

# No other role or office for RSE trustees

Recommendation	Existing law	Summary of proposed reform	Comments
<p><b>Recommendation 3.1</b></p> <p>The RSE should be prohibited from assuming any obligations other than those arising from or in the course of its performance of the duties of a trustee of a superannuation fund.</p>	<p>N/A</p>	<p>A new RSE licence condition is imposed by section 29E(5A) of the SIS Act: Body corporate RSE licensees must not have a duty to act in the interests of another person, other than a duty that arises in the course of:</p> <ul style="list-style-type: none"><li>performing duties or exercising powers as a trustee of a RSE; or</li><li>providing personal advice.</li></ul> <p>The proposed effective date for this change is 1 July 2020.</p>	<ul style="list-style-type: none"><li>The condition is limited to when an RSE is acting in another capacity on a fiduciary basis. An RSE could still provide trustee administration services to other entities, because that would not give rise to a duty to act in the other interest of/give priority to, another person.</li><li>There are a number of industry participants that provide dual functions as an RSE and a responsible entity of registered managed investment schemes. Any entities performing such dual functions should promptly consider retiring one of its functions, and passing these functions onto another appropriately licenced entity.</li><li>As a practical matter, there is not enough time left to 1 July to apply for a new AFSL. The explanatory memorandum states that APRA is expected to use its exemption and modification powers to grant extensions to comply with the new licence condition where appropriate. The Government is also considering providing some relief to RSE licensees that need to transfer the responsible entity function to another entity to comply with the new licence condition.</li><li>When retiring as a responsible entity in favour of a related body corporate, consideration should be given to seeking ASIC relief from the requirement to convene a unitholder meeting to consider an extraordinary resolution to change the responsible entity. ASIC has granted similar relief recently, subject to certain disclosure conditions (with the process for relief taking approximately 3 months).</li></ul>