
Legislative Instrument

SMSF Approved Auditor—Transitional Registry Operations Data Standard 2022

I, Chris Jordan, Commissioner of Taxation in my capacity as the Registrar, make this instrument under subsection 13(1) of the *Commonwealth Registers Act 2020* for the purpose of providing data standards on matters relating to the functions and powers of the Registrar under the *Superannuation Industry (Supervision) Act 1993*.

Chris Jordan
Registrar

16 June 2022

1. Name

This instrument is the *SMSF Approved Auditor—Transitional Registry Operations Data Standard 2022*.

2. Commencement

This instrument commences immediately after the commencement of item 20 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures Act 2020)*.

3. Authority

This instrument is made under the *Commonwealth Registers Act 2020*.

4. Definitions

Note: A number of terms used in this instrument are defined in the *Commonwealth Registers Act 2020* or the *Superannuation Industry (Supervision) Act 1993*, including the following:

- (a) entity;
- (b) Registrar;
- (c) self managed superannuation fund (SMSF),
- (d) SMSF approved auditor.

In this instrument:

action includes an act that consists of:

- (a) deciding, notifying, issuing, publishing, giving; or
- (b) asking, requesting, requiring, directing; or
- (c) applying, responding, providing, lodging; or
- (d) accepting, recording, holding, maintaining; or

- (e) certifying, providing extracts; or
- (f) accepting payment or making payment.

Note: the actions mentioned in (a) to (f) are not an exhaustive list.

SIS Act means the *Superannuation Industry (Supervision) Act 1993*.

SIS instrument provision means:

- (a) a provision of an instrument made under the SIS Act; or
- (b) a provision of an old SIS instrument that:
 - (i) has been repealed (including impliedly repealed); or
 - (ii) otherwise does not apply to an action,

because of the *Treasury Laws Amendment (Registries Modernisation and Other Measures Act 2020*, as if that Act did not have that effect.

old SIS Act means the *Superannuation Industry (Supervision) Act 1993* as in force immediately before the commencement of this instrument.

old SIS instrument means an instrument or approved form made under the old SIS Act.

registry provision means:

- (a) a provision of the SIS Act that requires or permits:
 - (i) the Registrar to take an action; or
 - (ii) another entity to take an action in relation to the Registrar; or
- (b) a SIS instrument provision made for the purposes of a provision of the kind mentioned in paragraph (a) that requires or permits:
 - (i) ASIC to take an action; or
 - (ii) another entity to take an action in relation to ASIC.

5. Actions relating to matters relating to functions and powers of the Registrar

- (1) The Registrar may take an action under a registry provision by taking the action in accordance with the requirements (if any) of the old SIS Act or an old SIS instrument that would have applied to ASIC taking the action.
- (2) Another entity may take an action in relation to the Registrar by taking the action in accordance with the requirements (if any) of the old SIS Act or an old SIS instrument that would have applied to an entity taking the action in relation to ASIC if the action:
 - (a) relates to a registry provision; and
 - (b) relates to the performance of the Registrar's functions or the exercise of the Registrar's powers under the SIS Act.
- (3) Without limiting subsections (1) and (2):
 - (a) an action may be taken using notices, forms or systems or any other means available to or in relation to ASIC under the old SIS Act or an old SIS instrument; and
 - (b) section 11 of the *Commonwealth Registers Act 2020* applies to an action that consists of making a decision using a computer system maintained by or on behalf of ASIC where the Registrar has control over the processes to assist decision making in the computer system.

- (4) If the Registrar or another entity omits to take an action in relation to a registry provision in accordance with a requirement of the old SIS Act or an old SIS instrument, the Registrar or other entity is taken to have omitted to take the action for the purposes of the SIS Act or an instrument made under it.
- (5) For the purposes of this section, taking an action in accordance with a requirement includes taking an action in accordance with the manner, form or practice in which such a requirement could be complied with.

6. How the Registrar will hold, record and store registry information

The Registrar may take an action in relation to a registry provision by holding, recording or storing information on a computer system maintained by or on behalf of ASIC.

Note 1: Records Authorities may be issued by the National Archives of Australia in accordance with the *Archives Act 1983*.

Note 2: A document or a copy of a document that purports to be an extract of information held by ASIC in relation to a registry provision will be an extract of information held by the Registrar for the purpose of section 23 of the *Commonwealth Registers Act 2020*.

7. How the Registrar uses registry information

- (1) The Registrar may use information provided, generated or held in accordance with this instrument:
 - (a) to make a record of the information collected or generated; or
 - (b) to maintain the accuracy of information held by the Registrar; or
 - (c) for the performance of the Registrar's functions and the exercise of the Registrar's powers.
- (2) For the avoidance of doubt, the Registrar may use a system maintained by or on behalf of ASIC for the purpose of subsection (1).

Note: Information collected under this instrument is 'protected information' within the meaning of section 5 of the *Commonwealth Registers Act 2020* and is subject to the secrecy and disclosure provisions in Part 4 of the *Commonwealth Registers Act 2020*.