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

**Select Legislative Instrument 2007 No. 343**

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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

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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*.

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**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

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**[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.

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**[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

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**[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*

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

*omit*

, if any