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## Explanatory Statement

# Superannuation Data and Payment Standards (Payments and Information from the Commissioner of Taxation) Amendment 2016

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### General Outline of Instrument

1. This Standard is made under subsection 34K(3) of the *Superannuation Industry (Supervision) Act 1993* (SISA).
2. This Standard amends clause 5 of the *Superannuation Data and Payment Standards* (F2014C00783).
3. This Standard is a legislative instrument for the purposes of the *Legislation Act 2003* (LA).

### Date of effect

4. This Standard commences on the day after its registration on the Federal Register of Legislative Instruments.

### Application

5. This Standard applies to employers and trustees of superannuation entities who are required to comply with the requirements of the *Superannuation Data and Payment Standards 2012* (the Standard).

### What does this Standard do?

6. This Standard extends the application of the *Superannuation Data and Payment Standards 2012* to rollover superannuation benefits and contribution payments made between the Commissioner of Taxation and APRA-regulated superannuation entities.

### Background

7. The Commissioner of Taxation administers a range of taxation laws that require the Commissioner to make rollover superannuation benefits and contribution payments to superannuation entities in certain circumstances.

8. Payments of unclaimed superannuation money by the Commissioner to a superannuation entity are rollover superannuation benefits for the purposes of the *Income Tax Assessment Act 1997* (ITAA 1997)<sup>1</sup>.
9. Contribution payments made by the Commissioner to superannuation entities may include payments made under the following Acts:
  - *Superannuation Guarantee (Administration) Act 1992*
  - *Small Superannuation Accounts Act 1995*
  - *Superannuation (Unclaimed Money and Lost Members) Act 1999*
  - *Superannuation (Government Co-Contribution for Low Income Earners) Act 2003*
10. The Commissioner will adopt the Standard as the channel by which these rollover superannuation benefits and contribution payments will be made to and received from superannuation entities.
11. This will contribute towards the underlying object of establishing the Standard which is to enhance beneficiaries' superannuation interests by increasing efficiency in relation to core transactions such as rollovers and contributions across the superannuation industry.
12. Rollover superannuation benefits and contribution payments that cannot be allocated for the benefit of a particular member must be returned to the Commissioner using the Payment Variation Advice (PVA).
13. The existing approved form requirements for the PVA will integrate the Standard to ensure that any payments, and associated information that must be given to the Commissioner, can be provided in a manner that is consistent with the Standard.

### **Consultation:**

14. Section 17 of the LA requires consultation to be undertaken before the making of a legislative instrument if it is appropriate and reasonably practical to do so.
15. This Standard was developed in consultation with APRA<sup>2</sup> and key industry stakeholders via consultative forums including the SuperStream Reference Group, Super Industry Relationship Network, Super Administrative Stakeholder Group, SuperStream Standard Technical Committee, Gateway Operators Group, Rollover Implementation Working Group, Software Developer Technical Working Group, and SuperStream Business Engagement Forum. Extending the SuperStream data and payment Standard to rollover and contribution payments made and received by the Commissioner of Taxation is generally supported by key industry stakeholders.

### **Exemption from disallowance and sunseting regime**

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<sup>1</sup> Section 306-10

<sup>2</sup> As required by subsection 34K(9) of the SISA.

16. Section 42 of the LA provides for the disallowance of legislative instruments. However, paragraph 44(2)(b) of the LA provides that section 42 does not apply to legislative instruments prescribed by regulation. Section 9 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (EOMR) provides a list of instruments that are not subject to disallowance. Item 4 of the table in section 9 of the EOMR lists instruments (other than regulations) relating to superannuation. As a result, this instrument is not a disallowable legislative instrument under section 42 of the LA.
17. Part 4 of the LA provides for the sunseting of legislative instruments. However, paragraph 54(2)(b) of the LA provides that Part 4 of the LA does not apply if the legislative instrument is prescribed by regulation. Section 11 of the EOMR provides a list of instruments that are not subject to sunseting. Item 6 of the table in section 11 of the EOMR lists instruments (other than regulations) relating to superannuation. As a result, Part 4 of the LA does not apply to this instrument.

### **What is the effect of this Standard**

18. An assessment of the compliance cost impact indicates that the impact will be minor for both implementation and on-going compliance costs. The new Standard is of a minor or machinery nature.

### **Statement of compatibility with Human Rights**

19. As section 42 of the LA does not apply to this instrument, a Statement of compatibility with Human Rights in respect of this instrument is not required under section 9 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### *Legislative references:*

*Superannuation Industry (Supervision) Act 1993*

*Legislation Act 2003*

*Income Tax Assessment Act 1997*

*Superannuation Guarantee (Administration) Act 1992*

*Small Superannuation Accounts Act 1995*

*Superannuation (Unclaimed Money and Lost Members) Act 1999*

*Superannuation (Government Co-Contribution for Low Income Earners) Act 2003*

*Human Rights (Parliamentary Scrutiny) Act 2011*