

EXPLANATORY MEMORANDUM

Minute No. _____ of 2012 - Minister for Financial Services and Superannuation

Subject - *Superannuation Industry (Supervision) Act 1993*

Superannuation Industry (Supervision) Regulations 2012 (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) specify the period within which an appointed auditor must give their audit report to the trustees of a self managed superannuation fund (SMSF). The prescribed period is currently the period ending on the day before the SMSF trustees are required to lodge their annual return.

The purpose of the proposed Regulation is to amend the SIS Regulations to ensure that SMSF auditors do not contravene the SIS Regulations if they cannot provide the audit report within the prescribed period due to certain circumstances beyond their control. This would give effect to a suggestion made through the Tax Issues Entry System (TIES 0030-2010).

The proposed Regulation would provide that the prescribed period within which SMSF trustees must appoint an auditor is the period ending 45 days before the due date for lodgement of the SMSF annual return. The prescribed period for appointment of an auditor is currently the period ending 30 days before the date that the auditor must give their audit report. The amendment would ensure that the prescribed period for the appointment of an auditor does not vary when the prescribed period within which the auditor must give their report is extended.

The proposed Regulation would also provide that the prescribed period for which an audit report in respect of an SMSF 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.

There would be no change to the prescribed periods for the provision of audit reports to public offer entities and other superannuation entities.

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

The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The proposed Regulation would commence on the day after it is registered.

The Minute recommends that the Regulation be made in the form proposed.

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