

## DRAFT EXPLANATORY STATEMENT

Minute No. \_\_\_\_\_ of 2012 – Assistant Treasurer

Subject - *Superannuation Industry (Supervision) Amendment Regulations 2013 (No. )*

Subsection 353(1) of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the SIS Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the SIS Act. The *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) are made under section 353 of the SIS Act.

The Regulation removes the member protection standards from the SIS Regulations. Under these standards, a member with an account balance of less than \$1,000 cannot have their balance reduced by administrative fees that are greater than the earnings accruing to their account. However:

- trustees can deduct administrative fees in years with a negative investment return;
- the standards effectively require members with larger balances to subsidise the costs of low balance members;
- the standards may be a disincentive for members to consolidate small account balances;
- funds must provide for member protection in their administrative systems and procedures, adding inconvenience, complexity and cost;
- costs levied before earnings are allocated to members (such as insurance premiums and tax) can erode small balances, despite the standards.

The Attachment provides details of the proposed Regulation.

The SIS Act specifies no conditions that need to be met before the power to make the Regulation may be exercised.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on 1 July 2013.

Authority: Subsection 353(1) of the  
*Superannuation Industry  
(Supervision) Act 1993*

## ATTACHMENT

### Details of the proposed *Superannuation Industry (Supervision) Amendment Regulation 2012 (No. )*

#### Section 1 – Name of Regulation

This section specifies the name of the Regulation as the *Superannuation Industry (Supervision) Amendment Regulation 2012 (No. )*.

#### Section 2 – Commencement

This section provides for the Regulation to commence on 1 July 2013.

#### Section 3 – Amendment of *Superannuation Industry (Supervision) Regulations 1994*

This section provides that Schedule 1 amend the *Superannuation Industry (Supervision) Regulations 1994*.

#### Schedule – Amendments

##### **Item [1]**

Item [1] omits the definition of an *excluded member* from Subregulation 1.03(1), as it only applies to the member protection standards, which will be removed by later items.

##### **Item [2]**

Item [2] omits the definition of *member-protection standards* from Subregulation 1.03(1), as it only applies to the member protection standards.

##### **Item [3]**

Item [3] omits Regulation 1.03B which provides the meaning of a *protected member*. A protected member is a member of a superannuation fund with a balance of less than \$1000. The definition of a protected member is relevant only in relation to the member protection standards.

##### **Item [4]**

Item [4] omits the note from Regulation 5.01B. This note provides an example of how superannuation funds can provide greater member protection than the regulation requires.

##### **Item [5]**

Item [5] omits the words ‘the member-protection standards and’ from Subregulation 5.02(3).

##### **Item [6]**

Item [6] omits Regulation 5.02A, which defines what is meant by ‘fair and reasonable’ in the member protection standards.

**Item [7]**

Item [7] omits ‘the member-protection standards,’ from Subregulation 5.03(2).

**Item [8]**

Item [8] omits Division 5.5, which provides the member-protection standards.

**Item [9]**

Item [9] omits Division 5.6, concerning existing personal superannuation members. This Division serves no purpose without the member protection standards.

**Item [10]**

Item [10] removes Paragraph 10.06(3)(a), which references protected members, and substitutes Paragraph 10.06(3)(b) as Subregulation 10.06(3).