

EXPLANATORY MATERIALS

Minute No. of 2013 –Minister for Financial Services and Superannuation

Subject - *Superannuation (Financial Assistance Funding) Levy Act 1993*
 Financial Institutions Supervisory Levies Collection Act 1998

*The Superannuation (Financial Assistance Funding) Levy and
Collection Amendment Regulation 2013 (No.)*

Section 10 of the *Superannuation (Financial Assistance Funding) Levy Act 1993* (the Levy Act) and section 29 of the *Financial Institutions Supervisory Levies Collection Act 1998* (the Levies Collection Act) provide that the Governor-General may make regulations to recoup the amount of grants of financial assistance to superannuation funds that have suffered loss as a result of fraudulent conduct or theft made under Part 23 of the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

Specifically, the Levy Act provides for the imposition of levies on regulated superannuation funds and approved deposit funds. The Levies Collection Act provides for the collection of levies imposed under the Levy Act and certain other Acts.

In the 2012-13 financial year, the Minister for Financial Services and Superannuation made one determination to grant financial assistance of \$16,719,935 under Part 23 of the SIS Act. In addition there is an amount of \$2,191,934.42 which is the balance of a grant of financial assistance made on 13 April 2011 (the 2011 grant) which remains to be recouped by the Commonwealth.

The purpose of the proposed Regulations is to impose a levy on regulated superannuation funds and approved deposit funds, other than self managed superannuation funds and levy exempt funds, to recoup the total amount of financial assistance granted under Part 23 of the SIS Act in the 2012-13 financial year and to collect the balance that remains to be recouped by the Commonwealth for the 2011 grant.

Section 6 of the Levy Act provides that the regulations may impose a levy or levies on each fund other than those to which grants under Part 23 of the SIS Act have been made. The regulations may specify a maximum and/or a minimum amount of levy.

Section 7 of the Levy Act provides that the rate, minimum amount and maximum amount of a levy or levies are to be fixed on the basis that the amount of revenue to be raised is not to exceed the amount needed for the Commonwealth to recoup the amount of that financial assistance. Under section 7 of the Levy Act, the total amount the levy and other such levies imposed under the Levy Act in the same financial year should not exceed 0.05 per cent of the sum of the values at the end of the previous financial year of all the assets of the funds on which the levy or levies are imposed.

Section 8 of the Levy Act specifies the formula to be used in working out the amount of a levy imposed on a fund. The applicable rate must not exceed 0.0005.

In the proposed Regulations the applicable rate (0.00002482) and the maximum and minimum levy amounts (\$750,000 and \$50, respectively) have been fixed so that the amount of revenue that would be raised by the levy would not exceed the amount

needed for the Commonwealth to recoup the \$16,719,935 amount of assistance granted in the 2012-13 financial year and the balance of \$2,191,934.42 that remains to be recouped for the 2011 grant.

Section 19 of the Levies Collection Act provides that a levy payable by a fund is due on a date specified in the regulations and that the date must not be earlier than the 28th day after the day on which those regulations took effect. The proposed Regulations would provide for the levy to be due and payable a minimum of 28 days after registration.

Neither the Levy Act or the Levies Collection Act impose any conditions that need to be met before the power to make the proposed Regulations may be exercised.

The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The proposed Regulations would commence the day after they are registered on the Federal Register of Legislative Instruments.