

EXPOSURE-DRAFT



EXPOSURE DRAFT (29/04/2013)

Superannuation Legislation Amendment (MySuper Measures) Regulation 2013

Select Legislative Instrument No. , 2013

(Minister for Financial Services and Superannuation)

EXPOSURE-DRAFT

EXPOSURE-DRAFT

Contents

1	Name of regulation	1
2	Commencement	1
3	Authority	1
4	Schedule(s)	1
Schedule 1—Amendments commencing 1 July 2013		2
	<i>Corporations Regulations 2001</i>	2
	<i>First Home Saver Accounts Regulations 2008</i>	21
	<i>Superannuation Guarantee (Administration) Regulations 1993</i>	21
	<i>Superannuation Industry (Supervision) Regulations 1994</i>	22
Schedule 2—Amendments commencing on 1 July 2015		52
	<i>Corporations Regulations 2001</i>	52

EXPOSURE-DRAFT

1 Name of regulation

This regulation is the *Superannuation Legislation (MySuper Measures) Amendment Regulation 2013*.

2 Commencement

Each provision of this regulation specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this regulation not elsewhere covered by this table	The day after this regulation is registered.	
2. Schedule 1	1 July 2013.	1 July 2013
3. Schedule 2	1 July 2015.	1 July 2015

3 Authority

This regulation is made under the *Corporations Act 2001*, the *First Home Saver Accounts Act 2008*, the *Superannuation Guarantee (Administration) Act 1992*, and the *Superannuation Industry (Supervision) Act 1993*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

Schedule 1—Amendments commencing 1 July 2013

Corporations Regulations 2001

1 After Division 2D of Part 7.9

Insert:

Division 2E—Obligation to make information publicly available: registrable superannuation entities

Subdivision 2E.1—Obligation to make product dashboard publicly available

7.9.07L Source of power for this Subdivision

This Subdivision is made for paragraphs 1017BA(1)(c) and (e) and subsection 1017BA(2) of the Act.

7.9.07M Definition(s)

In this Subdivision:

CPI means the estimate of the consumer price index:

- (a) that is published by the Australian Bureau of Statistics; and
- (b) the currency of which is in accordance with Reporting Standard SRS 700.0.

level of investment risk has the same meaning as in Reporting Standard SRS 700.0.

net return has the same meaning as in Reporting Standard SRS 700.0.

net return target: see regulation 7.9.07P.

product dashboard table: see regulation 7.9.07N.

Reporting Standard SRS 700.0 means Reporting Standard SRS 700.0 determined by APRA under subsection 13(1) of the

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

Financial Sector (Collection of Data) Act 2001, as in force from time to time.

representative member means a member of a fund:

- (a) whose interest in the fund:
 - (i) amounts to \$50 000; and
 - (ii) relates only to a MySuper product; and
- (b) who makes contributions of \$5 000 for each financial year.

7.9.07N Product dashboard table

- (1) Information that must be set out in a product dashboard in accordance with subsection 1017BA(2) of the Act or this Subdivision must be set out in a table (a **product dashboard table**).
- (2) The product dashboard table must be organised as follows:

Product dashboard for name of MySuper product	
Item	Required information
1	Net return target
2	Level of investment risk
3	Statement of fees and other costs
4	Net return performance

Note: An RSE licensee has an obligation to calculate information given to another person in the same way that information given to APRA must be calculated—see section 29QC of the *Superannuation Industry (Supervision) Act 1993*.

7.9.07P Net return target

- (1) For item 1 of the product dashboard table, an annualised return target based on a nominated 10-year period (the **net return target**) must be worked out in accordance with subregulations (2) to (4).
- (2) Nominate a starting date for the target.
- (3) Calculate the estimated percentage rate of net return that exceeds the growth in the CPI over 10 years starting from the nominated date (the **10-year estimate**) in accordance with Reporting Standard SRS 700.0.
- (4) Annualise the 10-year estimate by applying the geometric rate of return in accordance with Reporting Standard SRS 700.0.

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

7.9.07Q Level of investment risk

For item 2 of the product dashboard table, the level of investment risk must be worked out, and set out in a table, in accordance with Reporting Standard SRS 700.0.

7.9.07R Statement of fees and other costs

- (1) For item 3 of the product dashboard table, the statement of fees and costs must be worked out in accordance with subregulation (2).
- (2) Calculate the annual investment and administration fees, costs and taxes, as whole dollars, excluding activity and insurance fees and costs, for a representative member.
- (3) For paragraph 1017BA(1)(c) of the Act, each financial year is prescribed.
- (4) In this regulation:

activity and insurance fees and costs has the same meaning as in Reporting Standard SRS 700.0.

investment and administration fees, costs and taxes has the same meaning as in Reporting Standard SRS 700.0.

7.9.07S Prescribed information—net return performance

- (1) A statement of the performance of the product over time (the *net return performance*) is prescribed.
- (2) Net return performance must be set out as a graph in accordance with subregulations (3) to (12), as applicable.
- (3) Calculate, in accordance with Reporting Standard SRS 700.0, the percentage rate of net return for the MySuper product and any predecessor product, if applicable, for each year in the relevant period (the *calculation period*) set out in subregulation (4) or (5).
- (4) If:
 - (a) the MySuper product has been offered for less than 10 years and there is no predecessor product; or

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

(b) the MySuper product and a predecessor product have been offered for a total of less than 10 years;
the calculation period is the period for which the product or products have been offered.

- (5) If:
- (a) the MySuper product has been offered for at least 10 years;
or
 - (b) the MySuper product and a predecessor product have been offered for a total of at least 10 years;
the calculation period is the 10 most recent years.
- (6) Represent each annual net return as a column.
- (7) Calculate the moving average for the calculation period (the *moving average net return*) in accordance with Reporting Standard SRS 700.0.
- (8) Represent the moving average net return as a line.
- (9) Calculate the realised value of the moving average net return by using realised CPI growth for the relevant years in accordance with Reporting Standard SRS 700.0.
- (10) Represent the realised value as a line.
- (11) In this regulation:

predecessor product means a default investment option that was rebadged as a MySuper product after, if the attribution or transfer of any accrued default amount held in the default investment option to the MySuper product did not result in a circumstance mentioned in subregulation 9.46(2).

7.9.07T Prescribed information—lifecycle products

- (1) If a MySuper product is a lifecycle product:
- (a) the information mentioned in each item of the product dashboard table must be worked out in relation to each age-based subclass of members of the fund; and
 - (b) the information relating to each age-based subclass of members must be:

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (i) worked out in accordance with this Subdivision as if each reference to the MySuper product in this Subdivision were a reference to that aged-based subclass; and
 - (ii) set out in a separate product dashboard table.
- (2) For subregulation 7.9.07P(1), the nominated 10-year period is taken to be period for which an interest in an age-based subclass in the lifecycle product will be held by members in that subclass.
- (3) For regulation 7.9.07S, the calculation period is taken to be the lesser of the following:
 - (a) the period for which the lifecycle product has been offered by the fund to each age-based subclass;
 - (b) 10 years.
- (4) In this regulation:

lifecycle product means a MySuper product that is offered by a fund in accordance with a governing rule of the fund that is a lifecycle exception for subsection 29TC(2) of the *Superannuation Industry (Supervision) Act 1993*.

Subdivision 2E.2—Obligation to make information relating to investment of assets publicly available

7.9.07U Source of power for this Subdivision

For subsection 1017BB(3) of the Act, information that is made publicly available under subsection 1017BB(1) of the Act must be set out in a table in accordance with regulations 7.9.07Q to 7.9.07S.

7.9.07V Definitions

In this Subdivision:

final product means a financial product:

- (a) that is not an investing product; and
- (b) in which a registrable superannuation entity or an investing product invests:

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (i) an asset of the entity; or
- (ii) an asset derived from an asset of the entity.

investing product means a financial product that invests either of the following in another financial product or property:

- (a) an asset of a registrable superannuation entity;
- (b) an asset derived from an asset of the registrable superannuation entity.

property means property other than a financial product in which a registrable superannuation entity or an investing product invests either of the following:

- (a) an asset of the entity;
- (b) an asset derived from an asset of the entity.

7.9.07W Value of assets or assets derived from assets—calculation and description

For this Subdivision, ASIC may determine how the value of the following is to be calculated and described:

- (a) an asset of a registrable superannuation entity;
- (b) an asset derived from an asset of the entity.

7.9.07X Table 1—assets held on and after 30 June 2014

- (1) This regulation applies to a registrable superannuation entity if the entity's trustee is required to make information publicly available under subsection 1017BB(1) on and after 30 June 2014.
- (2) Information about the following must be set out in a table:
 - (a) each final product;
 - (b) each property;
 - (c) the MySuper product or investment option in a choice product (the **choice product investment option**) to which the product or property is attributable;
 - (d) if applicable—the proportion of the product or property that is attributable to the MySuper product or choice product investment option, expressed as a percentage.
- (3) The column headings of the table must be as follows:

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

	Column 1	Column 2	Column 3	Column 4	Column 5
Item	MySuper product or other investment option	Final product or property attributable to MySuper product or choice product investment option (and proportion attributable, if applicable)	Number of units held in final product or property (if applicable)	Price of unit (if applicable)	Total invested in MySuper product or choice product investment option

- (4) The information must be set out in accordance with the column headings.
- (5) An item number should only be allocated to the MySuper product or choice product investment option.
- (6) The following must be in bold font:
- (a) all information about the MySuper product or choice product investment option;
 - (b) the information mentioned in subregulations (7) and (8).
- (7) The total of the bolded figures in the fifth column of the table must be set out in a separate row below all the items in the table.
- (8) The total worth of the entity's investments, at the end of the reporting day, in Australian dollars, must be set out in a separate row below the information mentioned in subregulation (7).

Example:

	Column 1	Column 2	Column 3	Column 4	Column 5
--	----------	----------	----------	----------	----------

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

Item	MySuper product or choice product investment option	Final product or property attributable to MySuper product or other investment option (and proportion attributable, if applicable)	Number of units held in financial product or property (if applicable)	Price of unit (if applicable)	Total invested in MySuper product or choice product investment option
1	XYZ MySuper product				\$500 000
		Share A	20 000	\$10	\$200 000
		Share B	10 000	\$20	\$200 000
		Commercial property holding A			\$100 000
2	123 Investment option				\$500 000
		Share 1	10 000	\$10	\$100 000
		Share 2	5 000	\$20	\$100 000
		Commercial property holding B			\$300 000

7.9.07X Table 2

- (1) This regulation applies on and after 1 July 2014.
- (2) Information about each investing product, final product and property must be set out in a table.
- (3) The column headings of the table must be as follows:

	Column 1	Column 2	Column 3	Column 4
Item	Name of investing product, final product or property	Number of units held (if applicable)	Price of unit at end of reporting day (if applicable)	Total invested in investing product, final product or property at end of reporting day (in Australian dollars)

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

-
- (4) The information must be set out in accordance with the column headings.
- (5) The following must be in bold font:
- (a) all information about an investing product that is a **first investing product** for subregulation (6);
 - (b) information about a final product or property that is also organised in Table 1;
 - (c) the information mentioned in subregulations (8) and (9).
- (6) If an investing product (the **first investing product**) invests in another investing product (the **second investing product**), and the second investing product invests in another investing product, and so on, the series of financial investments must be shown by setting out the information about the second investing product and all subsequent financial investments under the information about the first investing product.
- Note: The last financial investment in a series of investments will be a final product or property.
- (7) If subregulation (6) applies, an item number should only be allocated to the first investing product in the series.
- (8) The total of the bolded figures in the fourth column of the table must be set out in a separate row below all the items in the table.
- (9) The total worth of the entity's investments, at the end of the reporting day, in Australian dollars, must be set out in a separate row below the information mentioned in subregulation (8).

Example:

	Column 1	Column 2	Column 3	Column 4
Item	Name of investing product, final product or property	Number of units held in investing product, final product or property	Price of unit at end of reporting day (if applicable)	Total invested in investing product, final product or property at end of reporting day (in Australian dollars)
1	Life policy A			\$500 000
	Managed investment scheme	40 000	\$10	\$400 000

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

	Column 1	Column 2	Column 3	Column 4
Item	Name of investing product, final product or property	Number of units held in investing product, final product or property	Price of unit at end of reporting day (if applicable)	Total invested in investing product, final product or property at end of reporting day (in Australian dollars)
	B			
	Share A	20 000	\$10	\$200 000
	Share B	10 000	\$20	\$200 000
	Commercial property holding A			\$100 000
2	Bond A	10	\$30 000	\$300 000
3	Share C	4 000	\$50	\$200 000
				TOTAL \$1 000 000

2 After regulation 7.9.16G

Insert:

7.9.16H Arrangements to which obligations to give notice and provide information do not apply

- (1) For paragraph 1017BC(1)(e) of the Act, an arrangement to purchase a share from a broker that is traded on a licensed exchange is prescribed.
- (2) For paragraph 1017BD(1)(e) of the Act, a core arrangement to purchase a share from a broker that is traded on a licensed exchange is prescribed.
- (3) For paragraph 1017BE(1)(e) of the Act, a core arrangement to purchase a share from a broker that is traded on a licensed exchange is prescribed.

3 Paragraph 7.9.20(1)(n)

Repeal the paragraph, substitute:

- (n) for a regulated superannuation fund—a statement of long-term returns, in accordance with regulation 7.9.20AA, of:
 - (i) the investment option in which a member is invested; or

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (ii) the sub-plan, or, if none, the fund in which the member holds an interest;
- (o) for a regulated superannuation fund, if the trustee is required to make publicly available a product dashboard for the investment option, under section 1017BA of the Act—the latest product dashboard for the investment option.

4 Regulation 7.9.48

Repeal the regulation, substitute:

7.9.48 Source of power for this Subdivision

This Subdivision is made for section 1017DA of the Act.

7.9.48A Definitions

In this Subdivision:

decision-maker means:

- (a) the trustee of a regulated superannuation fund or approved deposit fund; or
- (b) an RSA provider.

eligible person means any of the following:

- (a) a beneficiary of a relevant entity;
- (b) a former beneficiary of a relevant entity;
- (c) the executor or administrator of the estate of a former beneficiary of a relevant entity.

relevant entity means any of the following:

- (a) a regulated superannuation fund;
- (b) an approved deposit fund;
- (c) an RSA.

7.9.48B Complaints—general

- (1) This regulation applies to a decision-maker if:
 - (a) an eligible person makes a complaint; and

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (b) the decision-maker makes a decision in relation to the complaint in accordance with the relevant entity's internal dispute resolution mechanism.
- (2) The decision-maker must, within 30 days of making the decision, inform the eligible person:
 - (a) of the date of the decision; and
 - (b) about any external body with jurisdiction to review the decision; and
 - (c) about how to apply to the body for review of the decision.

Example: Information about the functions of and applications for review to the Superannuation Complaints Tribunal.

7.9.48C Complaints about benefits other than death benefits— decision made

- (1) This regulation applies to a decision-maker if:
 - (a) an eligible person makes a complaint; and
 - (b) the complaint relates to a benefit other than a death benefit; and
 - (c) the decision-maker makes a decision in relation to the complaint in accordance with the relevant entity's internal dispute resolution mechanism.
- (2) The decision-maker must, within 30 days of making the decision, inform the eligible person:
 - (a) that the eligible person may, in writing, request written reasons for the decision; and
 - (b) that the reasons mentioned in paragraph (a) must be given:
 - (i) within 28 days of the eligible person's request under paragraph (a); or
 - (ii) if the Regulator gives the decision-maker an extension—within the extended period.

7.9.48D Complaints about benefits other than death benefits—no decision made

- (1) This regulation applies to a decision-maker if:
 - (a) an eligible person makes a complaint; and

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (b) the complaint relates to a benefit other than a death benefit; and
 - (c) the decision-maker is required to make a decision in relation to the complaint in accordance with the relevant entity's internal dispute resolution mechanism; and
 - (d) the decision-maker has not made the decision.
- (2) The decision-maker must, within 45 days of the complaint, inform the eligible person:
- (a) that if the decision is not made within 90 days of the complaint, the eligible person may, in writing, request written reasons for the failure to make the decision; and
 - (b) that the reasons mentioned in paragraph (a) must be given:
 - (i) within 28 days of the eligible person's request under paragraph (a); or
 - (ii) if the Regulator gives the decision-maker an extension—within the extended period.

5 Clause 101 of Schedule 10 (definition of *buy-sell spread*)

Repeal the definition, substitute:

buy-sell spread:

- (a) for a superannuation fund—has the meaning given by subsection 29V(4) of the *Superannuation Industry (Supervision) Act 1993*; or
- (b) in any other case—means an amount, deducted from the value of a financial product of a member or product holder, that represents an apportionment, among members or product holders, of the actual or estimated transaction costs incurred by the superannuation product.

6 Clause 101 of Schedule 10 (definition of *switching fee*)

Repeal the definition, substitute:

switching fee:

- (a) for a superannuation fund—has the meaning given by subsection 29V(5) of the *Superannuation Industry (Supervision) Act 1993*; or
- (b) in any other case—means an amount paid or payable when a product holder transfers all or part of the product holder's

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

interest in the financial product from one investment option to another.

7 Division 1 of Part 2 of Schedule 10

Repeal the Division, substitute:

Division 1—Fees and costs template: multiple fee structure presentation

201 Template for a multiple fee structure

Fees and other costs

This document shows fees and other costs that you may be charged. These fees and costs may be deducted from your money, from the returns on your investment or from the fund assets as a whole.

Taxes and insurance costs are set out in another part of this document.

You have 2 different fee payment options:

- (a) to pay contribution fees upfront, at the time when you make each investment into the fund; or
- (b) to pay contribution fees later (for example, on the termination of your investment or by way of other increased fees).

Note: You may pay more in total fees if you choose to pay contribution fees later.

You should read all the information about fees and costs because it is important to understand their impact on your investment.

If relevant Fees and costs for particular investment options are set out on page *insert page number*.

Superannuation products		
Type of fee or cost	Amount	How and when paid
Management costs		
<i>Investment fee</i> The fees and costs for managing your investment		

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

Superannuation products		
Type of fee or cost	Amount	How and when paid
The amount you pay for specific investment options is shown at page <i>insert page number</i>		
<i>Administration fee</i> The fees and costs for the administration of the fund		
Service fees		
<i>Investment switching fee</i> The fee for changing investment options		
<i>Exit fee</i> The fee on each amount you take out of your investment		
<i>Buy-sell spread</i> The fee for purchasing or selling units in the fund		

Products other than superannuation products			
Type of fee or cost	Amount		How and when paid
	Option to pay contribution fees upfront	Option to pay contribution fees later	
Fees when your money moves in or out of the fund			
<i>Establishment fee</i> The fee to open your investment			
<i>Contribution fee¹</i>			

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

Products other than superannuation products			
Type of fee or cost	Amount		How and when paid
The fee on each amount contributed to your investment - either by you or your employer			
<i>Withdrawal fee¹</i> The fee on each amount you take out of your investment			
<i>Termination fee¹</i> The fee to close your investment			
Management costs			
<i>The fees and costs for managing your investment¹</i> The amount you pay for specific investment options is shown at page <i>insert page number</i>			
Service fees²			
<i>Investment switching fee</i> The fee for changing investment options			

1. This fee includes an amount payable to an adviser. (See Division 4, “Adviser remuneration” under the heading “Additional Explanation of Fees and Costs”.)
2. If there are other service fees, such as advisor service fees or special request fees, include a cross-reference to the “Additional Explanation of Fees and Costs”.

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

8 Clause 218 of Schedule 10 (heading)

Repeal the heading, substitute:

218 Management costs, administration fees and investment fees

9 Subclause 218(1) of Schedule 10

Omit “a superannuation product or”.

10 Subclause 218(4) of Schedule 10 (after the example)

Insert:

- (5) The example of an administration fee or an investment fee for a superannuation product is applied to an amount of \$50 000 or an amount that is a multiple of \$50 000 if clause 215 applies.

Note: In calculating the amount, do not include contributions that may be made during the year.

- (6) An administration fee or an investment fee for a superannuation product that is not deducted directly from a member’s or product holder’s account must be calculated using the indirect cost ratio for the fund.
- (7) A percentage-based administration fee or investment fee for a superannuation product that is deducted directly from a member’s or product holder’s account should be added to the amount calculated under subclause (6).
- (8) If a dollar-based administration fee or investment fee, for a superannuation product is deducted directly from a member’s or product holder’s account, the administration fee or investment fee must be shown separately in the administration fee cell or the investment fee cell for the product.

Example: PLUS Administration fee: 1.6% + \$52 per year (\$1 per week).

11 Clause 219 of Schedule 10 (heading)

Repeal the heading, substitute:

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

219 Withdrawal fees, termination fees and exit fees

12 Subclause 219(1) of Schedule 10

Omit “for a superannuation product or a managed investment product”, substitute “for a managed investment product, or an exit fee for a superannuation product,”.

13 Clause 3 of Schedule 10D

Repeal the clause, substitute:

3 Contents of section 1 (About name of superannuation product)

- (1) Section 1 of the Product Disclosure Statement must:
- (a) describe, in the form of a summary, the superannuation fund and its products; and
 - (b) include a statement of where, on the superannuation fund’s website, the member can find:
 - (i) the portfolio holdings disclosure for the superannuation fund; and
 - (ii) the product dashboard for each MySuper product and choice product in the superannuation fund; and
 - (iii) each trustee and executive remuneration disclosure for the superannuation fund, and any other document that must be disclosed for the superannuation fund under the *Superannuation Industry (Supervision) Regulations 1994*; and
 - (c) a statement describing the process for transitioning each member whose interest includes an accrued default amount from an existing default option to a MySuper product by 1 July 2017.
- (2) Paragraph (1)(c) applies until the earlier of:
- (a) 1 July 2013; and
 - (b) the day on which the superannuation fund has attributed each accrued default amount in the superannuation fund to a MySuper product.

Note: Putting the information mentioned in paragraph (1)(b) onto the superannuation fund’s website does not amount to adding the information to the Product Disclosure Statement.

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

14 Subclause 8(3) of Schedule 10D

Repeal the subclause, substitute:

- (3) Section 6 must set out the fees and costs for each investment option that is presented in section 5 in detail in accordance with subclause 6(3), using the following templates:

Template 1		
EXAMPLE —The Balanced Investment Option		BALANCE OF \$50 000 WITH TOTAL CONTRIBUTIONS OF \$5 000 DURING YEAR
Contribution Fees	0-4%	For every \$5 000 you put in, you will be charged between \$0 and \$200.
PLUS Investment fees	1.6%	And , for every \$50 000 you have in the fund you will be charged \$800 each year
PLUS Administration fees	\$52 (\$1 per week)	And , you will be charged \$52 in administration fees regardless of your balance
EQUALS Cost of product		If you put in \$5 000 during a year and your balance was \$50 000, then for that year you will be charged fees of from: \$852 to \$1 052* What it costs you will depend on the investment option you choose and the fees you negotiate with your fund or financial adviser.

Note: * Additional fees may apply. **And**, if you leave the fund early, you may also be charged **exit fees** of between 0% and 5% of your total fund balance (between \$0 and \$2 500 for every \$50 000 you withdraw).

Template 2		
EXAMPLE —MySuper Option		BALANCE OF \$50 000 WITH TOTAL CONTRIBUTIONS OF \$5 000 DURING YEAR
Investment fees	1.6%	And , for every \$50 000 you have in the fund you will be charged \$800

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

		each year
PLUS Administration fees	\$52 (\$1 per week)	And , you will be charged \$52 in administration fees regardless of your balance
EQUALS Cost of product		If you put in \$5 000 during a year and your balance was \$50 000, then for that year you will be charged a fee of \$852

First Home Saver Accounts Regulations 2008

15 After paragraph 4(a)

Insert:

- (aa) to the following persons, in the same way that the provisions apply to a responsible officer of an RSE licensee that is a trustee of a public offer superannuation fund:
- (i) a director of the RSE FHSA provider;
 - (ii) a secretary of the RSE FHSA provider;
 - (iii) another person who is concerned or takes part in the management of the RSE FHSA provider; and

16 Subregulation 6(1)

Omit “paragraph 52(2)(h)”, substitute “paragraph 52(2)(j)”.

17 Schedule 1 (table)

Omit “regulation 8.02A”, “regulation 8.03”, and “regulation 8.04”.

Superannuation Guarantee (Administration) Regulations 1993

18 After regulation 6

Insert:

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

6A Circumstances in which member taken to be defined benefit member

For paragraph 6AA(b) of the Act, each of the following is a circumstance in which a member of a superannuation fund is to be taken to be a *defined benefit member* for subsection 19(2CA) of the Act:

- (a) the member is a member of the scheme established under the *Military Superannuation and Benefits Act 1991* who:
 - (i) is not a defined benefit member for subsection 19(2CA) of the Act; and
 - (ii) is a defined benefit member of another scheme established under the *Military Superannuation and Benefits Act 1991*;
- (b) the member holds an interest, as a *non-member spouse* within the meaning of section 90MD of the *Family Law Act 1975*, in a superannuation scheme established under the *Superannuation Act 1976* or the *Superannuation Act 1990*;
- (c) the member has made an election under section 137 of the *Superannuation Act 1976*;
- (d) the member is a *preserved benefit member* within the meaning of the *Public Sector Superannuation Scheme Trust Deed*, as in force from time to time.

Superannuation Industry (Supervision) Regulations 1994

19 Subregulation 1.03(1) (definition of *defined benefit fund*)

After “*defined benefit fund*”, insert “, subject to regulation 1.03AAA,”

20 Subregulation 1.03(1) (definition of *defined benefit member*)

Repeal the definition, substitute:

defined benefit member means a member who is entitled, on retirement or termination of employment, to be paid a benefit defined wholly or in part by reference to:

- (a) the member’s salary on retirement, termination of employment or an earlier date; or

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (b) the member's salary averaged over a period before retirement; or
- (c) both (a) and (b); or
- (d) a specified amount.

defined benefit pension means a pension mentioned in section 10 of the Act, other than:

- (a) a pension wholly determined by reference to policies of life assurance purchased or obtained by the trustee of a regulated superannuation fund, solely for the purposes of providing benefits to members of that fund; or
- (b) an allocated pension; or
- (c) a market linked pension; or
- (d) an account-based pension.

defined benefit sub-fund means a sub-fund of a defined benefit fund that has the following characteristics:

- (a) the assets of the sub-fund are separately identifiable from those of the fund;
- (b) the beneficiaries of the sub-fund are separately identifiable from those of the fund;
- (c) interests that are held in the sub-fund are determined by reference only to the conditions governing that sub-fund;
- (d) at least one defined benefit member.

21 After regulation 1.03AA

Insert:

1.03AAA Defined benefit fund

For the following provisions, a fund is taken to be a defined benefit fund if at least one member of the fund receives a defined benefit pension:

- (a) paragraph (c) of the definition of ***investment return*** in subregulation 5.01(1);
- (b) subregulation 5.04(3);
- (c) regulation 7.05;
- (d) Divisions 9.3 to 9.5.

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

22 Subregulation 1.04(2)

Repeal the subregulation, including the subheading, substitute:

Defined benefit member

- (2) For paragraph 10(1A)(b) of the Act, each of the following is a circumstance in which a member of a superannuation fund is to be taken to be a **defined benefit member** for section 20B or Part 2C of the Act:
- (a) the member is a member of the scheme established under the *Military Superannuation and Benefits Act 1991* who:
 - (i) is not a **defined benefit member** for section 20B or Part 2C of the Act; and
 - (ii) is a defined benefit member of another scheme established under the *Military Superannuation and Benefits Act 1991*;
 - (b) the member holds an interest, as a **non-member spouse** within the meaning of section 90MD of the *Family Law Act 1975*, in a superannuation scheme established under the *Superannuation Act 1976* or the *Superannuation Act 1990*;
 - (c) the member has made an election under section 137 of the *Superannuation Act 1976*;
 - (d) the member is a **preserved benefit member** within the meaning of the *Public Sector Superannuation Scheme Trust Deed*, as in force from time to time.

23 Paragraph 2.33(2)(a)

Omit “auditor’s”, substitute “RSE auditor’s”.

24 At the end of Part 2

Add:

Division 2.6—Remuneration and systemic transparency

2.37 Prescribed details

- (1) For paragraph 29QB(1)(a) of the Act, the details set out in the table relating to a person are prescribed.

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

Prescribed details		
Item	Condition (if any)	Details
General		
1		The person's name
2		(a) The date on which the person began holding the position; and (b) The date (if any) on which the person ceased to hold the position
3	If there has been a change in the chief executive officer, a director or a trustee of the registrable superannuation entity during the period	(a) The name of each person involved in the change; and (b) The position involved; and (c) The date on which the change occurred
4	If a person who is an executive officer (other than a trustee, director or chief executive officer) has retired during the period	(a) The person's name; and (b) The position involved; and (c) The date on which the retirement took effect
Payments and benefits		
5		The person's short-term employee benefits, divided into at least the following components: (a) cash salary, fees and short-term compensated absences; (b) short-term cash profit-sharing and other bonuses; (c) non-monetary benefits; (d) other short-term employee benefits
6		The person's post-employment benefits, divided into at least the following components: (a) pension and superannuation benefits; (b) other post-employment benefits
7		The person's long-term employee benefits other than benefits mentioned in items 6 and 7,

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

Prescribed details		
Item	Condition (if any)	Details
		separately identifying any amount attributable to a long-term incentive plan
8		The person's termination benefits
9	For any position the person started to hold during the financial year	Payments (if any) made to the person, before the person started to hold the position, as part of the consideration for the person agreeing to hold the position, including: (a) the monetary value of the payment; and (b) the date of the payment
10		Share-based payments made to the person, divided into at least the following components: (a) equity-settled share-based payment transactions, showing separately: (i) shares and units; and (ii) options and rights; (b) cash-settled share-based payment transactions; (c) all other forms of share-based payment compensation (including hybrids)
Compensation		
11	For each grant of a cash bonus, performance-related bonus or share-based payment compensation benefit made to a person, whether part of a specific contract for services or not	The terms and conditions of each grant affecting compensation in the reporting period or a future reporting period, including the following: (a) the grant date; (b) the nature of the compensation granted; (c) the service and performance criteria used to determine the amount of compensation;

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

Prescribed details		
Item	Condition (if any)	Details
		(d) if there has been any alteration of the terms or conditions of the grant since the grant date--the date, details and effect of each alteration;
		(e) the percentage of the bonus or grant for the financial year that was paid to the person, or that vested in the person, in the financial year;
		(f) the percentage of the bonus or grant for the financial year that was forfeited by the person (because the person did not meet the service and performance criteria for the bonus or grant) in the financial year;
		(g) the financial years, after the financial year to which the report relates, for which the bonus or grant will be payable if the person meets the service and performance criteria for the bonus or grant;
		(h) estimates of the maximum and minimum possible total value of the bonus or grant (other than option grants) for financial years after the financial year to which the report relates
12	For each contract for services between a person and the RSE licensee of the registrable superannuation entity	Any further explanation that is necessary to provide an understanding of: (a) how the amount of compensation in the current reporting period was determined; and (b) how the terms of the contract affect compensation in future periods
13	If the terms of share-based payment	(a) The date of the alteration; and

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

Prescribed details		
Item	Condition (if any)	Details
	transactions (including options or rights) granted as compensation to the executive officer have been altered or modified by the RSE licensee of the registrable superannuation entity during the reporting period	<ul style="list-style-type: none">(b) The market price of the underlying equity instrument at the date of the alteration; and(c) The terms of the grant of compensation immediately before the alteration, including:<ul style="list-style-type: none">(i) the number and class of the underlying equity instruments, exercise price; and(ii) the time remaining until expiry; and(iii) each other condition in the terms that affects the vesting or exercise of an option or other right; and(d) The new terms; and(e) The difference between:<ul style="list-style-type: none">(i) the total of the fair value of the options or other rights affected by the alteration immediately before the alteration; and(ii) the total of the fair value of the options or other rights immediately after the alteration
14	If options and rights over an equity instrument issued or issuable by the RSE licensee of the registrable superannuation entity or by a related body corporate have been provided as compensation to a person during the reporting period	<ul style="list-style-type: none">(a) The number of options and the number of rights that during the reporting period:<ul style="list-style-type: none">(i) have been granted; and(ii) have vested; and(b) The terms and conditions of each grant made during the reporting period, including:<ul style="list-style-type: none">(i) the fair value per option or right at grant date; and(ii) the exercise price per share or unit; and

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

Prescribed details

Item	Condition (if any)	Details
		(iii) the amount, if any, paid or payable by the recipient; and (iv) the expiry date; and (v) the date or dates when the options or rights may be exercised; and (vi) a summary of the service and performance criteria that must be met before the beneficial interest vests in the person
15	If an equity instrument that is issued or issuable by the RSE licensee of the registrable superannuation entity or by a related body corporate has been provided as a result of the exercise during the reporting period of options and rights that have been granted as compensation to a person	(a) The number of equity instruments; and (b) If the number of options or rights exercised differs from the number of equity instruments disclosed under paragraph (a)—the number of options or rights exercised; and (c) The amount paid per instrument; and (d) The amount unpaid per instrument
16	If monies are attributable to the service as a director and are not paid to the director	(a) The name of the organisation or entity to which the monies are paid; and (b) The amount paid for the service of the director

(2) If an expression mentioned in subregulation (1) is defined in a relevant accounting standard that is applied for the purpose of disclosing information, the expression has the meaning given by the accounting standard.

(3) For the table, an RSE licensee of a registrable superannuation entity must apply the requirements of relevant accounting standards when disclosing the information mentioned in the subregulation.

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (4) For items 5, 6, 7, 8 and 10 of the table, the information mentioned in the item must be disclosed for the previous 2 financial years.
- (5) However, subregulation (2) does not apply in relation to the first financial year in which paragraph 29QB(1)(a) of the Act applies in relation to a person.
- (6) For items 14 and 15 of the table, a disclosure required by the item must:
 - (a) be separated into each class of equity instrument; and
 - (b) identify each class of equity instrument by:
 - (i) the name of the issuing entity;
 - (ii) the class of equity instrument; and
 - (iii) if the instrument is an option or right—the class and number of equity instruments for which it may be exercised.

2.38 Obligation to make information publicly available—RSE licensee of registrable superannuation entity

- (1) This regulation is made for paragraph 29QB(1)(b) of the Act.
- (2) The following documents and information relating to the registrable superannuation entity are prescribed (if applicable):
 - (a) the trust deed;
 - (b) any amending or supplemental trust deed;
 - (c) the governing rules;
 - (d) rules relating to the nomination, appointment and removal of trustees or trustee directors;
 - (e) the most recent actuarial report for each defined benefit fund;
 - (f) each product disclosure statement;
 - (g) the annual report for the previous financial year;
 - (h) the financial services guide;
 - (i) a summary of each significant event or material change notice made to members;
 - (j) the name and Australian Business Number of each outsourced service provider, if applicable;
 - (k) the following information about each director, trustee, or person involved in the entity's trusteeship (*relevant person*):

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (i) the relevant person's name;
 - (i) the qualifications of the relevant person;
 - (ii) a summary of the relevant person's experience as a trustee or board member, including the periods during which the relevant person served as a trustee or board member;
 - (l) the record of attendance at board meetings for each director for:
 - (i) the past 10 years; or
 - (ii) if the director has served for a period of less than 10 years—that period;
 - (m) a register of relevant interests and a register of relevant duties;
 - (n) a summary of the conflicts management policy;
 - (o) the proxy voting policies;
 - (p) a summary of when, during the previous financial year, and how the entity has exercised its voting rights in relation to shares in listed companies.
- (3) The following documents or information relating to the RSE licensee are prescribed:
- (a) if the RSE licensee is a body corporate—the constitution;
 - (b) the annual financial statement for the previous financial year.
- (4) In this regulation:
- (a) a reference to a defined benefit fund includes a reference to a defined benefit sub-fund; and
 - (b) a requirement that is expressed to apply to a defined benefit fund may be met by the requirement being satisfied in relation to each defined benefit sub-fund in the defined benefit fund.

25 Subregulation 3A.03(2) (note)

Repeal the note.

26 Division 3A.2

Repeal the Division.

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

27 Regulations 4.01 and 4.02

Repeal the regulations, substitute:

4.01 Covenants in governing rules of superannuation entity— prescribed information and documents

For paragraphs 52(2)(j) and 52B(2)(h) of the Act, the information and documents that are available to a concerned person under section 1017C of the *Corporations Act 2001* are prescribed.

4.02 Covenants in governing rules of self-managed superannuation funds—beneficiary investment choice

- (1) This regulation is made for paragraph 52B(4)(b) of the Act.
- (2) The circumstances in which a direction, other than a subsequent direction, may be made by a specified beneficiary or class of beneficiaries are the following:
 - (a) the trustee:
 - (i) gives the beneficiary or class a choice of 2 or more strategies for investing the interest of the beneficiary or class in the fund; and
 - (ii) informs the beneficiary or class that the beneficiary or class may choose a strategy or combination of strategies;
 - (b) the beneficiary or class is fully informed of:
 - (i) the investment objectives of each strategy; and
 - (ii) anything else the trustee reasonably believes a person would need to know to understand the effect of, and any risk involved in, each strategy;
 - (c) the direction specifies:
 - (i) which strategy or combination of strategies the beneficiary or class has chosen; and
 - (ii) where applicable, matters related to the choice mentioned in subparagraph (i);

Example: The chosen strategy could be one that allows the beneficiary a choice in exposure to certain classes of asset. The beneficiary may choose 60% in fixed interest loans and 40% in shares. The choice of the level of exposure to the class of assets would be information for subparagraph (ii).

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (d) the beneficiary or class is fully informed of the range of directions that can be given and the circumstances in which they can be changed.

Note: Information regarding investment strategies is generally set out in a Product Disclosure Statement. However, a shorter Product Disclosure Statement may, in accordance with the modifications of the *Corporations Act 2001* set out in Part 5B of Schedule 10A to the *Corporations Regulations 2001*:

- (a) provide some of the information by applying, adopting or incorporating a matter in writing; or
 - (b) refer to information that is set out in another document.
- (3) A subsequent direction may be given in the following circumstances:
 - (a) the beneficiary or class is given all the information the trustee believes a person would need to understand the effect of, and any risk involved in, giving the subsequent direction;
 - (b) the subsequent direction relates to the strategy for investing the beneficiary or class's interest in the fund.

4.02A Governing rules of superannuation entity other than self managed superannuation fund—direction of investment option

- (1) This regulation is made for subparagraph 58(2)(d)(ii) of the Act.
- (2) If a beneficiary is a standard employer-sponsored member, the circumstances in which a direction other than a subsequent direction may be given by the beneficiary to take up, dispose of or alter the amount invested in an investment option are:
 - (a) the trustee:
 - (i) gives the beneficiary or class a choice of 2 or more strategies for investing the interest of the beneficiary or class in the fund; and
 - (ii) informs the beneficiary or class that the beneficiary or class may choose a strategy or combination of strategies;
 - (b) the beneficiary is fully informed of:
 - (i) the investment objectives of each strategy; and

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (ii) anything else the trustee reasonably believes a person would need to know to understand the effect of, and any risk involved in, each strategy;
 - (c) the direction specifies:
 - (i) which strategy or combination of strategies the beneficiary has chosen; and
 - (ii) where applicable, matters related to the choice mentioned in subparagraph (i).
- Example: The chosen strategy could be one that allows the beneficiary or class a choice in exposure to certain classes of asset. The beneficiary or class may choose 60% in fixed interest loans and 40% in shares. The choice of the level of exposure to the class of assets would be information for subparagraph (ii).
- Note: Information regarding investment strategies is generally set out in a Product Disclosure Statement. However, a shorter Product Disclosure Statement may, in accordance with the modifications of the *Corporations Act 2001* set out in Part 5B of Schedule 10A to the *Corporations Regulations 2001* provide some of the information by applying, adopting or incorporating a matter in writing; or refer to information that is set out in another document.
- (d) the beneficiary is fully informed of the range of directions that can be given and the circumstances in which they can be changed;
 - (e) the trustee, when presenting a choice of 2 or more investment strategies to the beneficiary, informs the beneficiary which strategy the trustee will adopt if no direction is given.
- (3) Disregard the circumstance in paragraph (2)(e) if it is a condition of membership that the beneficiary chooses a strategy or combination of strategies.
 - (4) If a beneficiary is not a standard employer-sponsored member, the circumstances in which a direction other than a subsequent direction may be given by the beneficiary to take up, dispose of or alter the amount invested in an investment option are the circumstances in paragraphs (2)(a) to (d).

28 Division 4.1A

Repeal the Division.

29 Subregulation 4.09(1)

Repeal the subregulation, substitute:

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

(1) This regulation:

- (a) is made for subsection 31(1) of the Act; and
- (b) applies to a superannuation entity that is a self managed superannuation fund.

30 Paragraph 4.09(2)(e)

Omit “for a self managed superannuation fund—”.

31 Regulations 4.14 to 4.17

Repeal the regulations.

32 Regulation 8.02A

Repeal the regulation, substitute:

8.02A Period within which an auditor must be appointed

For subsection 35C(1) of the Act, the prescribed period is not later than 45 days before the day by which section 35D of the Act requires a return to be lodged for 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.

33 Regulation 8.03

Repeal the regulation, substitute:

8.03 Period within which audit report must be given

For subsection 35C(6) of the Act, the period within which a report mentioned in that subsection must be given is 28 days after the trustee of the fund has provided all documents relevant to the preparation of the report to the auditor.

34 Regulation 8.04

Repeal the regulation.

35 Regulation 9.03

Omit “an actuary” (wherever occurring), substitute “a superannuation actuary”.

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

36 Paragraph 9.03(2)(b)

Omit “an auditor”, substitute “a superannuation auditor”.

37 Subregulation 9.03(5)

Omit “an auditor”, substitute “a superannuation auditor”.

38 Subregulation 9.03(5)

Omit “the auditor”, substitute “the superannuation auditor”.

39 Regulation 9.06 (paragraph (a) of the definition of *period of technical insolvency*)

Omit “the actuary”, substitute “the responsible actuary”.

40 Subregulation 9.19(5)

Omit “the actuary”, substitute “the responsible actuary”.

41 Regulation 9.24

Omit “the actuary’s” (wherever occurring), substitute “the responsible actuary’s”.

42 Subregulations 9.25(3), (4) and (5)

Repeal the subregulations, substitute:

- (3) In determining the priorities to be given to the remaining liabilities of the fund, the trustee must give an accumulation interest priority over a defined benefit interest.
- (4) If the fund’s minimum benefit index at the winding-up date is equal to or greater than 1, the benefit entitlement allocated to each individual member of the fund at the winding-up date must be an amount that is not less than the sum of such part of the following amounts that is attributable to that individual member:
 - (a) the funded minimum requisite benefit;
 - (b) the benefit entitlements of former members.
- (5) If the fund’s minimum benefit index at the winding-up date is less than 1, the benefit entitlement allocated to each individual member of the fund at the winding-up date must not be either:

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (a) greater than the amount that would be allocated to the individual member under subregulation (4) if that subregulation were applicable; or
 - (b) less than an amount calculated by multiplying the amount referred to in subregulation (4) in respect of that individual member by the fund's minimum benefit index at the winding-up date.
- (6) For subregulations (4) and (5), the *minimum benefit index* for a fund must be calculated using the formula set out in subregulation 9.15(1), with the modification that the total accumulation benefits in the fund must be subtracted from the numerator and the denominator in that formula.
- (7) In this regulation:
- fund* includes a sub-fund.

43 Division 9.5 (heading)

Repeal the heading, substitute:

9.5—Actuarial standards relating to defined benefit funds that are self-managed superannuation funds

44 Regulation 9.26

Repeal the regulation, substitute:

9.26 Application

This Division applies to a defined benefit fund that is a self-managed superannuation fund.

45 Regulation 9.27 (definition of *accrued benefits*)

Repeal the definition, substitute:

accrued benefits, in relation to a member of a defined benefit fund or a defined benefit sub-fund:

- (a) means the benefits to which the member has an absolute or potential entitlement at the valuation date on account of the length of time the member has been a member of the fund or sub-fund; and

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (b) includes any amount that would be payable out of the benefits mentioned in paragraph (a) to the member's spouse or former spouse under a payment split.

46 Regulation 9.27 (definition of *fully-funded*)

Repeal the definition.

47 Regulation 9.27 (definition of *valuation date*)

Repeal the definition, substitute:

valuation date, in relation to a defined benefit fund or sub-fund, means the date on which an investigation required under regulation 9.29 or 9.29A was carried out in relation to the fund or sub-fund.

48 Regulation 9.28

Repeal the regulation, substitute:

9.28 Prescription of standards

For the purposes of subsection 31(1) of the Act, the standards contained in regulations 9.29, 9.29A and 9.30 are prescribed as standards applicable to the operation of defined benefit funds that are self managed superannuation funds.

49 Regulations 9.29 to 9.33

Repeal the regulations, substitute:

9.29 Actuarial investigation standard

- (1) Subject to regulation 9.29A, a trustee of a defined benefit fund must require an initial actuarial investigation (the *first actuarial investigation*) to be made in relation to the fund as a whole or each defined benefit sub-fund in the fund.
- (2) If the first actuarial investigation is in relation to the fund as a whole it must be made:
 - (a) for a defined benefit fund in operation on 30 June 1994—at a date no later than 3 years after:

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (i) the date at which the last actuarial investigation of the fund as a whole was made; or
 - (ii) if no actuarial investigation has been made—the date of establishment of the fund or conversion of the fund to a defined benefit fund; or
 - (b) for a new fund—at the date of establishment or conversion of the fund.
- (3) If the first actuarial investigation is in relation to a defined benefit sub-fund in the fund it must be made:
- (a) for a defined benefit sub-fund in operation on 30 June 1994—at a date no later than 3 years after:
 - (i) the date at which the last actuarial investigation of the sub-fund was made; or
 - (ii) if no actuarial investigation was made—the date of establishment of the sub-fund or conversion of the sub-fund to a defined benefit sub-fund; or
 - (b) for a new defined benefit sub-fund—at the date of establishment or conversion of the sub-fund.
- (4) A trustee of a defined benefit fund or sub-fund must, after the first actuarial investigation has been made in relation to the fund or sub-fund, require regular actuarial investigations to be made in relation to the fund or sub-fund at least every 3 years.
- (5) The Commissioner of Taxation may direct the trustee of the fund or sub-fund, in writing, to require an actuarial investigation to be made in relation to the fund or sub-fund, if the Commissioner of Taxation considers, on reasonable grounds, that to do so would be:
- (a) in the prudential interests of the fund or sub-fund; and
 - (b) in the best interests of the members or beneficiaries of the fund or sub-fund.
- (6) The trustee of the fund or sub-fund must comply with a written direction under subregulation (5).

9.29A Actuarial investigation standard—exemption

- (1) Regulation 9.29 does not apply to a defined benefit fund or a defined benefit sub-fund to which this regulation applies.

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (2) This regulation applies to a defined benefit fund or a defined benefit sub-fund that pays a defined benefit pension to at least one member.
- (3) The trustee must require annual actuarial investigations to be made in relation to the fund or sub-fund, starting from the day that is 1 year after the day on which the fund or sub-fund made the first defined benefit pension payment.

9.30 Actuarial reporting standard

- (1) A trustee of a defined benefit fund or a defined benefit sub-fund must obtain an actuarial report in accordance with this regulation in relation to each investigation that is required to be made under regulation 9.29 or 9.29A in relation to the fund or sub-fund.
- (2) The actuarial report must be obtained within the period of 12 months commencing on the date immediately following the valuation date in relation to the fund or sub-fund.
- (3) The actuarial report must contain the information mentioned in regulation 9.31.

9.31 Contents of actuarial report

- (1) For regulation 9.30, an actuarial report must contain, in addition to any other required information:
 - (a) a statement of the value of the assets of the fund or sub-fund at the valuation date; and
 - (b) a statement of the SMSF actuary's opinion on whether, at the valuation date, the value of the fund's or sub-fund's assets is adequate to meet the value of the fund or sub-fund's liabilities in relation to the accrued benefits of members of the fund or sub-fund; and
 - (c) for a regulated superannuation fund that has at least one defined benefit member who is being paid a defined benefit pension from the fund, but which has no defined benefit sub-funds—a statement of the SMSF actuary's opinion on whether, at the valuation date, there is a high degree of probability that the defined benefit fund will be able to pay the pension as required under the fund's governing rules; and

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (d) for a defined benefit sub-fund from which at least one defined benefit member is being paid a defined benefit pension—a statement of the SMSF actuary’s opinion on whether, at the valuation date, there is a high degree of probability that the defined benefit sub-fund will be able to pay the pension as required under the fund’s governing rules.
 - (e) a statement recommending, in relation to the 3-year period immediately following the valuation date:
 - (i) the rate at which, or the range of rates within which, the SMSF actuary considers employer contributions should be made; or
 - (ii) if the SMSF actuary considers employer contributions should be made at different rates or within different ranges in respect of 2 or more periods within the 3-year period—those rates or ranges of rates; and
 - (f) a statement, made in accordance with subregulations (3) and (4), regarding the financial position of the fund or the sub-fund; and
 - (g) if the fund or sub-fund, has been used to reduce or remove the superannuation guarantee charge imposed by section 5 of the *Superannuation Guarantee Charge Act 1992*:
 - (i) a statement that all funding and solvency certificates required under this Part during the period of the investigation to which the report relates were obtained; and
 - (ii) a statement of the SMSF actuary’s opinion regarding the likelihood of an actuary being able to certify the solvency of the fund or sub-fund in any funding and solvency certificate that may be required under these regulations during the 3-year period immediately following the valuation date; and
 - (h) if a prescribed event for paragraph 342(4)(a) has occurred in relation to the grant or transfer of a pre-1 July 1988 funding credit—a statement that the prescribed event has occurred.
- (2) In forming an opinion mentioned in paragraph (1)(b), (1)(c) or (1)(d), the SMSF actuary must consider:
- (a) the position of the fund or sub-fund at the valuation date; and

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (b) the likely future position of the fund or sub-fund during the 3 years immediately following the valuation date, based on the SMSF actuary's reasonable expectations.
- (3) In making a statement regarding financial position under paragraph (1)(f), the SMSF actuary must indicate whether the financial position of the fund or sub-fund, is treated as unsatisfactory under regulation 9.04 and whether that position may, in the SMSF actuary's opinion, be about to become unsatisfactory, taking into consideration the matters referred to in regulation 9.03.
- (4) If, in a statement made under paragraph (1)(f), the SMSF actuary considers that the stated financial position of the fund or sub-fund is dependent on certain actions being taken, or certain schemes being implemented, the SMSF actuary must indicate this and must include in the statement a detailed description of those actions or schemes.

50 Subregulation 9.44(1)

Omit "an accumulation fund's actuary", substitute "the fund's actuary".

51 After regulation 9.46

Insert:

9.46A Notification—periodic statements

- (1) This regulation is made for subsection 29SAA(3) of the Act.
- (2) An RSE licensee to whom section 29SAA of the Act applies must give a member of the fund mentioned in paragraph 29SAA(a) or (b) of the Act a notice in writing.
- (3) The notice must mention the following:
 - (a) the RSE licensee's obligation to:
 - (i) attribute or transfer the accrued default amount by 30 June 2017; and
 - (ii) promote the financial interests of the member in relation to a MySuper product held by the member; and
 - (b) the accrued default amount; and
 - (c) either:

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (i) if the RSE licensee has identified a MySuper product to which the RSE licensee proposes to attribute or transfer the accrued default amount—the name of the MySuper product, and when the proposed attribution or transfer will occur; or
 - (ii) if the RSE licensee has not identified a MySuper product—why the RSE licensee has not done so, and what the RSE licensee has done, and will do, to do so.
- (4) The notice must be given to the member with:
- (a) the first periodic statement sent to the member after the RSE licensee has identified the accrued default amount; and
 - (b) each subsequent periodic statement sent to the member until the accrued default amount is attributed to a MySuper product in the fund or transferred to a MySuper product in another fund.

9.47 Other factors that may be used for a lifecycle investment strategy in a MySuper product

For paragraph 29TC(2)(b) of the Act, the factors are:

- (a) the member's:
 - (i) account balance; and
 - (ii) contribution rate; and
 - (iii) current salary; and
 - (iv) gender; and
- (b) the time remaining, in the opinion of the trustee, before the member could be expected to retire.

9.48 Limitation imposed by governing rules

- (1) For paragraph 29TC(3)(a) of the Act, the governing rules of a regulated superannuation fund may impose a limitation on a contribution to the fund by a member who holds a beneficial interest in a MySuper product of the fund if the contribution is a transfer from a foreign superannuation fund.
- (2) In this regulation:

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

foreign superannuation fund has the meaning given by section 995-1 of the 1997 Tax Act.

52 Part 10

Repeal the Part, substitute:

Part 10—Eligible rollover funds

10.01 Application for authority to operate eligible rollover fund

For subsection 242A(1) of the Act, the following may apply to APRA for authority to operate a regulated superannuation fund as an eligible rollover fund:

- (a) the class of RSE licensee that holds a public offer entity licence;
- (b) the class of RSE licensee that holds an extended public offer entity licence.

Note: For extended public offer entity licences, see regulation 3A.03.

10.02 Payment of benefit to eligible rollover fund

- (1) For paragraph 243(1)(b) of the Act, 1 July 1995 is the date from which section 243 of the Act applies to a person.
- (2) For paragraph 243(1)(c) of the Act, the condition is that the beneficiary is not a non-member spouse whose entitlement under a payment split is to be dealt with under regulation 7A.16.
- (3) For paragraph 243(3)(b) of the Act, the amount of the consideration for the issue of a superannuation interest:
 - (a) is the amount of the beneficiary's withdrawal benefit in the transferor fund; and
 - (b) does not include any amount that would be payable to the member's spouse or former spouse under a payment split.

Note: Section 243 of the Act sets out the circumstances in which the trustee of a fund may apply to an eligible rollover fund, on behalf of a beneficiary of the fund, for the issue of a superannuation interest in the eligible rollover fund to the beneficiary.

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

10.03 Operating standard—eligible rollover funds

- (1) For section 31(1) of the Act, this standard applies to the trustee of an eligible rollover fund.
- (2) The trustee must accept payment of benefits, other than pension benefits, paid from a superannuation fund, other than an eligible rollover fund.

53 Regulations 11.07 and 11.07AA

Repeal the regulations, substitute:

11.07 Operating standard—disclosure of certain information (funds other than self managed superannuation funds)

- (1) This standard:
 - (a) is made for subsections 31(1), 32(1) and 33(1) of the Act; and
 - (b) applies to a superannuation entity other than a self managed superannuation fund.
- (2) The trustee of the entity must give written notice to the Regulator of any change in the following:
 - (a) the name of the entity;
 - (b) the postal address, registered address or address for service of notices of the entity;
 - (c) details of the contact person for the entity, and contact telephone and facsimile numbers;
 - (d) the RSE licensee of the entity.
- (3) The notice for subregulation (2) must be given:
 - (a) for a superannuation entity that is an eligible rollover fund—immediately after the change; or
 - (b) in any other case—within 28 days of the change.
- (4) An RSE licensee who is an incoming trustee of the entity must give written notice of that fact to the Regulator.
- (5) The notice for subregulation (4) must be given:
 - (a) as soon as practicable after the RSE licensee becomes a trustee of the entity; and

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (b) no later than 5 days after the date on which the RSE licensee becomes a trustee of the entity.
- (6) The trustee of the entity must give written notice to the Regulator of a decision or resolution:
 - (a) to wind up the entity; or
 - (b) to retire as a trustee of the entity.
- (7) The notice for subregulation (6) must be given
 - (a) as soon as practicable after the making of the decision or resolution; and
 - (b) before the winding up has commenced or the trustee has retired.
- (8) The trustee of the entity must give written notice to the Regulator of a change in class of the RSE.
- (9) The notice for subregulation (8) must be given before, or as soon as practicable after, the change in the class.

11.07AA Operating standard—disclosure of certain information (self managed superannuation funds)

- (1) This regulation is made for subsection 31(1) of the Act.
- (2) The trustee of a self managed superannuation fund must give written notice to the Regulator of any change in the following:
 - (a) the name of the fund;
 - (b) the postal address, registered address or address for service of notices of the fund;
 - (c) details of the contact person for the fund, and contact telephone and facsimile numbers;
 - (d) the membership of the fund;
 - (e) the trustees of the fund;
 - (f) the directors of the fund's corporate trustee.
- (3) The notice for subregulation (2) must be given:
 - (a) using the approved form; and
 - (b) within 28 days after the change.

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

54 After regulation 11.07A

Insert:

11.08 Operating standard—disclosure of successor fund transfer

- (1) For subsections 31(1) and 32(1) of the Act, it is a standard applicable to the operation of a superannuation entity, other than a pooled superannuation trust or a self managed superannuation fund, that the trustee must give notice in writing to the Regulator, in accordance with subregulation (2), of a decision to transfer a member's benefits from the fund, without the member's consent.
- (2) Notice under subregulation (1) must be given:
 - (a) as soon as practicable after the making of the decision to transfer the member's benefits from the fund; or
 - (b) if the fund is being wound up—before the winding up is commenced.

55 Part 11A

Repeal the Part, substitute:

Part 11A—Register to be kept by APRA

11A.01 Source of power for this Part

This Part is made for subsection 353(1) of the Act.

Note: See subsection 353(2) of the Act.

11A.02 Definition

In this Part:

Register means the register kept by APRA under this Part.

11A.03 APRA must keep register

- (1) APRA must keep a register of:
 - (a) registrable superannuation entities that have been registered under Part 2B of the Act; and

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (b) the RSE licensees of those entities.
- (2) APRA may determine the form and manner in which the Register is kept.
 - Note: The form of register determined by APRA must be a form that would allow the register to be inspected and copied under subregulation (3).
- (3) A person may:
 - (a) inspect the Register; and
 - (b) make a copy of, or take extracts from, the Register.

11A.04 Regulated superannuation funds

The Register must contain the following information for each registrable superannuation entity that is a regulated superannuation fund:

- (a) the name of the entity;
- (b) the postal address of the entity;
- (c) the registered address of, or an address for service of notices on, the entity;
- (d) a contact person and contact telephone and facsimile numbers for the entity;
- (e) the status of the entity under section 42 of the Act;
- (f) the Australian Business Number (the **ABN**) of the entity;
- (g) the class of RSE licence held by the RSE licensee;
- (h) for each MySuper product of the entity:
 - (i) the name of the MySuper product; and
 - (ii) the unique identifier of the MySuper product; and
 - (iii) whether the type of MySuper authorisation held by the entity is generic, large employer or goodwill; and
 - (iv) for an entity that has a large employer authorisation, for each MySuper product authorised—the name and ABN of each associated large employer;
- (i) whether the entity is an eligible rollover fund;
- (j) for an RSE licensee that is a body corporate—the RSE licensee's:
 - (i) name; and
 - (ii) registered address; and
 - (iii) telephone number; and

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

- (iv) ABN;
- (k) for an RSE licensee that is a group of individual trustees:
 - (i) the ABN of the RSE licensee; and
 - (ii) the name of each individual trustee who is a member of the group.

11A.05 Approved deposit funds

The Register must contain the following information for each registrable superannuation entity that is an approved deposit fund:

- (a) the name of the entity;
- (b) the postal address of the entity;
- (c) the registered address of, or an address for service of notices on, the entity;
- (d) a contact person and contact telephone and facsimile numbers for the entity;
- (e) the status of the entity under section 43 of the Act;
- (f) the ABN of the entity;
- (g) the class of RSE licence held by the RSE licensee;
- (h) the RSE licensee's:
 - (i) name; and
 - (ii) registered address; and
 - (iii) telephone number; and
 - (iv) ABN.

11A.06 PSTs

The Register must contain the following information for each registrable superannuation entity that is a PST:

- (a) the name of the entity;
- (b) the postal address of the entity;
- (c) the registered address of, or an address for service of notices on, the entity;
- (d) a contact person and contact telephone and facsimile numbers for the entity;
- (e) the status of the entity under section 44 of the Act;
- (f) the ABN of the entity;
- (g) the class of RSE licence held by the RSE licensee;

EXPOSURE-DRAFT

Schedule 1 Amendments commencing 1 July 2013

- (h) the RSE licensee's:
- (i) name; and
 - (ii) registered address; and
 - (iii) telephone number; and
 - (iv) ABN.

56 Amendments of listed provisions

Amendments of listed provisions—superannuation actuary			
Item	Provision	Omit (wherever occurring)	Substitute
1	Regulation 9.03	an actuary	a superannuation actuary
2	Regulation 9.06	an actuary	a superannuation actuary
3	Subregulations 9.08(3) and (4)	the actuary	the superannuation actuary
4	Subregulation 9.08(4)	an actuary	a superannuation actuary
5	Subregulation 9.08(5)	the actuary	the superannuation actuary
6	Regulation 9.09	an actuary	a superannuation actuary
7	Subregulation 9.10(1)	an actuary	a superannuation actuary
8	Subregulation 9.10(1)	the actuary	the superannuation actuary
9	Regulations 9.11 and 9.12	the actuary	the superannuation actuary
10	Subregulation 9.13(4)	an actuary	a superannuation actuary
11	Subregulation 9.13(4)	the actuary	the superannuation actuary
12	Subregulation 9.16(1)	an actuary	a superannuation actuary
13	Subregulation 9.16(1)	the actuary	the superannuation actuary
14	Paragraph 9.17(a)	an actuary	a superannuation actuary
15	Paragraph 9.17(a)	the actuary	the superannuation actuary
16	Subregulation 9.18(9)	an actuary	a superannuation actuary
17	Paragraphs 9.18(9)(b) and (d)	the actuary	the superannuation actuary
18	Subregulation 9.19(3)	an actuary	a superannuation actuary
19	Subregulation 9.23(1)(b)	actuary	superannuation actuary
20	Subregulation 9.35(1) (definition of <i>fund's</i>)	an actuary	a superannuation actuary

EXPOSURE-DRAFT

Amendments commencing 1 July 2013 **Schedule 1**

Amendments of listed provisions—superannuation actuary			
Item	Provision	Omit (wherever occurring)	Substitute
	<i>actuary</i>)		
21	Regulations 9.38 and 9.39	an actuary	a superannuation actuary
22	Subregulation 9.41(1) (definition of <i>fund's actuary</i>)	an actuary	a superannuation actuary
23	Subregulation 12.05(4)	an actuary	a superannuation actuary
24	Subregulation 12.05(4)	the actuary	the superannuation actuary
25	Subregulation 12.06(4)	an actuary	a superannuation actuary
26	Regulation 12.07	an actuary	a superannuation actuary
27	Paragraph 12.07(b)	the actuary	the superannuation actuary
28	Subregulation 12.11(2)	an actuary	a superannuation actuary
29	Regulations 12.15 and 12.19	an actuary	a superannuation actuary

EXPOSURE-DRAFT

Schedule 2 Amendments commencing on 1 July 2015

Schedule 2—Amendments commencing on 1 July 2015

Corporations Regulations 2001

1 Paragraph 7.6.04(1)(a)

Omit “if the financial services licensee is not a body regulated by APRA—”, substitute “subject to subregulation (1A)—”.

2 After subregulation 7.6.04(1)

Insert:

(1A) Paragraph (1)(a) does not apply to a body regulated by APRA, unless the body is an RSE licensee that is also the responsible entity of a registered scheme.