**EXPLANATORY STATEMENT**

**Select Legislative Instrument 2013 No. 61**

###### Issued by the authority of the Minister for Financial Services and Superannuation

Subject - *Retirement Savings Accounts Act 1997.*

*Retirement Savings Accounts and Related Legislation Amendment Regulation 2013 (No. 1).*

*Superannuation Legislation Amendment (Stronger Super) Act 2012.*

*Superannuation Industry (Supervision) Act 1993.*

Subsection 200(1) of the *Retirement Savings Accounts Act 1997* (RSA Act) provides that the Governor-General may make Regulations prescribing matters required or permitted by the RSA Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the RSA Act.

Section 45B of the RSA Act provides that the Regulations may make provision for superannuation data and payment matters relating to retirement savings accounts (RSAs).

Subsection 353(1) of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) provides 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.

Sub-item 20(6) of Part 4 of Schedule 1 to the *Superannuation Legislation Amendment (Stronger Super) Act 2012* provides that the Governor-General may make Regulations prescribing matters required or permitted by Schedule 1 to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to Schedule 1.

As part of the Government's Stronger Super reforms, new data and payment standards applying to superannuation entities, RSAs and employers were announced. The data and payment standards will result in more automated and timely processing of transactions, improved efficiency, an easier system for employers to use, fewer lost accounts and more timely flow of money to member’s accounts.

The Regulation sets the framework for data and payment standards by prescribing the following:

* information to be given to the Commissioner of Taxation for the purposes of maintaining an electronic register of information about RSA providers. This online register (which will also include information about superannuation entities) will allow RSA providers and superannuation entities to obtain and verify information before transmitting data and payments to each other by electronic means;
* in relation to a rollover or transfer request involving an RSA provider — how the request may be made and how it is to be received, the information required to process a rollover or transfer and how information or payments are to be received, the obligations of the receiving and transferring entities and the timeframes applicable to rollovers and transfers. For example, where all necessary documentation has been received a rollover or transfer is to occur within three business days from when the request was made; and
* in relation to contributions involving an RSA provider — information that must accompany the contribution, how information and contributions are to be received and the timeframe for allocating contributions to an individual’s superannuation account.

The Regulation applies to rollovers and transfers between RSA providers or between RSA providers and other superannuation entities from 1 July 2013.

In relation to contributions, the Regulation will not apply to medium to large employers until 1 July 2014, and will not apply to small employers until 1 July 2015.

The Regulation is similar to the Regulation for data and payment standards applying to superannuation entities set out in the *Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 5)*. However, there are some differences, of which the most significant are:

* an employer does not have to give the RSA provider initial registration information upon the first contribution to the provider as an RSA must be actively chosen by the employee who must at that point provide details about the RSA to the employer;
* as the employer does not need to supply initial registration information there is no need for an RSA provider to validate initial registration information or establish a process to deal with invalid registrations; and
* because the structure and investment practices of RSAs are different from those of superannuation entities, some provisions that apply to superannuation entities are irrelevant to RSAs and have not been included.

Nonetheless, the broad intention is that the Regulation will replicate, and achieve the same outcome as, the amendments made by the *Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 5)* which sets data and payment standards for superannuation entities.

The Regulation also makes a number of minor technical and wording amendments to the *Superannuation Industry (Supervision) Regulations 1994* (SISR 1994).

An extensive consultation process was undertaken on the introduction of the superannuation data and payment Regulations and standards framework. This included consultation with the SuperStream Working Group, which comprises representatives from the superannuation industry and employers and provides advice on the design and implementation of the data and payment standards. In addition, there has been public consultation on the *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012* and the *Superannuation Industry (Supervision) Amendment Regulation 2012 (No.5)* on which the Regulation is based.

Details of the Regulation are provided in the Attachment.

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

The Regulation will be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Sections 1 to 4 and Schedule 1 to the Regulation relating to the name convention, authorities and the electronic register administered by the Commissioner will commence on the day after registration. Schedule 2 to the Regulation relating to the superannuation rollover, transfer and contribution standards for RSA providers will commence on 1 July 2013.

Authority: Subsection 200(1) of the *Retirement Savings Accounts Act 1997*

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

Sub-item 20(6) of part 4 of schedule 1of the *Superannuation Legislation Amendment (Stronger Super) Act 2012*

### 

### ATTACHMENT

**Details of the *Retirement Savings Accounts and Related Legislation Amendment Regulation 2013 (No 1)***

**Section 1 – Name of Regulation**

This section specifies that the name of the Regulation is the *Retirement Savings Accounts and Related legislation Amendment Regulation 2013 (No. 1).*

**Section 2 – Commencement**

This section provides that the Regulation will commence as follows:

1. on the day after registration — sections 1 to 4 and Schedule 1; and
2. on 1 July 2013 — Schedule 2.

**Section 3 – Authority**

This section provides that the amendments set out in Schedule 1 and Schedule 2 are made under the *Retirement Savings Accounts Act 1997*; the *Superannuation Legislation Amendment (Stronger Super) Act 2012*; and the *Superannuation Industry (Supervision) Act 1993*.

**Section 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 – Amendment commencing on the day after registration**

**Item [1] – Part 3A – Data and payment matters relating to RSAs**

**Regulation 3A.01**

*Definition*

1. Definitions have been introduced for a prescribed RSA and a unique RSA identifier.

**Regulation 3A.02**

*Prescribed RSA*

1. To ensure effective electronic business-to-business exchange of data and payments in the superannuation sector, the Commissioner of Taxation (the Commissioner) will keep a central register containing information about prescribed RSAs.
2. Section 45Q of the *Retirement Savings Accounts Act 1997* (RSA Act) allows for the operation of the register. A single register is kept by the Commissioner for both superannuation entities and RSA providers (subsection 45Q(6) of the RSA Act).
3. The information held on the register for each prescribed RSA includes a unique RSA identifier, bank details, and an internet protocol address. Other RSAs, superannuation entities and employers will use the details on the register to ensure that superannuation payments and information are sent to the correct destination.

**Regulation 3A.03**

*Information to be given for the register*

1. The register is an online service to facilitate the electronic movement of superannuation rollovers, transfers and contributions. As such, RSA providers are required to give the Commissioner their bank details and either an internet protocol address or a digital address approved by the Commissioner which is linked to a unique RSA identifier (the RSA provider’s ABN followed by a three digit number). This unique RSA identifier determines the destination of information sent in regard to a rollover or, transfer or contribution.
2. The Regulation allows the Commissioner to approve digital addresses other than internet protocol addresses, which enables the use of new communication services without the need for regulatory change.
3. The information that an RSA provider gives the Commissioner is placed on the electronic register and can be accessed by RSA providers, superannuation entities (including exempt public sector superannuation schemes (EPSSSs)) and employers that are obliged to comply with the superannuation data and payment Regulations and standards.
4. An RSA provider is obliged to tell the Commissioner when the information will become operative for the RSA provider.
5. The operative date must be before the later of 1 July 2013 and the day the RSA provider first receives a contribution or a rollover or transfer of an RSA holder’s withdrawal benefit. The withdrawal benefit could come either from a superannuation entity or another RSA provider. In other words, new RSA providers are obliged to tell the Commissioner when they will be starting operations. The 1 July 2013 start date ensures the information given by existing RSA providers for registry purposes coincides with the commencement of the data and payment standards.
6. Where an RSA provider is in existence and receiving contributions, rollovers or transfers when Part 3A of the RSA Regulations commences and expects that this will continue on or after 1 July 2013, the RSA provider must report a unique RSA identifier, bank account details and internet address (or other approved digital address) no later than thirty days after the commencement day (i.e. the day after the Regulation is registered).
7. Where an RSA provider is not receiving contributions, rollovers or transfers, the RSA provider must give the information to the Commissioner on or before the later of thirty days after the commencement day and ten business days before the RSA provider first receives a contribution, or a rollover or transfer of the RSA holder’s withdrawal benefit.
8. If an RSA provider’s register details change, e.g. if its bank account details change, the RSA provider will be obliged to give updated details to the Commissioner no later than ten business days before the new information becomes operative. This will allow time for changes to be made to information technology systems and time to verify information to ensure that the details can be relied upon by other users of the register.

**Schedule 2 – Amendments commencing on 1 July 2013**

#### Item [1] – Retirement Savings Accounts Regulation 1997

#### Regulation 4.35A

*Superannuation data and payment matters*

1. Subsection 45B(1) of the RSA Act allows for Regulations to be made in regard to the operation of the data and payment standards relating to RSAs.

#### Regulation 4.35B

*Request forms*

1. The Regulation modifies the request forms set out in Schedules 2A and 2B of the *Superannuation Industry (Supervision) Regulations 1994* (SISR), allowing RSA holders and RSA providers to use these forms for rollovers and transfer of withdrawal benefits. Withdrawal benefits may include mandated employer contributions and any investment earnings. These forms are only modified as necessary because the rollover or transfer of withdrawal benefits may involve only RSA providers or may involve both an RSA provider and a superannuation entity. For example, where the rollover or transfer is from one RSA provider to a different RSA provider then the forms are modified taking out references to superannuation entities and related processes.
2. The request forms in Schedules 2A and 2B of the SISR 1994 as adopted are referred to as the Schedule 2A request form, or Schedule 2B request form, as appropriate.

**Regulation 4.35C**

*Request for rollover or transfer of RSA holder’s withdrawal benefit*

1. The amendment allows an RSA holder to request, in writing, the RSA provider (the transferring entity) to rollover or transfer their withdrawal benefits to a superannuation entity (including an EPSSS) or another RSA provider (the receiving entity). The RSA holder may use the Schedule 2A request form if the rollover or transfer is for the whole of the withdrawal benefit. ‘In writing’ can include by means of a letter, an email, a paper form or an online web form provided by the RSA provider or the Commissioner.
2. If an RSA holder intends to rollover or transfer their whole of withdrawal benefit to a Self Managed Superannuation Fund (SMSF) the Schedule 2B request form can be used. This process requires proof of identity to be satisfied prior to processing the rollover or transfer request.
3. The Schedule 2A and 2B request forms allow for a streamlined process when an RSA holder wishes to rollover or transfer their withdrawal benefit. This process can only be used where the whole of the withdrawal benefit is being rolled over or transferred.
4. For a rollover or transfer of part of an RSA holder’s withdrawal benefit, the RSA holder will need to contact the transferring RSA provider to find out what additional information is required.

#### Regulation 4.35D

*Action by receiving entity on receipt of request*

1. Where an RSA provider (receiving entity) receives a request form to rollover or transfer a benefit to another RSA provider by that provider and the RSA provider has been given all the information listed in subregulation 4.35D(2) or, has otherwise been able to obtain it, the receiving entity must send the rollover or transfer request electronically to the transferring entity in accordance with any applicable data and payment standards. The receiving entity should not send the rollover or transfer request without the mandatory information.
2. Subregulation 4.35D(2) requires the receiving entity to advise the transferring entity of the following:

* the RSA holder’s full name, date of birth, gender and residential address;
* the RSA holder’s membership number, policy number or account number with the transferring entity;
* the receiving entity’s name and ABN;
* the receiving entity’s unique RSA identifier;
* the transferring entity’s name and ABN;
* the transferring entity’s unique identifier; and
* whether the request is to rollover or transfer the whole or a part of the RSA holder’s withdrawal benefit and, if it is a partial rollover or transfer, the amount to be rolled over or transferred.

1. The receiving entity must also pass on the RSA holder’s tax file number (TFN) to the transferring entity unless, before the rollover or transfer, the RSA holder has given the receiving entity a written statement requesting it not to inform any RSA provider or any other trustee of their TFN number.
2. It is intended that existing regulation 4.47 will not apply to the disclosure of a TFN under subregulation 4.35D(5). Regulation 4.47 sets out the ways in which an RSA provider must determine whether amounts are held for an RSA holder in other RSAs or superannuation entities. In the context of Regulation 4.35D, the receiving entity already knows the amount held for the RSA holder in the transferring entity, while regulation 4.47 applies where an RSA provider wishes to determine if there are other amounts held elsewhere for the RSA holder.
3. It is important when a RSA holder is rolling over or transferring their withdrawal benefits that they are aware of fees and charges associated with the process and the effect on any benefits entitlements they may have. So, before the receiving entity provides the request form or mandatory information to the transferring entity, the receiving entity must be reasonably satisfied that the RSA holder is aware of the impacts.
4. The receiving entity can satisfy itself of this by asking the RSA holder to declare this as part of initiating a rollover or transfer. This is allowed for in the forms set out in Schedule 2A or Schedule 2B to the SISR 1994, as modified by section 4.35B of this Regulation.
5. Additional data and payment standards established by the Commissioner of Taxation pursuant to 45B(3) of the RSA Act may set out how information is to be given to the transferring entity (e.g. electronically) and may specify further information that must be given.

#### Regulation 4.35E

*Transferring entity must electronically receive request*

1. The Regulation requires the transferring entity to be able to receive information electronically in all circumstances under the data and payment standards outlined in Part 4 and under any standards set by the Commissioner pursuant to subsection 45B(3) of the RSA Act.
2. A transferring entity must be able to receive an “electronic portability form” if an RSA holder initiates the rollover process through an online service provided by the Commissioner.

#### Regulation 4.35F

*Transferring entity may request information if not provided*

1. An RSA provider (as the transferring entity) may request further information from the RSA holder if that is needed to process a rollover or transfer request for the whole of the withdrawal benefit and if the further information is mandatory information (for example, an account number) as set out in the Schedule 2A or Schedule 2B request form.
2. If the rollover or transfer is for part of the withdrawal benefit, the RSA provider may request further information required to complete the rollover or transfer.
3. The information must be sought within five business days of receiving the request. If an RSA provider does not receive the information within ten business days of making the request for information, an RSA provider must make reasonable further inquiries of the RSA holder to obtain the information. “Reasonable inquires” may include calling the RSA holder.
4. Where a request is to transfer the whole of the withdrawal benefit, the RSA provider may still rollover or transfer without asking for the rest of the mandatory information, e.g. if the RSA provider is satisfied that it can properly process the request despite the lack of some information.

**Regulation 4.35G**

*Validation of RSA holder details by transferring entity*

1. An RSA provider (as the transferring entity) that receives a request to rollover or transfer the whole or part of an RSA holder’s withdrawal benefit to a fund (other than an SMSF) or to another RSA provider must validate certain information with the Commissioner using an electronic interface if they have the RSA holder’s tax file number. Subsection 143D(2) of the RSA Act allows the Commissioner to give a notice to an RSA provider stating whether or not the Commissioner was able to validate the RSA holder’s information.
2. The validation facility supplied by the Commissioner will improve the quality of data in the superannuation system by ensuring correct information is linked to the RSA holder.
3. The validation process is not required if the Commissioner has previously validated the RSA holder’s information. Also, the validation process is not needed if the request form was supplied by the Commissioner as the information contained in the form has already been validated.
4. If the Commissioner cannot validate the information, or the RSA provider does not have the RSA holder’s tax file number (TFN), the RSA provider may ask the RSA holder for proof of identity information that is reasonably required to process the request. The proof of identity information that may be requested is listed on the Schedule 2B form in the SISR 1994.
5. The RSA provider must ask for the information within five business days of receiving either the notice from the Commissioner or the request, if no TFN has been provided. If an RSA provider does not receive the information within ten business days of making the request, the transferring entity must make reasonable further inquiries of the RSA holder to obtain the information. “Reasonable inquiries” may include calling the RSA holder.
6. The RSA provider will be responsible for specifying the process that would be undertaken in the event that the RSA holder has not provided requested information.

#### Regulation 4.35H

*Verification of self managed superannuation fund and RSA holder’s details*

1. The Regulation places verification requirements on an RSA provider where the rollover or transfer is being made to an SMSF.
2. An RSA provider is able to avail itself of an electronic service provided by the Government to verify an SMSF's ABN, its name and whether the SMSF is regulated under the SIS laws. An RSA provider will also be obliged to use a service provided by the Commissioner to check that the RSA holder actually is a member of the SMSF.
3. If the RSA provider is unable to verify or validate the above information it must ask the RSA holder for written evidence of the name of the SMSF, that the SMSF is a regulated superannuation fund and that the RSA holder is a member of the SMSF.
4. The RSA provider must ask the RSA holder for evidence within five business days of attempting to verify or validate the information.
5. If the RSA provider does not receive the evidence requested within ten business days of making the request, the RSA provider must make reasonable further inquiries of the RSA holder to obtain the information.

#### Regulation 4.35J

*Rollover or transfer of RSA holder’s withdrawal benefit*

1. An RSA provider (as the transferring entity) must rollover or transfer the whole or part of the RSA holder’s withdrawal benefit to a fund or another RSA provider in accordance with the request if:

* all necessary information has been provided; and
* the circumstances in Regulation 4.35P (as discussed below) do not apply.

1. Where a rollover or transfer is to be made, the RSA provider must assign a unique payment reference number to the rollover or transfer (it may be unique to a number of rollovers or transfers made together on the same day).
2. Data and payment standards under section 45B(3) of the RSA Act allow the Commissioner to set out how the payment reference number is to be determined.
3. Unless the RSA provider has received the rollover or transfer request from a receiving entity (see Regulation 4.35D) or the Commissioner, prior to rolling over or transferring the amount, it must be satisfied that the RSA holder:

* is aware that they may ask the RSA provider for information about fees and charges that may apply to the rollover or transfer and other information about the effect of the proposed rollover or transfer on any benefit entitlements; and
* has either obtained that information or does not require such information.

1. If the receiving entity makes the request, it must be satisfied of these things before it initiates the request (see Regulation 4.35D if the receiving entity is an RSA provider).

#### Regulation 4.35K

*Timeframes for rollovers and transfers*

1. The Regulation will set certain timeframes in relation to a rollover or transfer for an RSA provider.
2. The standard timeframe for rollovers and transfers required to be made under Regulation 4.35J is within three business days of an RSA provider receiving the rollover or transfer request or, if applicable, receiving the information requested under Regulation 4.35F or subregulation 4.35G(4) or 4.35H(3).
3. Where the receiving entity is unable to receive the rollover or transfer in accordance with the superannuation data and payment standard or the data and payment standard relating to RSAs, the RSA provider is required to rollover or transfer the amount as soon as practicable, but in any case, within thirty days of the RSA provider receiving the rollover or transfer request or, if applicable, receiving the information requested under Regulation 4.35F or subregulation 4.35G(4) or 4.35H(3).

#### Regulation 4.35L

*RSA holder details for rollover or transfer*

1. When transferring an RSA holder’s benefit, an RSA provider will be obliged to give to the receiving entity, the RSA holder’s full name, date of birth, gender, residential address and the unique payment reference number included with the rollover or transfer. This information should be supplied at the same time that the rollover or transfer payment is made.
2. However, an RSA provider is not required to provide this information if the RSA holder has not supplied this information to the RSA provider.
3. Section 138 of the RSA Act requires an RSA provider to give a TFN unless, before the transfer, the RSA holder has written to the RSA provider asking that their TFN not be provided.
4. Data and payment standards made by the Commissioner under subsection 45B(3) of the RSA Act may set out how information is to be given to the transferring entity (for example electronically) and may set out additional information that must be given.

**Regulation 4.35M**

*Receiving entity must electronically receive information and payment*

1. This Regulation provides that RSA providers and superannuation entities must be able to electronically receive information given and payments that are made in accordance with the superannuation data and payment standard or a data and payment standard relating to RSAs (as applicable).

**Regulation 4.35N**

*Receiving entity must allocate amount to RSA holder*

1. An RSA provider (as the receiving entity) that receives (and accepts) a rollover or transfer of the whole or part of an RSA holder’s withdrawal benefit from a fund or another RSA provider must allocate the rollover or transfer within three business days of receiving the amount and information, provided all the required information is sent, and the information and payment is sent in accordance with the superannuation data and payment standard or a data and payment standard relating to RSAs (as applicable).
2. It must also be allocated within three business days of receiving an amount and information if it is sent by the Commissioner in accordance with a data and payment standard relating to RSAs.

**Regulation 4.35P**

*When an RSA provider may refuse to rollover or transfer an amount*

1. An RSA provider is allowed to refuse to rollover or transfer an amount (which it would otherwise be required to transfer under section 4.35J) in limited circumstances. These circumstances are:

* where the receiving entity will not accept the amount;
* it is a part transfer and the amount remaining in the RSA account after the transfer would be less than $5,000; or
* a rollover or transfer for that RSA holder has occurred in the last 12 months.

1. The refusal must be notified to the RSA holder in writing (which may include electronic means such as email).

**Part 4AA**

**Item [2 – 3] - Part 4AA**

*Portability Forms*

1. These amendments reflect that from 1 July 2013 an RSA provider must be able to receive requests electronically, which includes the electronic portability request scheme. RSA holders will be able to electronically request the rollover or transfer of their superannuation benefits from their fund or RSA through the Australian Taxation Office under the scheme.

**Division 5.1 – Operating Standards**

**Item [4] – Division 5.1**

*Operating Standards*

1. New heading inserted for the data and payment standard changes.

**Division 5.2 – Data and payment matters relating to RSAs**

**Item [5] – Division 5.2**

*Superannuation data and payment matters*

1. New heading inserted for the data and payment standard changes.

**Regulation 5.04**

*Superannuation data and payment matters*

1. Subsection 45B(1) of RSA Act provides the power for Regulations to be made relating to superannuation data and payment matters.
2. This Regulation applies to RSA providers and employers in their dealings with RSA providers.

**Regulation 5.05**

*Application*

1. The Regulation contained within this subdivision applies to large and medium employers from 1 July 2014 and to small employers from 1 July 2015. A large and medium employer is an employer with more than 20 employees. A small employer is an employer with less than 20 employees.

**Regulation 5.06**

*RSA provider may give policy number or account number to Commissioner of Taxation*

1. This Regulation explicitly provides that the policy number or account number of an RSA holder may be given to the Commissioner and used to identify and display all the RSA holder’s accounts, policies or superannuation memberships through services provided by the Commissioner. The display of information by the Commissioner is subject to personal information safeguards such as proof of identity.
2. It will also allow the Commissioner to send superannuation money held by the Australian Taxation Office to the RSA holder’s account.

**Regulation 5.07**

*Employee details for contribution*

1. The Regulation will provide that an employer who makes a contribution (new or ongoing) for an employee to an RSA provider must:

* on the same day as the employer makes the contribution give the employee’s name, residential address, TFN and telephone number to the RSA provider; and
* include a unique payment reference number for the contribution (it may be unique to a number of contributions made together on the same day).

1. As an RSA is an account chosen by the employee, it is envisaged that the employee will give the employer all the information needed to ensure the successful allocation of the superannuation contributions.
2. However, the employer does not have to give the necessary information to an RSA provider if the employee does not give all the information to the employer, and the employer has made reasonable efforts to obtain the information.
3. The standards set by the Commissioner under subsection 45B(3) of the RSA Act may set out how the contribution and information must be given to the RSA provider, as well as how the unique payment reference number is to be determined.

**Regulation 5.08**

*RSA provider must electronically receive contributions and information*

1. The RSA provider must be in a position to accept the employer contribution and associated information electronically. This applies on or after 1 July 2014 and accords with the employers having to make contributions and give information electronically.
2. The Commissioner under subsection 45B(3) of the RSA Act may set additional standards in regard to the how the electronic process is to occur.

**Regulation 5.09**

*Incomplete contribution information*

1. This Regulation provides that, if an RSA provider receives a contribution without all the necessary information, (i.e. employee’s full name, residential address, TFN, and telephone number), it must request the employer to provide that information within five business days of receiving the contribution.
2. The employer must make all reasonable efforts to give the RSA provider that information within ten business days.
3. If the RSA provider cannot obtain the necessary information, it must refund the contribution to the employer within twenty business days of receiving the contribution. This may affect the employer’s ability to meet its superannuation guarantee obligations.

**Item [5] – Regulation 5.10**

*Contributions to be allocated to an RSA holder*

1. Regulation 5.10 states that an RSA provider must allocate a contribution to the RSA holder’s account as soon as practicable, but in any case no later than three business days, of receiving both the contribution payment and the employee information associated with the contribution, if the following applies:

* the contribution is received from an employer of an RSA holder; and
* the contribution and the required information are received in accordance with the superannuation data and payment standards relating to RSAs.

1. A contribution must also be allocated to an RSA holder’s account as soon as practicable but in any case within three business days if it is made by the Commissioner in accordance with the data and payment standard relating to RSAs .

**Superannuation Industry (Supervision) Regulations (SISR) 1994 Minor Amendments**

1. **Item [6-18] –**M**inor and technical amendment**

These amendments make minor technical or wording changes to the SISR 1994.

**Statement of Compatibility with Human Rights**

***Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011***

**Retirement Savings Account Amendment Regulation 2013 (No. 1)**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The purpose of the Legislative Instrument is to prescribe the detailed requirements to support the operation of the superannuation data and payment Regulations. These Regulations introduce mandatory electronic data and payment for Retirement Savings Accounts (RSA) providers and employers to comply with when undertaking superannuation transactions (primarily rollovers and contributions).

The instrument enables the Commissioner of Taxation to obtain and publish an online register containing RSA information that enables electronic transactions to occur.

The instrument also outlines the process for requesting, actioning and receiving a rollover or transfer and contribution and the use of validation services to confirm employee/RSA holder information prior to receiving a rollover/transfer or contribution.

The instrument also introduces performance standards for the allocation of superannuation payments (received in accordance with the data and payment standards) to the RSA holder’s account or policy.

Individuals will retain their right not to provide their tax file number for superannuation purposes by informing their employer or RSA provider.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**William Richard Shorten**

**Minister for Financial Services and Superannuation**