial investigation due within 6 months (paragraph 17(b) of SPS 160)

34. If it appears that the shortfall limit has been breached, and the next regular actuarial investigation is due within 6 months, an interim investigation is not required. However, the trustee is required to seek actuarial advice from an RSE actuary as to whether action should be taken prior to the completion of the next regular investigation.
35. A decision to take no action prior to the completion of the next actuarial investigation could mean, in theory, a difference of up to 12 months in the date by which advice must be provided to the trustee.
36. In determining whether action should be taken prior to the completion of the next actuarial investigation, it is expected that the actuary would generally consider, amongst other things:

- (a) the length of time to the next regular investigation;
 - (b) the level of the VBI;
 - (c) the level of the MRBI;
 - (d) fund experience since the date of calculation of the VBI, particularly investment experience and, in the case of smaller funds, significant benefit payments;
 - (e) any known future events which could affect the fund's financial position (for example, a retrenchment program, significant benefit payments or the transfer of a group of members);
 - (f) the risk of future short term experience causing a material deterioration in the funding level (for example, in a small fund, benefit payments may have a material impact);
 - (g) the funding method and the level of employer contributions being made; and
 - (h) whether the employer(s) is a government or semi-government employer and the strength of their legal obligation to pay contributions when requested.
37. If, after advising that no action is required, subsequent events lead to an unexpected worsening of the financial position, it may be appropriate for the actuary to re-consider the original advice. Hence, a 'no action' recommendation could be made subject to further actuarial advice being sought if, for example, there is further adverse investment experience or the VBI falls below a certain level.
38. The type of action which could be taken prior to the completion of the next regular actuarial investigation includes, but is not limited to:
- (a) more frequent monitoring of the VBI, possibly with nominated trigger points for further actuarial advice to be sought;
 - (b) communication with the employer sponsor(s) regarding the potential impact on funding requirements;
 - (c) commencement of discussions with the employer sponsor(s) regarding possible remediation programs;
 - (d) an increase in the level of employer contributions; and

- (e) an arrangement for the employer to pay “top-up” contributions in respect of benefits paid until the results of the actuarial investigation are available or the financial position has improved to the extent that such “top-up” contributions are no longer considered necessary. Top-up contributions may relate to all defined benefit payments or only certain payments (for example, retrenchment benefits or with-consent early retirement benefits where these are in excess of the vested benefit). It would be unusual to recommend top-ups in respect of accumulation benefits, but there may be circumstances where the actuary considers this appropriate having regard to the wind-up position and the likelihood of wind-up.
39. SPS 160 does not specify any particular time frame for the actuary to provide advice as to whether action should be taken prior to the completion of the next regular investigation. In practice, it may be necessary for the actuary to liaise with both the trustee and the employer sponsor(s) in preparing this advice. It would generally be expected that the advice would be provided as soon as practicable. Where the actuary considers that some immediate action should be taken, advice on this aspect could be provided in advance of advice on other recommended actions.

E. Interim actuarial investigations

40. SPS 160 states:

“17. [reproduced at paragraph 31 above]

...

27. An RSE licensee must ensure that an actuarial report of an interim investigation under paragraph 17(a) contains, at a minimum, a reasonable estimate of the value of the assets of the fund (excluding any amount held to meet the ORFR), and whether that value is in breach of the fund's shortfall limit. *(Remainder omitted as not relevant to interim investigations.)*”

E.1 Interim recommendations

41. Whilst not specifically required by SPS 160, where an interim investigation is required, it would be appropriate for the actuary to consider whether any action should be taken prior to the completion of the interim investigation and, if so, to advise the trustee of recommended actions. Refer to Section D.2 of this Discussion Note for comments on possible issues to consider.

E.2 Valuation date and methodology

42. It is expected that the choice of valuation date and methodology would have regard to the purposes of the interim investigation, which include to enable a suitably accurate estimate to be made of defined benefit vested benefits ("DBVBs") and defined benefit ("DB") assets and, if required, a suitable remedial contribution program to be determined with reasonable confidence, within the specified timeframe. The choice of valuation date and methodology will also be influenced by the particular fund's circumstances, including matters such as:
- (a) the availability of data at a date close to the date at which the trustee has determined that an interim investigation is required;
 - (b) the sensitivity of the DBVBs and the DBVBI to experience – in particular, the extent to which projections based on data from an earlier date, with suitable adjustments for ascertainable subsequent experience (where this may have a material impact on the DBVBI), can be reasonably expected to produce suitably accurate estimates. This will in turn depend on factors such as:
 - (i) the number of DB members;
 - (ii) the impact that individual member experience may have on the DBVBs;
 - (iii) the design of the benefits (for example, the potential for significant increases in VB on a member reaching the early retirement age or electing a pension option);
 - (iv) the extent to which DBVBs are based on current salary or a final average salary or depend on crediting rates; and
 - (v) the significance of 'greater of' benefits;
 - (c) subsequent investment experience – for example, if there is a strong recovery in investment markets and the estimated DBVBI at a current date is significantly in excess of the shortfall limit, then a more approximate method may be appropriate than where the estimated DBVBI is very close to the shortfall limit;
 - (d) the risk and implications of future short term experience causing a material deterioration in the funding level in the period until the interim investigation is completed and any actions that may be taken to mitigate such risks and any adverse implications;

- (e) the SPS 160 requirement that the interim investigation be carried out as soon as practicable; and
 - (f) the SPS 160 requirements regarding the timing of the report (see comments in Section E.4 of this Discussion Note).
43. For some funds, it may be feasible to obtain reliable asset and DBVB information at a 'current' date that would be a suitable valuation date for the interim investigation (also referred to in this Discussion Note as the 'interim investigation date'). In many other cases, it is likely to be sufficiently accurate to use a 'roll-forward' method, using the latest available reliable data to prepare suitably accurate estimates of the assets, DBVBs and the DBVBI at the chosen interim investigation date. It is understood that the wording of SPS 160 has been specifically designed to provide such flexibility.
44. Note that it seems preferable that the interim investigation date be on or after the date at which the trustee determined that an interim investigation was required, or at least on or after the effective date at which the trustee is concerned the shortfall limit may have been breached. For example, if the trustee's estimate of the DBVBI at 31 March 2020 triggered the interim investigation, it seems desirable that the interim investigation date be on or after 31 March 2020.
45. Furthermore, as paragraph 30(b) of SPS 160 refers to an interim investigation finding that the fund **is** in an unsatisfactory financial position, and **is** in breach of its shortfall limit, the actuary will also need to take account of subsequent events from the investigation date up to the date of the report. For example, a fund could be in breach of its shortfall limit at the interim investigation date but, due to subsequent favourable investment experience, the estimated DBVBI could be above the shortfall limit at the report date. In such a case:
- (a) the interim investigation date could be moved forward to a date by which the estimated DBVBI could be above the shortfall limit, in which case the report will need to include an estimate of the DBVBs and DB assets at that date; or
 - (b) if the original interim investigation date is retained, it would seem appropriate that the report also include the estimated DBVBI at a later date at which it exceeds the shortfall limit.

E.3 Contents of report

46. The length and content of an interim investigation report is expected to vary significantly depending on the circumstances and the outcome – for example, if it is determined that the fund is **not** in breach of its shortfall limit, the report could be quite brief.

47. Generally, it is expected that the actuary would consider including the following matters in the report:
- (a) member and asset data used;
 - (b) methodology and assumptions;
 - (c) any limitations arising from the data/ methodology /assumptions used;
 - (d) estimates of the value of the assets and VBs (required by SPS 160) – it is acceptable for these to relate only to DBs; that is, the estimated value of the DB assets (market value basis) and an estimate of DBVBs at the investigation date (refer also to the last paragraph of section E.2 above);
 - (e) findings, including the estimated DBVBI and whether the fund was in breach of its shortfall limit at the investigation date and is in breach of its shortfall limit at the report date (required by SPS 160);
 - (f) comments on the consistency of the interim investigation results with the results of the last actuarial investigation (or financial position update prepared by the actuary, if applicable) and known subsequent experience. A full experience analysis is not required but if there is a major unexplained discrepancy in the actual position versus the previous investigation projections adjusted for known experience (or the most recent financial position update prepared by the actuary, if applicable), then a judgment call may be required on whether further work is necessary before the results can be accepted as suitable for the purpose;
 - (g) recommendations:
 - (i) if the fund is in breach of its shortfall limit (at the report date), the report will preferably include contribution program recommendations for the restoration plan (refer to the notes in section [F.3](#) of this Discussion Note re statements under paragraph 31 of SPS 160);
 - (ii) if the fund is **not** in breach of its shortfall limit (at the report date), it is expected that the actuary would still consider whether any recommended action is warranted – for example, employer contributions, investments, crediting rates, monitoring process and items to monitor (may include level and type of benefit payments);
 - (h) in either case in paragraph (g), whilst SPS 160 does not require the actuary to consider the appropriateness of the current shortfall limit as part of an interim

investigation, if the actuary considers that the shortfall limit should be reviewed, it is expected that an appropriate recommendation would be made; and

- (i) subsequent events – either that:
 - (i) the actuary is not aware of any subsequent events from the investigation date up to the date of the report that would affect the findings or recommendations of the report; or
 - (ii) certain specified subsequent events have been taken into account and the actuary is not aware of any other subsequent events that would affect the findings or recommendations of the report.

E.4 Timing of report

48. SPS 160 states:

“28. An RSE licensee must obtain the actuarial report of an interim investigation, other than where the next regular investigation has been undertaken in place of the interim investigation, as soon as practicable but in any event by three months after the later of the valuation date and the date the RSE licensee determined that an interim actuarial investigation was required under paragraph 17.”

49. SPG 160 states:

“15. An interim investigation may be based on a reasonable estimate of the value of the fund assets (excluding any amount held to meet the ORFR). The report of an interim investigation must be given to an RSE licensee as soon as practicable. APRA's view is that if the next regular investigation, with its more comprehensive scope, has been brought forward, the report will be due within the period that applies for a regular investigation. Otherwise, APRA expects that the report of an interim investigation would be given to the RSE licensee within three months of the later of:

- (a) the valuation date (where the valuation for the most recent actuarial investigation is used); or

(b) the date the RSE licensee determined that an interim investigation was required, but in any event no later than six months from the valuation date."

50. To illustrate the requirements of paragraph 28 of SPS 160, say that the trustee's estimate of the DBVBI at 31 March 2020 indicated that the fund may be in breach of its shortfall limit. The trustee (or its delegate for this purpose) is provided with the estimated 31 March 2020 DBVBI on 28 April 2020. Assuming an interim investigation is triggered:
- (a) if the interim investigation date is set at 31 March 2020, the latest date for the report would be 28 July 2020, being 3 months after the date of 28 April 2020 on which the trustee determined that an interim actuarial investigation was required under paragraph 17 of SPS 160; or
 - (b) if the interim investigation date is set at 1 July 2020, the latest date for the report would be 30 September 2020, being 3 months after the investigation date.
51. The 'no later than six months from the valuation date' expectation referred to in paragraph 15(b) of SPG 160 is not in SPS 160. Note that this may create a potential problem where, say, a fund breaches its shortfall limit in November and the most timely and efficient approach is to use 1 July data for the interim investigation, with the projections and assessment of whether or not the shortfall limit has been breached taking into account material post 1 July experience. To comply with the guidance, the actuary would not be able to use 1 July as the valuation date unless the report is done by 31 December, which may be unachievable.
52. However, as noted in Section E.2 of this Discussion Note, in practice it seems preferable that the interim investigation date be a date on or after the date at which the trustee determined that an interim investigation was required, or at least on or after the effective date at which the trustee is concerned the shortfall limit may have been breached. In the illustration in paragraph 50 above, the valuation date could be set at (for example) 30 November with the actuary using a roll-forward of 1 July data to make a reasonable estimate of assets and VBs at the valuation date. In this case, the report would be required by 28 February.
53. If the actuary considers (at any point in the process) that it will not be possible to provide the report by the required date, then it would be appropriate for the actuary to raise the matter with the trustee and discuss the reasons and the options available. Options that would enable the SPS 160 deadline to be met may include: applying to APRA for an

extension in the period; a change to a later valuation date; earlier provision of data; or a change to data requirements and methodology.

Annexure: Examples re interim investigations

Please refer to the Annexure for a number of practical examples illustrating the application of the requirements of SPS 160 regarding interim investigations.

F. Restoration plan – statements under paragraph 31 of SPS 160

54. Paragraphs 30 and 31 of SPS 160 state as follows:

Unsatisfactory financial position – actuarial requirements

“30. Paragraph 31 applies where an RSE actuary:

- (a) conducting an initial or regular investigation, makes a finding, in the actuarial report of the investigation, that:
 - (i) the fund is to be treated as being in an unsatisfactory financial position; or
 - (ii) the financial position of the fund is likely to become unsatisfactory; or
- (b) conducting an interim investigation makes a finding, in the actuarial report of the investigation, that:
 - (i) the fund is in an unsatisfactory financial position; and
 - (ii) the fund is in breach of its shortfall limit

unless a restoration plan is already in place under paragraph 32 or the fund has been declared to be technically insolvent under regulation 9.16(1) of the SIS Regulations.

31. An RSE actuary must, in the situations identified in paragraph 30:

- (a) prepare a statement that, at a minimum:
 - (i) describes the recommended actions to be taken to address the financial position; and

- (ii) contains a recommendation, or sets a date by which a recommendation will be made, in respect of a contribution rate or level that, on reasonable expectations, will restore the fund to, and maintain it in, a satisfactory financial position, within a time period that is reasonable in the circumstances of the fund but which must not exceed three years from the valuation date, or, in the case of an interim investigation, the later of the valuation date and the date the RSE licensee determined that an interim investigation was required under paragraph 17; and
- (b) provide the statement to the RSE licensee as soon as practicable and, in any event, within 15 business days of making a finding, in the actuarial report of the investigation, that the financial position is to be treated as unsatisfactory, or is likely to become unsatisfactory or that the shortfall limit has been breached.

F.1 Paragraph 30 of SPS 160 – regular investigations

55. In the absence of any contrary guidance from APRA, the SPC considers that, for the purposes of paragraph 30(a)(i) of SPS 160, it would be appropriate for a fund to be treated as being in a UFP if:

- (a) in the actuary's opinion, the fund was in a UFP at the valuation date and the actuary has not determined that the fund has returned to a SFP by the date the report is signed; or
- (b) in the actuary's opinion, the fund was in a SFP at the valuation date, but has since fallen into a UFP and the actuary has not determined that the fund has returned to a SFP by the date the report is signed

where UFP and SFP are as defined in paragraph 8 and footnote 6 of SPS 160.

56. Paragraph 30(a)(ii) of SPS 160 refers to a finding that 'the financial position of the fund is likely to become unsatisfactory'. Neither SPS 160 nor SPG 160 provide any clarification as to what is meant by 'is likely to become unsatisfactory'. In the absence of any contrary guidance from APRA, the SPC's view is that it would be appropriate for a fund to be considered 'likely to become unsatisfactory' if it would be considered that it "may be

about to become unsatisfactory" as set out in SIS Regulation 9.03(1); that is, essentially this requires an assessment of whether the fund is projected to fall into a UFP at any time over the three years from the valuation date, based on 'the actuary's reasonable expectations'. (Note that, although SIS Regulation 9.03(1) refers to an assessment at the end of the specified three year period, PG 499.03 indicates that actuaries should interpret this as a continuous test.)

57. In the event that the fund is not currently in a UFP but is projected to fall into a UFP within the next three years:
- (a) it may be possible to modify the recommended contribution program so that a projected UFP is avoided; in this case, neither paragraphs 30(a)(i) or (ii) of SPS 160 would apply and so a restoration plan would not be triggered;
 - (b) if (a) is not possible, it would appear that a restoration plan would be required (even though the fund is not currently in a UFP). It is suggested that a reasonable interpretation of paragraph 31(a)(ii) of SPS 160 in these circumstances is that the remedial contribution program would need to be directed to achieving a projected SFP three years after the valuation date (or such earlier date as is reasonable in the circumstances).

F.2 Paragraph 30 of SPS 160 – interim investigations

58. In the case of an interim investigation where the fund is in a UFP **and** in breach of its shortfall limit, paragraph 31 of SPS 160 will be triggered (unless a restoration plan is already in place or the fund has been declared to be technically insolvent) at the date the interim investigation report is completed and signed with these findings ("Report Date"). (Also refer to Sections E.2 and E.3 of this Discussion Note regarding the need for the findings to take account of subsequent events from the investigation date up to the date of the report.)
59. In the case of an interim investigation, note that paragraph 31 of SPS 160 is not triggered if the fund (i) is in a UFP but has not breached its shortfall limit or (ii) has breached its shortfall limit but is not in a UFP. This latter provision is presumably to cater for cases where a shortfall limit of more than 100% is breached (in practice, it is expected that shortfall limits of more than 100% will be either rare or non-existent).

F.3 Paragraph 31 of SPS 160 – UFP statements

60. Paragraph 31 of SPS 160 requires an actuary finding an existing or likely future UFP in the circumstances referred to in paragraph 30 of SPS 160, to prepare a statement setting out recommended actions to address the UFP ("UFP Statement").

F.3.1 Timing of UFP Statement – interim investigation

61. The actuary will be required to issue the UFP Statement within 15 business days of the Report Date. The trustee will then have three months from the date it receives the UFP Statement ("UFP Statement Date") to develop and approve a restoration plan under paragraphs 32 and 33 of SPS 160.
62. Paragraph 31 (a)(ii) of SPS 160 allows the actuary to include in the UFP Statement 'a date by which a recommendation will be made' in regard to the remedial contribution program, rather than including a recommended remedial contribution program in the UFP Statement. However, note that taking this option will not extend the date by which the trustee must approve a restoration plan under paragraphs 32 and 33 of SPS 160 – this is three months from the UFP Statement Date even when the UFP Statement does not include contribution recommendations.
63. Note also that, in the case of an interim investigation, the maximum three year restoration period starts at the later of the investigation date and the date the trustee determined that an interim investigation was required. As such, the time taken to prepare the investigation report and the UFP Statement and any subsequent contribution recommendations will absorb part of, rather than push out, the maximum three year restoration period.

F.3.2 Timing of UFP Statement – regular investigation

64. Note that paragraph 31 of SPS 160 is not triggered until the investigation report is issued with a relevant finding. This is likely to be some time after the actuary becomes aware that the fund is in a UFP. In such cases, it is expected that the actuary would consider whether it is appropriate to make any interim recommendations pending completion of the investigation and the report (refer to Section D.2 of this Discussion Note for comments on possible issues to consider). There may also be time for consultation with the trustee and employer on the remedial contribution program and other potential recommendations before the report is finalised, which may streamline the preparation and implementation of the restoration plan under paragraph 32 of SPS 160. It is noted that any delays in finalisation of the report would not extend the latest end date of the restoration program, which is three years from the valuation date.
65. In the absence of any contrary guidance from APRA, the SPC considers that, for regular investigations:
 - (a) a UFP Statement could be issued ahead of the completion of the investigation report; or

- (b) if the approach in the preceding paragraph (a) is not applied, the recommended actions and recommended remedial contribution program required under paragraph 31 of SPS 160 must be included in the investigation report; that is, the reference in paragraph 31(a)(ii) of SPS 160 to 'or set a date by which a recommendation will be made' and paragraph 31(b) of SPS 160 are overridden by the requirement in paragraph 23(d) of SPS 160 that, if the actuary finds that the financial position is to be treated as unsatisfactory, the report must contain the information set out in paragraph 31(a) of SPS 160.

- 66. In the case described in paragraph 65(b) above, the UFP Statement will be in the investigation report and so the trustee will have three months from the date it receives the report to develop and approve a restoration plan under paragraphs 32 and 33 of SPS 160.

F.3.3 Contents of UFP Statement

- 67. Paragraph 31(a)(i) of SPS 160 refers to the actuary's recommended actions to address the UFP. Potential topics for recommendations might include:

- (a) contribution rates (dealt with specifically in paragraph 31(a)(ii) of SPS 160);
- (b) frequency of contributions and the date by which each contribution should be paid;
- (c) benefit payments – in some cases, this may include recommendations regarding temporary or permanent deferral or reduction of benefit payments (note also paragraph 32(c) of SPS 160 in this respect). In other cases, monitoring of the level of benefit payments may be recommended with either specified top-up contributions or referral to the actuary for assessment of the need to bring forward top-up contributions when exits occur (refer sections G.1 and G.2 of this Discussion Note for further comments);
- (d) crediting rates, where the rates are in the control of the actuary and/or the trustee;
- (e) investment strategy (for example, if substantial benefit payments are expected in the short-term or there are other reasons why it may be appropriate for the actuary to recommend a change to a lower volatility strategy for some or all of the DB assets). (Note also that paragraph 33(b) of SPS 160 requires the trustee to consider the investment strategy and the need to balance long-term and short-term requirements in this respect. For example, while a highly equity-oriented investment policy may lead to a lower long-term cost, it is also likely to lead to more volatile investment returns.);

- (f) insurance strategy or level of insurance;
 - (g) exercises of discretion (for example, in relation to higher benefits on leaving service or indexation of pensions); and
 - (h) monitoring process during the restoration period and action if progress is unsatisfactory.
68. Paragraph 31(a)(ii) of SPS 160 sets out a timeframe for the restorative contribution plan, being a period that 'is reasonable in the circumstances of the fund' and no longer than three years from the valuation date (or in the case of an interim investigation, three years from the date the trustee determined that an interim investigation was required, if later).
69. The Actuaries Institute suggests that the strategy should seek to restore the fund to a satisfactory position as soon as is practical and that the actuary's primary concern in advising on such a strategy must be for the overall security of the members' benefits. While PS 400 does not apply to interim actuarial investigations, much of the PS 400 guidance on the setting of contribution rates will also be relevant to interim actuarial investigations.
70. There will be some difficulties in balancing competing aims, particularly where the actuary's recommendation might precipitate a wind-up of the fund or some other action which is clearly contrary to members' interests. In such situations, paragraphs 32 and 34 of SPS 160 hopefully provide scope for a revised program acceptable to all parties to be agreed.
71. It may be desirable for the recommended restoration contribution program and period to be designed having regard to the feasibility of options for adjusting the restoration plan in the event of adverse experience. For example, setting an initial remedial contribution program that is expected to restore a SFP in a period shorter than three years may afford greater flexibility to respond to adverse experience – in particular, an extension of the additional contribution program might be less problematic for the employer than would be an earlier step-up in the level of contributions caused by poor experience.

G. Restoration plan – trustee requirements

72. Paragraph 32 of SPS 160 states (*paraphrase* and **emphasis** added):

"32. When an RSE licensee receives a statement from the RSE actuary under paragraph 31, the RSE licensee must:

- (a) provide a copy of the statement to APRA ... (*within 15 business days*);
- (b) consult with each employer-sponsor (as relevant) about the content and implementation of the recommendations of the RSE actuary, which may include an increase in the contribution rate or rates or change to the pattern or frequency of contribution payments;
- (c) appoint an RSE actuary to be responsible for provision of advice to the RSE licensee in regard to actuarial management during the period in which the fund is in an unsatisfactory financial position, including advice as to whether, under the governing rules of the fund, there can be any reduction in the amount of any benefit payments from the fund, or deferral of payment of any part of the benefit, during the period;**
- (d) set out a plan (restoration plan) to return the fund to a satisfactory financial position ... (*which*) may be developed in consultation with the employer-sponsor and the RSE actuary and must be approved by the Board within three months of receiving the statement (*under paragraph 31*) from the RSE actuary;
- (e) provide a copy of the restoration plan to APRA and the RSE actuary ... (*within 15 business days*); and
- (f) implement the restoration plan ..."

73. Paragraphs 27 to 32 of SPG 160 provide guidance on requirements for a restoration plan.

G.1 Actuarial management during restoration period and dealing with exits (paragraph 32(c) of SPS 160)

74. Whilst 'actuarial management' is not defined, this requirement appears to mirror the requirement in SIS Regulation 9.19(3) that the trustee of a technically insolvent fund must appoint an actuary to be responsible for the 'actuarial management' of the fund during the period of technical insolvency.

75. In the context of a UFP, 'actuarial management' presumably includes the process by which the actuary works with the trustee to monitor and review the progress of the

restoration plan in accordance with paragraph 33(d) of SPS 160, but could also include advice relating to the other aspects listed in that paragraph in respect to the restoration plan (that is, contributions, investment strategy and benefit payments), as well as other matters which impact (or may impact) on the plan's financial position such as crediting rates (where applicable) and the fund's insurance strategy or arrangements.

76. Another matter which may be relevant is whether there is a need for a review of the shortfall limit after the fund has returned to a SFP, or whether the current shortfall limit is still considered appropriate.
77. The following comments are provided to assist actuaries in formulating advice relating to the treatment of benefit payments during a UFP:
 - (a) "including advice as to whether, under the governing rules of the fund, there can be any reduction in the amounts of any benefit payments ... or deferral of payment of any part of the benefit ...". This apparently requires the RSE actuary to interpret "the governing rules of the fund" in regard to reduction or deferral of benefit payments;
 - (b) "reduction" would typically not be allowed except in specifically defined circumstances, for example fund termination or cessation of employer contributions. Where the RSE actuary is of the view that "reduction" is (or may be) permitted under the fund's governing rules in the circumstances of the current UFP, it would generally be prudent to seek legal advice to confirm the position and, if reductions are recommended, to assess from a legal viewpoint the suitability of the proposed process for determining and applying reductions. The RSE actuary could reasonably expect that the trustee obtains this legal advice;
 - (c) note that, whilst SIS Regulation 9.19(4) gives the actuary power to restrict benefit payments from a technically insolvent fund, there is no corresponding power under the SIS Act for the actuary to restrict benefit payments from a fund which is in a UFP but not technically insolvent;
 - (d) in practice, it is likely that an ongoing fund is more likely to consider the "deferral of payment of any part of the benefit" provision in paragraph 32(c) of SPS 160. Again, it would generally be prudent for the RSE actuary and the trustee to seek legal advice to confirm whether, and in what circumstances, the fund's governing rules may allow such deferral. Furthermore, clarification would be required from APRA as to the applicability of the 3-day portability rollover requirements under the SIS Act in these circumstances. Whilst defined benefits are exempt from the portability requirements, it is likely that this exemption would not extend to lump

sum defined benefits that have crystallised due to termination of service – and usually these will be the very benefits that the actuary would recommend be subject to deferral (in full or part). Hence specific approval may be required from APRA to facilitate any deferral of benefit payments;

- (e) if recommending reduction or deferral of benefit payments, the actuary may need to consider the treatment of both accumulation benefits and defined benefits;
- (f) except for particular defined benefit funds where short-term benefit payments may have a material impact on funding, it would not usually be necessary to reduce or defer benefit payments even where permitted by the Trust Deed if a restoration plan is able to be put in place that is expected to return the fund to a SFP;
- (g) even where short-term benefit payments may have a material impact on funding, if the contribution portion of the restoration plan builds in a process for identifying whether or not special 'top-up contributions' are required from the employer when benefit payments occur, then no "reduction" or "deferral" of benefit payments may be necessary. Examples of suitable arrangements may include:
 - (i) for each benefit payment, the employer is to pay a top-up contribution equal to the estimated underfunded portion of the benefit adjusted for tax (for example, top-up contribution = benefit amount x (100% - VBI%) / 0.85). The VBI% to use in each case would be as recommended by the actuary (for example, based on the estimated VBI% around the time of the exit or at the end of the previous quarter). (An estimated VBI is prepared on a quarterly basis for APRA reporting purposes.) The top-ups could be paid at the time of each exit or, depending on the number of exits and the trustee's view about the willingness and ability of the employer to meet the top-up payments, quarterly in arrears or on such other basis as is considered appropriate by the trustee; or
 - (ii) where the restoration plan requires specific additional contributions to be made on a regular basis to restore a SFP, it may be agreed that a top-up contribution for an exit would only be required where the aggregate of the additional contributions paid during the restoration plan does not exceed the aggregate of a calculation similar to that in the preceding paragraph in respect of all benefit payments made during the restoration plan.

This approach is based on the premise that, at least in some cases, it should be acceptable for the regular additional contributions agreed as part of the

restoration plan to be regarded as being used first to fund any shortfalls in respect of exits during the restoration period. This approach has the following advantages:

- (1) the employer is more likely to agree to a higher regular additional contribution program as it reduces the likelihood of additional calls being made on the employer (compared with requiring a top-up for each exit); and
- (2) it is administratively simpler than requiring specific top-ups for each exit.

The main disadvantage is that it can result in a poorer outcome for remaining members should the fund wind-up before a SFP has been restored. Hence, in considering this approach, the trustee's view about the willingness and ability of the employer to meet the restoration plan will be important.

Variations on this approach would include:

- (1) an assessment on the above basis (that is, regular additional contributions versus shortfalls on exits) for each quarter, rather than looking back over the whole prior period of the restoration plan; and
 - (2) counting a proportion (for example, 50%) of regular additional contributions as being available to fund any shortfalls on exits;
- (iii) usually top-ups on exit would only relate to defined benefits, but there may be some circumstances where, having regard to the size of the deficit, the likelihood of wind-up and relative priorities on wind-up, the actuary may recommend that the trustee also consider requiring top-ups for accumulation benefit payments;
- (iv) additional top-up contributions relating to exits – to the extent that they relate to vested benefits (refer to the next paragraph for other examples) – will reduce the deficit and effectively constitute a 'bringing forward' of part of the future regular additional contributions in the restoration plan. Hence, it would be acceptable for such top-up contributions to be offset against future regular additional contributions. For example, if exit top-up contributions of \$100,000 were required at the end of a quarter and regular additional contributions were \$50,000 per month, then two months of regular additional contributions could be brought forward and paid early to cover the exit shortfall, rather than the \$100,000 being paid in addition to the scheduled regular additional contributions. (Obviously, it would be

preferable, from a security of member benefits viewpoint, if the \$100,000 was paid in addition to the scheduled regular additional contributions, as this would bring forward the expected date of return to a SFP.);

- (v) where there are benefit options or discretions (for example, to receive an early retirement benefit with employer consent between age 55 and 60) which result in benefit payments in excess of the vested benefit, a special top-up contribution may be appropriate equal to the difference in benefit amount, adjusted for tax. Retrenchment benefits may be another example of where this type of special top-up contribution may be appropriate;
- (vi) another special situation is the potential termination of a DB fund which has only 1 or 2 remaining members and the employer is keen to ensure that fund assets do not exceed the remaining members' benefits plus fund wind-up costs (due to difficulties in recovering any surplus assets after the last DB member terminates). Note that any variation from the requirements of SPS 160 in such situations would require APRA approval; and
- (h) the "deferral" of benefit payments, if permitted under the governing rules and legislation (see comments above), may be considered appropriate until any associated top-up contributions are paid (for example, in the various scenarios outlined in paragraphs 77(g)(i)-(vi) above. However, the trustee is expected (refer paragraph 18 of SPG 160) "to assess the financial strength of the employer-sponsor(s) and their willingness and capability to pay contributions ...". This assessment will presumably assist in determining whether "deferral" of any benefit payment, or part thereof, would be considered prudent.

G.2 Contents of restoration plan and monitoring process (paragraph 33 of SPS 160)

78. Paragraph 33 of SPS 160 states:

"33. At a minimum, a restoration plan must outline:

- (a) the RSE licensee's view of the likelihood that contributions will be made as recommended, taking into account the obligations of each employer sponsor under the governing rules of the fund, and the outcome of the RSE licensee's consultation with each employer-sponsor;
- (b) any changes to the investment strategy of the fund determined by the RSE licensee to be necessary;

- (c) the likely impact on benefit payments during the period of the plan; and
- (d) the process by which the RSE actuary and the Board will monitor and review progress towards restoration of the fund to a satisfactory financial position."

79. Paragraphs 34 to 37 of SPG 160 provide guidance on monitoring and adjustment of a restoration plan.
80. Paragraph 33 of SPS 160 sets out the minimum requirements for a restoration plan. It does not mention including the recommended contribution program (perhaps it was considered unnecessary to mention this), but clearly this will be a key component of the restoration plan. In this respect it is expected that the restoration plan would usually set out:
- (a) the recommended rate(s) and/or amount(s) of employer contributions to be paid during the restoration plan;
 - (b) the date by which each contribution should be paid; and
 - (c) whether special top-up contributions are or may be required in respect of benefit payments (see further comments in section G.2.3 of this Discussion Note).
81. As well as the monitoring process, the restoration plan may also set out the process and timing for determining and making adjustments to the contribution program in response to variations in experience from the assumptions made in setting the initial remedial contribution program (refer section G.3 of this Discussion Note).
82. Sub-paragraph 33(c) of SPS 160 relates to 'the likely impact on benefit payments'. Refer to Section G.1 of this Discussion Note for comments on consideration of the possible treatment of benefit payments. It seems desirable that the treatment determined be set out in the restoration plan. It would also seem desirable for the recommended contribution program set out in the restoration plan to include:
- (a) if, and when, top-up contributions would be required on exits (which may differ between types of exit);
 - (b) how, and when, those top-up contributions would be determined; and
 - (c) by when the top-up contributions would be due to be paid.

83. In regard to sub-paragraph 33(d) of SPS 160 (the process for monitoring and reviewing progress towards restoration of a SFP), the remaining material in this Section may assist actuaries in providing advice to the trustee.

G.2.1 Monitoring of payment of contributions

84. It will be particularly important during a UFP that the trustee's process for monitoring that contributions are paid as recommended works effectively and on a timely basis. A reminder process may be appropriate in advance of the latest payment date, particularly if there are additional contributions with a timing different from regular contributions.

85. It seems desirable that the escalation process where contributions remain unpaid at the due date be clear and include notification to the actuary, as:

- (a) the actuary may be required to notify APRA; and
- (b) non-payment or late payment may result in lapsing of the funding and solvency certificate and/or a need to review the restoration plan.

G.2.2 Monitoring of financial position/experience

86. What is monitored?

- (a) Financial position and/or experience: The monitoring process may include an updated estimate of the DBVBI or simply whether investment experience (and possibly the level of benefit payments – see Section G.2.3 below) is within an acceptable range specified by the actuary.
- (b) This monitoring could be done by the actuary or by the trustee. In the latter case, possible approaches include:
 - (i) for the actuary to define what experience items need to be monitored and what results would require referral to the actuary for further actuarial assessment; or
 - (ii) for the results for each quarter to be referred to the actuary and the actuary to then advise whether any action is required.

87. How frequently?

- (a) Normally, quarterly might be considered an appropriate frequency.

- (b) Trigger points for an additional review within a quarter could be set if considered necessary or appropriate (for example, benefit payments for the quarter to date in excess of \$Y or a fall in the ASX200 of X% or a fall in the ASX200 of X% **and** benefit payments for the quarter to date in excess of \$Y). This could be a discussion point with the trustee and employer – for example, even where no immediate action is considered to be required, the employer may prefer early warning that an event has occurred which may require a review of the restoration program or greater top-ups for exits.

G.2.3 Monitoring of the level of benefit payments

88. This may be particularly important for small funds. For example, in some funds where a single payment could be material, the actuary may wish to be notified of each exit (depending on the level of the VBI) so that the need for any top-up contribution can be assessed on a timely basis (see section G.1 of this Discussion Note).
89. For larger funds, quarterly may be considered appropriate or it may be sufficient for actuarial advice to be sought only if there are special events which may result in abnormally high levels of benefit payments (such as a retrenchment program).

G.3 Restoration plan amendments (paragraph 35 of SPS 160)

90. Paragraph 35 of SPS 160 states:

35. During the period that a restoration plan is in effect, and if it appears that the funding position is not likely to be restored by the end of the period, APRA may, at a minimum:
- (a) permit a variation to the period in which the funding position is expected to be restored;
 - (b) require the RSE licensee to seek further actuarial advice;
or
 - (c) vary any reporting requirements imposed under paragraph 34.

91. Paragraphs 34 to 37 of SPG 160 provide guidance on monitoring and adjustment of a restoration plan.
92. Listed below are some considerations that may be relevant in determining when and how the recommended contribution program is to be adjusted:

- (a) in some cases, it may suit the employer and trustee for the contribution program to be adjusted following each quarterly review. However, in many cases, such frequent adjustments to the level of current contributions are likely to be considered undesirable (and possibly unworkable for some employers) due to budget constraints and/or administrative inefficiency;
 - (b) particularly where the investment strategy has significant exposure to listed growth assets, it should be recognised that fluctuations are expected to occur and that there may be gains in one quarter that are offset by losses in another quarter. As such, the trustee and employer may agree that no adjustments will be made unless certain triggers occur, or that once yearly adjustments may be appropriate and practical;
 - (c) there is a potential argument that the level of current contributions should only ratchet upwards, as presumably the existing contribution program is affordable and the objective is to return to a SFP as soon as practicable. On this rationale, positive experience would result in a contraction of the expected restoration period rather than a reduction in the level of current contributions. By contrast, if there was adverse experience resulting in the expectation that the program was likely to fall short of restoring a SFP within 3 years (or lower target period), an increase in the level of recommended contributions would be required;
 - (d) however, in practice, there may be cases where the employer is only willing to agree to a restoration plan on the basis that positive experience would (at agreed review points) permit a reduction in the level of current contributions rather than a contraction of the expected restoration period. Member should also note that SPG 160 indicates that adjustments may take place in response to over-performance as well as under-performance (refer paragraph 36 of SPG 160);
 - (e) another possible arrangement would be for the remedial contribution program to be set to target a return to a SFP in a period shorter than 3 years (for example, 2.5 years) with agreement that the period could extend up to a further 6 months if further adverse experience occurs (refer to the example set out in paragraph 95 below); and
 - (f) the need for APRA approval in some circumstances (refer the commentary in paragraphs 93 and 94 below).
93. APRA approval for some adjustments may be required. In particular, paragraph 35 of SPS 160 requires APRA approval of any extension to the duration of a restoration plan.

94. As noted in Section G.2 of this Discussion Note, in some cases the restoration plan may specify the process and timing for determining and making adjustments to the contribution program in response to variations in experience from the assumptions made in setting the initial remedial contribution program. Where an adjustment to the contribution program is in accordance with the restoration plan previously submitted to APRA (including any variations to that plan that were required or permitted by APRA), it is understood that the adjustment would not require APRA approval.
95. For example, say the valuation date of the interim investigation is 31 December 2019 and the latest end date permitted for the restoration plan under SPS 160 is 31 December 2022. The employer indicates that it is willing to commit to additional contributions of up to \$100,000 per month. The actuary determines that, on reasonable assumptions, additional employer contributions of \$100,000 per month from 1 April 2020 would be expected to restore a SFP by 31 March 2022 (that is, 24 months of additional employer contributions of \$100,000 per month). The employer indicates that, if there is adverse experience, it will not be able to increase the additional contributions paid up to March 2022, but expects to be able to continue making the additional contributions of \$100,000 per month beyond March 2022 if required to restore a SFP. It is therefore agreed that the additional employer contribution component of the restoration program will be additional employer contributions of \$100,000 per month until the earlier of 31 December 2022 and the date that a SFP is restored.
- (a) If APRA does not seek any variation to this aspect of the restoration plan under paragraph 34 of SPS 160, then it is understood that APRA approval under paragraph 35 of SPS 160 would not be required unless the trustee wished to extend the duration of the restoration plan beyond 31 December 2022.
- (b) If, on the other hand, the restoration plan was simply to restore a SFP by additional employer contributions of \$100,000 per month for the 24 months beginning 1 April 2020, it appears that APRA approval under paragraph 35 of SPS 160 would be required to extend the restoration plan beyond 31 March 2022.
96. Note that paragraph 35 of SPS 160 only applies if "it appears that the funding position is not likely to be restored by the end of the period" and hence APRA approval does not appear to be required either to:
- (a) increase the additional employer contributions so that a SFP is restored by March 2022; or
- (b) cease the additional employer contributions before March 2022 in the event that a SFP is restored earlier than initially expected.

97. However, it is noted that paragraph 37 of SPG 160 indicates that APRA 'would expect early contact from an RSE licensee seeking a variation to the duration of the plan, or an early end to the plan'. The SPC understands that APRA expects that it would be notified if there is an increase in, or a cessation of, contributions.

H. Self-insured funds

98. Paragraphs 36 and 37 of SPS 160 set out requirements for funds which self-insure insured benefits. The SPC has issued a separate Discussion Note *Self-insurance Arrangements and Superannuation Prudential Standard 160* to assist actuaries deal with these requirements.

END OF DISCUSSION NOTE

Annexure: Examples re interim investigations

The following examples are provided to assist RSE actuaries to understand the requirements of SPS 160 regarding interim investigations.

Fund information

The Fund is a complying funded defined benefit superannuation fund that does not have any pensioners. The annual review date is 1 July (it is problematic for accurate member and asset data to be obtained at other dates) and the effective date for the next regular actuarial investigation (triennial) is 1 July 2020.

The Fund has a shortfall limit of 98% and therefore, if the shortfall limit is breached, the Fund is also in an unsatisfactory financial position. Prior to the market crash referred to below, the Fund was in a satisfactory financial position and no restoration plan was in place.

The examples below assume that:

- ▶ a market crash has occurred which immediately caused the Fund to breach its shortfall limit; and
- ▶ there has not been a subsequent turnaround in markets which would change this situation.

General reporting requirements

Where the RSE actuary provides a regular valuation report, the report must include, at a minimum, the items listed in paragraph 23 of SPS 160. Where the RSE actuary provides an interim investigation report, the report must contain, at a minimum, a reasonable estimate of the value of assets and whether that value is in breach of the shortfall limit.

If either:

- ▶ a triennial valuation report is being provided and the financial position of the Fund is, or is likely to become, unsatisfactory; or
- ▶ an interim investigation report is being provided and the Fund is in an unsatisfactory financial position and in breach of its shortfall limit,

then the report will be required to include the statement required by paragraph 31 of SPS 160, unless:

- ▶ this statement has been provided earlier; or

- ▶ in the case of an interim investigation report, the paragraph 31 statement is to be provided within 15 business days of the report; or
- ▶ the Fund has become technically insolvent (in which case the SIS Regulations relating to technically insolvent funds must be followed).

Example 1: Market crash between 1 January 2020 and 30 June 2020

The RSE Licensee determines that the shortfall limit is likely to have been breached. However, as the next regular actuarial investigation (triennial) is due within 6 months, an interim investigation is not required. The RSE Licensee is required to seek advice as to whether any action is required before the 1 July 2020 triennial actuarial investigation is completed. The triennial investigation report must be provided by 31 December 2020.

The latest end date for the restoration period (if required and unless otherwise approved by APRA) will be 30 June 2023, being 3 years after the valuation date.

Example 2: Market crash between 1 July 2020 and 31 December 2020 and regular actuarial investigation (triennial) has not yet been completed

The RSE Licensee determines that the shortfall limit is likely to have been breached. However, as an investigation is currently taking place (the triennial investigation as at 1 July 2020), an interim investigation report is not required. The triennial actuarial investigation will be required to consider post-valuation events, including the impact of the market crash. The RSE actuary may make interim recommendations if considered necessary prior to completion of the triennial investigation.

The latest end date for the restoration period (if required and unless otherwise approved by APRA) will be 30 June 2023, being 3 years after the valuation date.

Example 3: Market crash between 1 July 2020 and 31 December 2020 and regular actuarial investigation (triennial) has been completed beforehand

The RSE Licensee determines on a particular day after the market crash (the "Breach Identification Date", which is assumed to be on or before 31 December 2020) that the shortfall limit is likely to have been breached. The RSE Licensee and the actuary agree that it is not appropriate to bring forward the next regular actuarial investigation (triennial due as at 1 July 2023). An interim investigation will be required. The RSE Licensee and the actuary discuss options for the valuation date of the interim investigation. These include:

- (a) 1 July 2020, using the triennial investigation data and results updated to allow for significant post-valuation date experience (including the market crash). The report is

required to include an estimate of assets and vested benefits at the valuation date of 1 July 2020 which will be readily available from the triennial investigation report. As indicated in Section E of this Discussion Note, in this case it seems desirable that the report also include an estimate of the DBVBI at a date subsequent to the market crash, to support the findings in regard to the position of the Fund at the report date (that is, whether it is in an unsatisfactory financial position and in breach of its shortfall limit). The report will be required to be completed no later than 3 months after the Breach Identification Date. Based on paragraph 15(b) of SPG 160, APRA would expect that the report will be completed no later than 31 December 2020, being six months after the valuation date.

The latest end date for the restoration period (if required and unless otherwise approved by APRA) will be 3 years after the Breach Identification Date;

- (b) the earliest convenient date on or after the Breach Identification Date, using the triennial investigation data and results updated to allow for significant experience over the period from 1 July 2020 to the valuation date chosen (including, in particular, investment experience).

Say the valuation date chosen is 31 December 2020. The report is required to include an estimate of assets and vested benefits at 31 December 2020. The report will be required to be completed by no later than 3 months after the valuation date (that is, 31 March 2021). The RSE actuary may make interim recommendations if considered appropriate prior to completion of the interim investigation. (Note that the RSE Licensee would need to be satisfied that using a valuation date of 31 December 2020 was justifiable in terms of the requirement that the interim investigation be carried out as soon as practicable.)

The latest end date for the restoration period (if required and unless otherwise approved by APRA) will be 31 December 2023, being 3 years after the valuation date.

Example 4: Market crash between 1 January 2021 and 30 June 2021 after regular actuarial investigation (triennial) has been completed (or between 1 January 2022 and 30 June 2022)

The RSE Licensee determines on a particular day after the market crash (the “Breach Identification Date”, which is assumed to be on or before 30 June in the relevant year) that the shortfall limit is likely to have been breached. The RSE Licensee and the actuary agree that it is not appropriate to bring forward the next regular actuarial investigation (triennial due as at 1 July 2023). An interim investigation will be required. The RSE Licensee and the actuary discuss options for the valuation date of the interim investigation. These include:

- (a) the earliest convenient date on or after the “Breach Identification Date” but before 30 June, using the prior 1 July annual review data (being the latest available) and a ‘roll-forward’ method to estimate assets and vested benefits at the valuation date. The report will be required to be completed no later than 3 months after the valuation date.

The latest end date for the restoration period (if required and unless otherwise approved by APRA) will be 3 years after the valuation date;

- (b) 1 July 2021 (2022), using the updated data from the annual review at that date. The report is required to include an estimate of assets and vested benefits at the valuation date. The report will be required to be completed by no later than 30 September 2021 (2022). The RSE actuary may make interim recommendations if considered appropriate prior to completion of the interim investigation. (Note that the RSE Licensee would need to be satisfied that using a valuation date of 1 July 2021 (2022) was justifiable in terms of the requirement that the interim investigation be carried out as soon as practicable.)

The latest end date for the restoration period (if required and unless otherwise approved by APRA) will be 30 June 2024 (2025), being 3 years after the valuation date.

Example 5: Market crash between 1 July 2021 and 31 December 2021 (or between 1 July 2022 and 30 June 2022)

The RSE Licensee determines on a particular day after the market crash (the “Breach Identification Date”, which is assumed to be on or before 31 December in the relevant year) that the shortfall limit is likely to have been breached. The RSE Licensee and the actuary agree that it is not appropriate to bring forward the next regular actuarial investigation (triennial due as at 1 July 2023). An interim investigation will be required.

As accurate member and asset data is generally only available at 1 July and the next annual review is more than 6 months away, the main option is to:

- ▶ choose the earliest convenient valuation date on or after the Breach Identification Date; and
- ▶ use the previous 1 July data and a ‘roll-forward’ method to estimate assets and vested benefits at the valuation date.

The due date for the report will be no later than 3 months after the valuation date.

The latest end date for the restoration period (if required and unless otherwise approved by APRA) will be 3 years after the valuation date.

Example 6: Market crash between 1 January 2023 and 30 June 2023

The RSE Licensee determines that the shortfall limit is likely to have been breached. However, as the next regular actuarial investigation (triennial) is due within 6 months (that is, as at 1 July 2023), an interim investigation is not required. The RSE Licensee is required to seek advice as to whether any action is required before the regular actuarial investigation is completed. The triennial investigation report must be provided by 31 December 2023.

The latest end date for the restoration period (if required and unless otherwise approved by APRA) will be 30 June 2026, being 3 years after the valuation date.

END OF ANNEXURE