



# **Superannuation Industry (Supervision) Amendment (Your Future, Your Super— Improving Accountability and Member Outcomes) Regulations 2021**

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 05 August 2021

David Hurley  
Governor-General

By His Excellency's Command

Josh Frydenberg  
Treasurer

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## 1 Name

This instrument is the *Superannuation Industry (Supervision) Amendment (Your Future, Your Super—Improving Accountability and Member Outcomes) Regulations 2021*.

## 2 Commencement

- (1) Each provision of this instrument 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
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	6 August 2021
2. Schedule 1	The day after this instrument is registered.	6 August 2021
3. Schedule 2	Immediately after the commencement of the provisions covered by table item 2.	6 August 2021

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Superannuation Industry (Supervision) Act 1993*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Annual members' meetings

### *Superannuation Industry (Supervision) Regulations 1994*

#### **1 At the end of regulation 2.01**

Add:

- (4) This Division applies in relation to an RSE licensee of a superannuation entity in a corresponding way to the way this Division applies in relation to a trustee (or to the trustees) of a superannuation entity.

#### **2 Subregulation 2.03(4)**

After “is required to give”, insert “under a Division of this Part”.

#### **3 Subregulation 2.04(1)**

After “Division”, insert “2.2,”.

#### **4 After Division 2.1 of Part 2**

Insert:

### **Division 2.2—Information in connection with annual members' meetings**

#### **2.08 Interpretation**

In this Division:

*associated entity* has the same meaning as in the *Corporations Act 2001*.

*contract* includes a deed.

*key management personnel* has the same meaning as in the *Corporations Act 2001*.

#### **2.09 Application**

- (1) This Division applies to a registrable superannuation entity.
- (2) Despite subregulation (1), this Division does not apply to the following:
  - (a) a superannuation fund with fewer than 7 members;
  - (b) an excluded approved deposit fund;
  - (c) a pooled superannuation trust;
  - (d) an eligible rollover fund.

#### **2.10 Information to be included with notice**

- (1) For the purposes of paragraph 29P(3)(b) of the Act, the following information must be included with the notice of an annual members' meeting for a year of income of the entity that is given to a member of the entity:

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- (a) a short-form summary containing the information set out in subregulation (2), which must:
- (i) fit on a single page and be the only information on that page; and
  - (ii) be the first page of the pages of information referred to in this regulation;
- (b) a copy of each of the following:
- (i) a summary of each significant event or material change notice (if any) given under section 1017B of the *Corporations Act 2001* by a trustee of the entity to a member of the entity during the 2 year period finishing at the end of the year of income;
  - (ii) the remuneration details referred to in regulation 2.37 that, at the time the notice is given, are required to be made publicly available under subsection 29QB(1) of the Act in relation to the entity;
  - (iii) if the trustee or trustees of the entity produce an annual report for the entity for the year of income—that report;
- (c) if a determination made under paragraph 52(9)(a) of the Act in relation to the entity is publicly available at the time the notice is given, or must be made publicly available before the meeting is held—a copy of the determination;
- (d) a copy of each of the following:
- (i) the most recent periodic statement (if any) given to the member under section 1017D of the *Corporations Act 2001*;
  - (ii) the most recent information (if any) given to the member under paragraph 1017DA(1)(a) of the *Corporations Act 2001*;
- (e) for each contract (if any) under which one or more payments were made, by or on behalf of the entity during the year of income, where a purpose of each payment was promoting the entity, promoting a particular view on behalf of the entity or sponsorship on behalf of the entity:
- (i) the sum of all such payments that have been or are to be made under the contract during any year of income;
  - (ii) the name of each entity to whom such payments have been or are to be made under the contract during any year of income and, for each such entity, the sum of all such payments that have been or are to be made to the entity under the contract during any year of income;
  - (iii) the term of the contract;
- (f) if any gifts (within the meaning of Part XX of the *Commonwealth Electoral Act 1918*) were made, by or on behalf of the entity during the year of income, to another entity who, at the time of receiving the gift:
- (i) was a political entity (within the meaning of that Act); or
  - (ii) was, or was required by that Part of that Act to be, a political campaigner (within the meaning of that Part); or
  - (iii) was, or was required by that Part of that Act to be, an associated entity (within the meaning of that Part);
- an itemised list showing each such gift and the name of the entity to whom each gift was made;
- (g) if any payments were made, by or on behalf of the entity during the year of income, to another entity who, at the time of receiving the payment, was an organisation (within the meaning of the *Fair Work (Registered*

*Organisations) Act 2009*)—an itemised list showing each such payment and the name of the entity to whom each payment was made;

- (h) if any payments were made, by the entity (the **main entity**) during the year of income, to any of the following:
- (i) a connected entity of the RSE licensee of the main entity;
  - (ii) an associated entity of another entity (the **third party**) if the third party is a connected entity of the RSE licensee of the main entity;
  - (iii) an entity over whom the RSE licensee of the main entity has significant influence;
  - (iv) an entity who has significant influence over the RSE licensee of the main entity;
  - (v) an entity whose key management personnel include the RSE licensee, or an executive officer of the RSE licensee, of the main entity;
  - (vi) an associated entity of another entity (the **third party**), if the RSE licensee, or an executive officer of the RSE licensee, of the main entity is a member of the key management personnel of the third party;

an itemised list showing each such payment and the name of the entity to whom each payment was made.

Note 1: Information mentioned in subparagraphs (b)(i), (ii) and (iii) must be made publicly available on the entity's website (see subsection 29QB(1) of the Act and regulations 2.37 and 2.38).

Note 2: The determination mentioned in paragraph (c) is to be made publicly available on the entity's website within 28 days after the determination is made (see paragraphs 52(9)(b) and (c) of the Act).

- (2) The short-form summary referred to in paragraph (1)(a) must set out the following:
- (a) the sum of the remuneration referred to in subparagraph (1)(b)(ii), which is to be described as the aggregate remuneration expenditure relating to the entity for the year of income;
  - (b) the sum of the payments referred to in paragraph (1)(e) that were made during the year of income (under all contracts referred to in that paragraph), which is to be described as the aggregate promotion, marketing or sponsorship expenditure relating to the entity for the year of income;
  - (c) the sum of the payments referred to in paragraph (1)(f), which is to be described as the aggregate political donations relating to the entity for the year of income;
  - (d) the sum of the payments referred to in paragraph (1)(g), which is to be described as the aggregate industrial body payments relating to the entity for the year of income;
  - (e) the sum of the payments referred to in paragraph (1)(h), which is to be described as the aggregate related party payments relating to the entity for the year of income.
- (3) Despite subsection (1), if any information (the **extra information**) referred to in paragraph (1)(b) to (h) required to be given to a member of the entity:
- (a) is accessible by the member (including by being publicly available) at the time the notice of the annual members' meeting is given; or
  - (b) must be made so accessible before the meeting is held;

it is sufficient for the purposes of that paragraph if the information included with the notice includes details of how to access that extra information.

Note: The short-form summary referred to in paragraph (1)(a) must still be included.

## 2.11 How notice is to be given

- (1) The requirements in this regulation are prescribed under paragraph 29P(3)(c) of the Act in relation to each annual members' meeting for a year of income of a registrable superannuation entity.

*Notice to be made publicly available on website*

- (2) The RSE licensee of the entity must:
  - (a) make the notice of the meeting publicly available on the entity's website; and
  - (b) ensure that the notice is readily accessible from the website.

*Notice, and information included with notice, also to be given in other ways*

- (3) If the RSE licensee is required to give a person notice of the meeting, then the RSE licensee must give the person the notice, and any information required to be included with the notice, in the following way:
  - (a) if the RSE licensee is required under paragraph 1017DA(1)(a) of the *Corporations Act 2001* to give the person information in relation to a fund reporting period that ends during the year of income, and the RSE licensee can satisfy that requirement by giving the person that information in a particular way or in any one of several ways—in that way or in one of those ways;
  - (b) otherwise—in writing.

Note: Regulation 7.9.75A of the *Corporations Regulations 2001* sets out the ways in which the RSE licensee is required under subsection 1017DA(1) of the *Corporations Act 2001* to give information.

- (4) For the purposes of subregulation (3):
  - (a) **fund reporting period** has the same meaning as in Part 7.9 of the *Corporations Regulations 2001*; and
  - (b) a fund reporting period that ends at the same time that the year of income ends is a period that ends during that year.

## 5 In the appropriate position in Part 14

Insert:

### **Division 14.29—Transitional arrangements arising out of the Superannuation Industry (Supervision) Amendment (Your Future, Your Super—Improving Accountability and Member Outcomes) Regulations 2021**

#### **14.30 Annual members' meetings**

The amendments made by Schedule 1 to the *Superannuation Industry (Supervision) Amendment (Your Future, Your Super—Improving Accountability*

**Schedule 1** Annual members' meetings

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*and Member Outcomes) Regulations 2021* apply in relation to each year of income that ends on or after the commencement of that Schedule.

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## **Schedule 2—Use of goods or services to influence employers**

### ***Superannuation Industry (Supervision) Regulations 1994***

#### **1 Subparagraph 13.18A(1)(c)(ii)**

Omit “the person;”, substitute “the person.”.

#### **2 Paragraph 13.18A(1)(d)**

Repeal the paragraph.

#### **3 At the end of Division 14.29 of Part 14**

Add:

### **14.31 Use of goods or services to influence employers**

The amendments made by Schedule 2 to the *Superannuation Industry (Supervision) Amendment (Your Future, Your Super—Improving Accountability and Member Outcomes) Regulations 2021* apply where any of the following occur on or after the day on which that Schedule commences:

- (a) a trustee of a regulated superannuation fund, or an associate of a trustee of a regulated superannuation fund:
  - (i) supplies, or offers to supply, goods or services to a person, or a relative or associate of a person; or
  - (ii) supplies, or offers to supply, goods or services to a person, or a relative or associate of a person, at a particular price; or
  - (iii) gives or allows, or offers to give or allow, a discount, allowance, rebate or credit in relation to the supply, or the proposed supply, of goods or services to a person, or a relative or associate of a person;
- (b) a trustee of a regulated superannuation fund, or an associate of a trustee of a regulated superannuation fund, refuses to:
  - (i) supply, or offer to supply, goods or services to a person, or a relative or associate of a person; or
  - (ii) supply, or offer to supply, goods or services to a person, or a relative or associate of a person, at a particular price; or
  - (iii) give or allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply, or the proposed supply, of goods or services to a person, or a relative or associate of a person.