

EXPOSURE-DRAFT

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Inserts for
**Superannuation Legislation Amendment
(Stronger Super and Other Measures)
Bill (No. 2) 2012: Data standards tranche
2**

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Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Schedule ?, Part 1, Division 1	The day after this Act receives the Royal Assent.	
2. Schedule ?, Part 1, Division 2	Immediately after the commencement of the provision(s) covered by table item [<i>to be drafted—contingent on SMSF auditor registration measure</i>].	
3. Schedule ?, Part 1, Division 3	The day after this Act receives the Royal Assent.	
4. Schedule ?, Part 2	<i>To be drafted.</i>	
5. Schedule ?, Part 3	The day after this Act receives the Royal Assent.	

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2 **Schedule ?—Improving information quality in**
3 **the superannuation system**

4 **Part 1—Superannuation Industry (Supervision) Act**
5 **1993**

6 **Division 1—Information register for data and payment**
7 **standards**

8 *Superannuation Industry (Supervision) Act 1993*

9 **1 Subsection 10(1)**

10 Insert:

11 *eligible superannuation entity* has the same meaning as in
12 Part 25A.

13 **2 Subsection 10(1)**

14 Insert:

15 *superannuation data and payment regulations and standards*
16 means:

- 17 (a) the regulations made under section 34K; and
18 (b) the standards made by the Commissioner of Taxation under
19 that section.

20 **3 Division 4 of Part 3B (heading)**

21 Repeal the heading, substitute:

22 **Division 4—Information**

23 **4 Before section 34X**

24 Insert:

25 **Subdivision A—Correction and rectification of information**

26 **5 At the end of Division 4 of Part 3B**

27 Add:

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1 Subdivision B—Register of information about certain 2 superannuation entities

3 34Y Register of information about certain superannuation entities

- 4 (1) The Commissioner of Taxation must keep a register of information
5 for the purposes of this Part.
- 6 (2) The Commissioner of Taxation may maintain the register by
7 electronic means.
- 8 (3) The register is not a legislative instrument.
- 9 (4) The Commissioner of Taxation may cause the contents of all or
10 part of the register to be made available to:
- 11 (a) entities that must comply with the superannuation data and
12 payment regulations and standards; and
13 (b) regulated exempt public sector superannuation schemes.

14 *Contents of the register*

- 15 (5) The register must contain the information given to the
16 Commissioner of Taxation in accordance with section 34Z.
- 17 (6) The register may contain information:
- 18 (a) relating to regulated exempt public sector superannuation
19 schemes; and
20 (b) of the kind given to the Commissioner of Taxation in
21 accordance with section 34Z.

22 34Z Trustees to provide information for inclusion in register

- 23 (1) The following matters may be prescribed by regulation:
- 24 (a) information that is required to be given to the Commissioner
25 of Taxation in accordance with this section in relation to
26 prescribed eligible superannuation entities;
- 27 (b) the manner and form (including electronic form) in which the
28 prescribed information is to be provided;
- 29 (c) the time at which, or period within which, the prescribed
30 information is to be provided.
- 31 (2) Each trustee of a prescribed eligible superannuation entity must
32 ensure that the prescribed information in relation to the entity is
33 given to the Commissioner of Taxation in accordance with the
34 regulation.

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Contravening requirement to give information

- (3) A person commits an offence of strict liability if the person contravenes subsection (2).

Penalty: 25 penalty units.

Note: For offences of strict liability, see subsection 6.1(1) of the *Criminal Code*.

34ZA Information not on register to be provided within 1 business day

- (1) If:

- (a) an entity (the *requiring entity*) requires particular information (the *required information*) in order to deal with a superannuation data and payment matter in a manner that complies with:
- (i) the superannuation data and payment regulations and standards; or
 - (ii) regulations and standards made under Part 4A of the *Retirement Savings Accounts Act 1997*; and
- (b) the required information relates to another entity that is an eligible superannuation entity (the *information holder*) prescribed by regulation made for the purposes of this section; and
- (c) the required information is not available to the requiring entity on the register kept by the Commissioner of Taxation under section 34Y;

the requiring entity may give a trustee of the information holder a written notice asking for the required information to be provided.

- (2) Each trustee of the information holder must ensure that the required information is provided to the requiring entity within 1 business day of receipt of the notice.

Contravening requirement to give information

- (3) A person commits an offence of strict liability if the person contravenes subsection (2).

Penalty: 25 penalty units.

Note: For offences of strict liability, see subsection 6.1(1) of the *Criminal Code*.

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1 Division 2—Monitoring

2 *Superannuation Industry (Supervision) Act 1993*

3 **6 Subsection 10(1)**

4 Insert:

5 *contributing employer* means an employer having dealings to
6 which the superannuation data and payment regulations and
7 standards apply.

8 **7 After paragraph 253(a)**

9 Insert:

10 (aa) to ensure that the Regulator has sufficient power to monitor
11 employers' compliance with Part 3B (superannuation data
12 and payment regulations and standards); and

13 **8 After paragraph 255(1)(b)**

14 Insert:

15 ; or (c) a contributing employer;

16 **9 Subsection 255(1)**

17 Omit “require the relevant person”, substitute “require the relevant
18 person, or the contributing employer (as the case requires)”.

19 **10 At the end of subsection 255(1)**

20 Add “, or the obligations of the contributing employer under Part 3B”.

21 **11 Subsection 256(1)**

22 Omit “or approved SMSF auditor”, substitute “, contributing employer
23 or approved SMSF auditor”.

24 **12 At the end of Division 2 of Part 25**

25 Add:

26 **256A Alternative constitutional basis**

27 Without limiting its effect apart from this section, this Part also has
28 the effect it would have if each reference to a contributing
29 employer were, by express provision, confined to an employer that
30 is a corporation to which paragraph 51(xx) of the Constitution
31 applies.

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13 At the end of section 287

Add:

- (5) This section does not apply to a person who is a contributing employer if the requirement mentioned in subsection (1) relates to the superannuation data and payment regulations and standards.

Division 3—Tax file numbers

Superannuation Industry (Supervision) Act 1993

14 At the end of Division 1 of Part 25A

Add:

299CA Employer may use tax file number for purpose of checking

- (1) This section applies if, after the commencement of this section, an employee quotes his or her tax file number to the employee's employer in connection with the operation, or the possible future operation, of this Act and the other Superannuation Acts.
- (2) The employer may use the tax file number in a manner connecting it with the person's identity for the purpose of asking the Commissioner of Taxation to validate information about the person under section 299TE.

15 After section 299LA

Insert:

299LB Trustee may use tax file number for purpose of checking

- (1) This section applies if a person who is a beneficiary of an eligible superannuation entity, or of a regulated exempt public sector superannuation scheme, or an applicant to become such a beneficiary, quotes his or her tax file number to a trustee of the entity or scheme in connection with the operation, or the possible future operation, of this Act and the other Superannuation Acts.
- (2) The trustee may use the tax file number in a manner connecting it with the person's identity for the purpose of asking the Commissioner of Taxation to validate information about the person under section 299TD.

16 Division 3A of Part 25A (heading)

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1 Repeal the heading, substitute:

2 **Division 3A—Commissioner of Taxation may issue notices**
3 **about tax file numbers**

4 **17 Subsection 299TA(1)**

5 After “Commissioner”, insert “of Taxation (the *Commissioner*)”.

6 **18 Subsection 299TB(1)**

7 After “Commissioner”, insert “of Taxation (the *Commissioner*)”.

8 **19 At the end of Division 3A of Part 25A**

9 Add:

10 **299TC Commissioner of Taxation may inform trustee of tax file**
11 **number**

12 The Commissioner of Taxation (the *Commissioner*) may give the
13 trustee of an eligible superannuation entity or a regulated exempt
14 public sector superannuation scheme notice of the tax file number
15 of a person if:

- 16 (a) the person is a beneficiary of the eligible superannuation
17 entity or the regulated exempt public sector superannuation
18 scheme; and
19 (b) the person has quoted his or her tax file number to another
20 person in connection with the operation or the possible future
21 operation of this Act and the other Superannuation Acts.

22 **299TD Validation notice—beneficiaries of eligible superannuation**
23 **entities**

24 (1) If:

- 25 (a) the Commissioner of Taxation (the *Commissioner*) receives,
26 from the trustee of an eligible superannuation entity or a
27 regulated exempt public sector superannuation scheme, the
28 information mentioned in subsection (2) about a person; and
29 (b) the Commissioner is satisfied that:
30 (i) the person is a beneficiary of the entity or scheme, or an
31 applicant to become such a beneficiary; and
32 (ii) the trustee is giving the information to the
33 Commissioner in connection with the operation of the
34 entity or scheme;

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1 the Commissioner may give the trustee a notice stating whether or
2 not the Commissioner is able to validate the information.

- 3 (2) The information the Commissioner receives from the trustee:
4 (a) must include the following information about the person:
5 (i) full name;
6 (ii) tax file number;
7 (iii) date of birth; and
8 (b) may include the person's address.
- 9 (3) To avoid doubt, a notice that the Commissioner is not able to
10 validate the information is not a notice under section 299TB.

11 **299TE Validation notice—employees**

- 12 (1) If:
13 (a) the Commissioner of Taxation (the *Commissioner*) receives,
14 from an employer, the information mentioned in
15 subsection (2) about a person; and
16 (b) the Commissioner is satisfied that:
17 (i) the person is an employee of the employer for whose
18 benefit a contribution to an eligible superannuation
19 entity or a regulated exempt public sector
20 superannuation scheme is to be made; and
21 (ii) the employer is giving the information to the
22 Commissioner in connection with the operation of the
23 entity or scheme;
24 the Commissioner may give the employer a notice stating whether
25 or not the Commissioner is able to validate the information.
- 26 (2) The information the Commissioner receives from the employer:
27 (a) must include the following information about the person:
28 (i) full name;
29 (ii) tax file number;
30 (iii) date of birth; and
31 (b) may include the person's address.

32 **299TF Commissioner of Taxation may provide electronic interface**

33 The Commissioner of Taxation may use an electronic interface to
34 receive information and give notices under this Division.
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Part 2—Retirement Savings Accounts Act 1997

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To be drafted.

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2 **Part 3—Application of amendments**

3 **20 Application of Part 1**

- 4 (1) A regulation made for the purposes of subsection 34Z(1) of the
5 *Superannuation Industry (Supervision) Act 1993*, as inserted by this
6 Schedule, must not prescribe a time by which information is to be
7 provided to the Commissioner of Taxation that is before 1 March 2013.
- 8 (2) The register provided for by Subdivision B of Division 4 of Part 3B of
9 the *Superannuation Industry (Supervision) Act 1993*, as inserted by this
10 Schedule, is to be kept from 1 July 2013.