

# House of Representatives Standing Committee on Economics

## ANSWERS TO QUESTIONS ON NOTICE

Review into APRA's Annual Report 2019-20

10 September 2021

**Division/Agency:** Australian Prudential Regulation Authority  
**Question No:** APRA20QON  
**Topic:** Sole Purpose and Financial Interest Tests  
**Reference:** Written  
**Member:** Tim Wilson

### Question:

- a. How did APRA define the sole purpose test?
- b. How does APRA define the best financial interest test?
- c. How is APRA defining the difference between the 'sole purpose test' and the 'best financial interest' test?
- d. What action has APRA taken since the introduction of the 'best financial interest' test that was not possible under its definition of 'sole purpose test'?

### Answer:

Both the sole purpose test and the best financial interest duty are legislative provisions in the *Superannuation Industry (Supervision) Act 1993* (SIS Act) – refer to section 62 and subsection 52(2)(c) respectively. APRA does not define these tests but, put simply, the sole purpose test relates to the purpose(s) for which a superannuation fund is maintained, while the best financial interest duty is a statutorily imposed covenant on trustees as to how they will perform their duties and exercise their powers.

The best financial interests duty (BFID), which took effect on 1 July 2021, sharpens the focus of all RSE licensee decisions. This reform replaces the best interests duty, and places the onus firmly on RSE licensees to ensure, and demonstrate, that all decisions are consistent with the best financial interests of their members. Decisions must be supported by strong analysis and evidence in light of the implications of reversal of the burden of proof.

Since the duty commenced, APRA has been engaging with trustees to ensure compliance with this new duty. This includes issuing letters to trustees, requiring the production of specific information relating to the exercise of the duty, and is following up with those RSE licensees where APRA has concerns that the duty may not be being met.

Where APRA is concerned that a trustee's actions are not in the best financial interest of members, APRA is requiring trustees to produce evidence to demonstrate why the trustees consider the actions to be in the best financial interest of beneficiaries.