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Superannuation Industry (Supervision) Amendment Regulations 2007 (No. 5)

Select Legislative Instrument 2007 No. 343

I, PROFESSOR MARIE BASHIR, AC, CVO, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Superannuation Industry (Supervision) Act 1993*.

Dated 4 October 2007

MARIE BASHIR
Administrator

By Her Excellency's Command

PETER CRAIG DUTTON

Minister for Revenue and Assistant Treasurer

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1 Name of Regulations

These Regulations are the *Superannuation Industry (Supervision) Amendment Regulations 2007 (No. 5)*.

2 Commencement

These Regulations commence as follows:

- (a) on the commencement of the *Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007* — regulations 1 to 3 and Schedule 1;
- (b) 12 months after the day on which the *Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007* commences — Schedule 2

3 Amendment of *Superannuation Industry (Supervision) Regulations 1994*

Schedules 1 and 2 amend the *Superannuation Industry (Supervision) Regulations 1994*.

**Schedule 1 Amendments commencing on
commencement of *Financial
Sector Legislation
Amendment (Simplifying
Regulation and Review) Act
2007***

(regulation 3)

**[1] Subregulation 1.03 (1), interpretation of *reviewable
decision*, paragraphs (a) and (b)**

omit

[2] Subparagraph 1.04 (2) (a) (i)

omit

Corporations Law

insert

Corporations Act 2001

[3] Subparagraph 1.04 (2) (a) (iii)

omit

Territory

insert

Territory, or is a delegate of the Auditor-General

[4] Subparagraph 1.04 (2) (b) (i)

substitute

- (i) is, under Division 2 of Part 9.2 of the *Corporations Act 2001*, registered, or taken to be registered, as an auditor; or

[5] Subparagraph 1.04 (2) (b) (ii)

omit

Territory

insert

Territory, or is a delegate of the Auditor-General

[6] Subregulations 1.04 (2A) to (2C)

omit

[7] Subregulation 8.01 (1)

omit

paragraphs 112 (1) (a) and (b)

insert

paragraphs 35B (1) (a) and (b)

[8] Regulation 8.01A

omit

[9] Subregulation 8.02 (1)

omit

paragraph 112 (1) (c)

insert

paragraph 35B (1) (c)

[10] Subregulation 8.02 (2)

omit

paragraphs 112 (1) (a) and (b)

insert

paragraphs 35B (1) (a) and (b)

[11] After regulation 8.02*insert***8.02A Period within which an auditor must be appointed
(Act s 35C)**

For subsection 35C (1) of the Act, the following periods are prescribed:

- (a) for a registrable superannuation entity — as soon as practicable, but in any event, no later than the last day of each year of income;
- (b) for a self managed superannuation fund — as soon as practicable but, in any event, no later than 30 days before the date by which the auditor must give a report mentioned in subsection 35C (6) of the Act to the trustees of the fund.

Note See regulation 8.03 for the period within which a report mentioned in subsection 35C (6) of the Act must be provided.

[12] Regulation 8.03*omit*

subsection 113 (4)

insert

subsection 35C (6)

[13] After regulation 8.03*insert***8.04 Period within which audit report is given to the APRA
(Act s 36)**

For subsection 36 (1) of the Act, the prescribed period is as soon as practicable but, in any event, no later than 4 months after the year of income to which that report relates.

[14] Paragraph 11.07 (1) (c)

omit

numbers.

insert

numbers; or

[15] After paragraph 11.07 (1) (c)

insert

(d) the RSE licensee of the entity.

[16] After subregulation 11.07 (2)

insert

(2A) For subsections 31 (1), 32 (1) and 33 (1) of the Act, it is a standard applicable to the operation of a superannuation entity other than a self managed superannuation fund that an incoming trustee must give written notice to the Regulator that it has commenced as a trustee of the entity.

(2B) A notice mentioned in subregulation (2A) must be given as soon as practicable after the RSE licensee has commenced as a trustee of the entity but, in any event, no later than 5 days after that date.

[17] Subsection 11.07 (3)

substitute

(3) For subsections 31 (1), 32 (1) and 33 (1) of the Act, it is a standard applicable to the operation of a superannuation entity that the trustee must give notice in writing to the Regulator, in accordance with subregulation (4), of:

(a) a decision or resolution to wind up the entity; or

(b) a decision or resolution to retire as a trustee of the entity.

[18] Paragraph 11.07 (4) (a)

after

commenced

insert

or the trustee of the entity has retired

[19] Paragraph 11.07 (4) (b)

omit

entity and, in any event, before the winding up is commenced.

insert

entity or of the trustee to retire and, in any event, before the winding up is commenced or the trustee has retired.

[20] Division 13.1

omit

[21] Paragraph 13.17 (2) (b)

omit

or an approved non-ADI financial institution

[22] Subparagraph 13.17 (2) (c) (i)

omit

, an approved non-ADI financial institution

[23] Paragraph 13.17A (2) (b)

omit

or an approved non-ADI financial institution

[24] Subparagraph 13.17A (2) (c) (i)

omit

, an approved non-ADI financial institution

[25] Subsection 13.17AA (1)

omit

an approved non-ADI financial institution

**Schedule 2 Amendments commencing
12 months after the day on
which the *Financial Sector
Legislation Amendment
(Simplifying Regulation and
Review) Act 2007* commences**
(regulation 3)

[1] Subparagraph 11.04 (b) (i)

omit

the name of the trustee, its registered address, telephone
number and Australian Company Number,

insert

the name, registered address and telephone number of the
trustee,

[2] Subparagraph 11.05 (b) (i)

omit

, telephone number and Australian Company Number

insert

and telephone number

[3] Subparagraph 11.06 (b) (i)

omit

, telephone number and Australian Company Number

insert

and telephone number

-
- [4] **Paragraph 11.07A (3) (b)**
omit
 (if any) or, if it has no ABN, its SFN (if any)
- [5] **Subparagraph 11.07A (3) (f) (ii)**
omit
 (if any) or, if it has no ABN, its SFN (if any)
- [6] **Paragraph 11.07A (3) (g)**
omit
 (if any) or, if it has no ABN, its SFN (if any)
- [7] **Subsection 11.07A (4), definition of *SFN***
omit
- [8] **Paragraph 11A.02 (2) (b)**
omit
- [9] **Paragraph 11A.02 (2) (g)**
omit
 , if any,
- [10] **Subparagraphs 11A.02 (3) (b) (i) and (v)**
omit
- [11] **Subparagraph 11A.02 (3) (b) (vi)**
omit
 , if any

-
- [12] **Subparagraph 11A.02 (3) (c) (i)**
 substitute
 (i) the ABN of the RSE licensee; and
- [13] **Paragraph 11A.03 (2) (b)**
 omit
- [14] **Paragraph 11A.03 (2) (g)**
 omit
 , if any,
- [15] **Subparagraphs 11A.03 (3) (b) (i) and (v)**
 omit
- [16] **Subparagraph 11A.03 (3) (b) (vi)**
 omit
 , if any
- [17] **Paragraph 11A.04 (2) (b)**
 omit
- [18] **Paragraph 11A.04 (2) (g)**
 omit
 , if any,
- [19] **Subparagraphs 11A.04 (3) (b) (i) and (v)**
 omit

[20] Subparagraph 11A.04 (3) (b) (vi)

omit

, if any