
Chapter 1

Superannuation – Funds and RSAs must notify members about contributions quarterly or six-monthly

Outline of chapter

Schedule 7 of this Bill amends the *Corporations Act 2001* (the Corporations Act) to require superannuation funds and RSA providers to report to their members either quarterly or six-monthly, detailing the contributions which they have received. In addition, a new provision in the *Superannuation Industry (Supervision) Act 1993* (SIS Act) will enable APRA to take action if funds or RSAs do not comply with the new requirements.

Context of amendments

1. Unfortunately some employers fail to pay their employees' superannuation entitlements. Employees worst affected tend to be low-income, casual or part-time workers. The fund notification measure, which forms part of the Securing Super package, will provide greater protection for these vulnerable workers.
2. The fund notification measure forms part of the *Securing Super* package, announced as an election commitment during the 2010 election campaign. The measure will require APRA-regulated superannuation funds and RSA providers either:
 - to notify members that they have either 'received' or 'not received' contributions during the quarter, and maintain a web-based portal for members to consult. This would apply to members with active accounts, and would require quarterly, electronic notification; or
 - to issue six-monthly notices to members, with active accounts, which show contributions made.
3. This measure will ensure that employees find discrepancies earlier, and that they bring them to the ATO's notice sooner.
4. This measure will also ensure that members remain more engaged with their superannuation.

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Summary of new law

5. The measure will require superannuation funds and RSA providers to report contributions to active members, within 42 days after the end either of a quarter or a six-month period. The new requirement will apply to contributions received from 1 July 2013, with the first statements due after the end of the first quarter or six month period.
6. If they choose to report quarterly, they must send a message by email (or, if email is not possible, by SMS message) to the member, saying that they either have or have not received (as appropriate) contributions during the quarter. They must provide a web-based portal on which the member can confirm the contributions for themselves. They should collect electronic addresses for members when opening new accounts and when sending out paper based statements.
7. If they choose to report six-monthly, they must provide a statement by post detailing contributions and associated fees, charges and taxes. Members can also request paper based statements instead of electronic notification.
8. The new requirements do not apply to self managed superannuation funds, defined benefit interests or exempt public sector superannuation funds.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Funds will be required to report contributions to their members quarterly or six-monthly.	Funds are only required to report regular employer contributions to members in their annual statements, which can be up to eighteen months after a transaction. (Funds are however required to confirm irregular contributions when they are made.)

Detailed explanation of new law

9. Sections 1 to 4 of this schedule insert new terms into the definitions section of the Corporations Act (in this case, in section 761A, near the beginning of the financial services and markets chapter of the Corporations Act). The new provisions define:
 - a ‘6 month period’ as beginning on 1 January or 1 July;

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- a quarter as a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October;
- an active member as having the meaning given by the new subsection 1017CA(7) below; and
- a defined benefit interest as having the meaning given by the Superannuation Industry Supervision Regulation 1.03(1).
[Schedule X, items 1 to 4]

10. Section 5 of this schedule inserts a new section (1017CA) into the Corporations Act, requiring funds and RSAs either to:

- issue electronic statements quarterly advising members whether they have received contributions; or
- issue more complete statements on paper, by post, showing contributions received in the previous six months.

11. Where funds or RSAs choose the first option, they could say something like ‘You have received contributions into your XYZ superannuation account. Check your contributions online’, or ‘You have not received contributions into your XYZ account. Check your contributions online.’

12. If they are using email, they could say: ‘We do not supply a clickable link because of the danger presented by fraudulent emails. Please check the following web address carefully, and type it in to your web browser to see the contributions in your account: www...’. We do not want to encourage people to respond to fraudulent and/or phishing emails. *[Schedule X, item 5, sub paragraphs 1017CA(1)(a) and (b)]*

13. The new requirements do not apply to contributions:

- towards a defined benefit interest (though funds must report any contributions which relate to an accumulation element of a hybrid fund);
- received by self managed superannuation funds; or
- received by exempt public sector superannuation schemes, as defined in section 10 of the SIS Act. *[Schedule X, item 5, subsection 1017CA(2)]*

14. Nor do the new requirements apply to inactive accounts: accounts which have received no contributions, roll overs or transfers in the previous 2 years, or new accounts which are more than six months old, and which have never received contributions, rollovers or transfers. *[Schedule X, item 5, subsections 1017CA(1) and (7)]*

15. Funds or RSAs must report within 42 days after the end of the period concerned. *[Schedule X, item 5, subsection 1017CA(3)]*

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16. Funds or RSAs who choose to send their statements electronically must do so by email if possible, and by SMS message if email is not possible. *[Schedule X, item 5, subsection 1017CA(5)]*

17. These funds or RSAs must provide a web based portal, either directly or through a fund administrator, on which the member can find:

- the name of the fund or provider;
- details of each contribution or rollover during the quarter, including:
 - the date of the transaction;
 - a description of the transaction;
 - any fees or charges relating to the transaction;
 - any taxes paid or payable in relation to the transaction;and
- any information required by the regulations.

[Schedule X, item 5, subsection 1017CA(10)]

18. Members can elect not to give their electronic addresses to funds or RSAs, in which case funds or RSAs must send out a six-monthly statement, on paper, by post. Members can also request a paper based statement after the end of any six month period. The fund must comply with such requests. *[Schedule X, item 5, subsection 1017CA(8) and (9)]*

19. If a fund becomes aware that it has provided incorrect information, it must send the member a corrected statement within 14 days of becoming aware of the error. The statement must be sent by post. *[Schedule X, item 5, subsection 1017CA(11)]*

20. Funds and RSAs must retain records of notifications for seven years. *[Schedule X, item 5, subsection 1017CA(12) and (13)]*

21. Schedule X, item 6 inserts a new provision into the SIS Act, nominating the new provisions above, in the Corporations Act, as regulatory provisions for the purposes of the SIS Act. This allows APRA to take action if funds or RSAs do not comply with the new requirements. *[Schedule X, item 6]*

22. Schedule X, item 7 applies the new requirements from 42 days after the end of the first period after 1 July 2013. *[Schedule X, item 7]*

Application and transitional provisions

23. These amendments apply in relation to contributions for the financial year beginning on 1 July 2013.

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24. No transitional provisions are required to give effect to the measure.

Consequential amendments

25. Nil

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