



Legislative Instrument

SMSF Approved Auditor—Transitional Registry Disclosure Framework 2022

I, Chris Jordan, Commissioner of Taxation in my capacity as the Registrar, make this instrument under subsection 16(1) of the *Commonwealth Registers Act 2020* for the purpose of the disclosure of registry information.

Chris Jordan
Registrar
16 June 2022

1 Name

This instrument is the *SMSF Approved Auditor—Transitional Registry Disclosure Framework 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) official employment;
- (b) protected information;
- (c) Registrar,
- (d) self managed superannuation fund (SMSF),
- (e) SMSF approved auditor.

In this instrument:

commencement day means the day on which item 20 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020* commences.

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

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, prescribed form or approved form made under the old SIS Act.

registry information means any information that is protected information within the meaning of the *Commonwealth Registers Act 2020*; for the avoidance of doubt, that includes information:

- (a) provided to, obtained or held by the Registrar in connection with particular functions or powers of the Registrar; or
- (b) provided to, obtained or held by ASIC on behalf of the Registrar in connection with particular functions or powers of the Registrar.

5 Disclosure of registry information

- (1) The disclosure of registry information is permitted by this instrument where:
 - (a) ASIC would have been permitted to make the disclosure immediately prior to the commencement day under:
 - i. the old SIS Act
 - ii. an old SIS instruments; or
 - iii. the *Australian Securities and Investments Commission Act 2001*; or
 - (b) the disclosure is to ASIC or persons in official employment of ASIC; or
 - (c) the disclosure is of information that has been lawfully made available to the public prior to the commencement day.

Note: The effect of this subsection is that a disclosure of protected information in accordance with this instrument is authorised by paragraph 17(3)(e) of the *Commonwealth Registers Act 2020*.

- (2) Without limiting subsection (1), registry information that may be disclosed in accordance with that subsection may be disclosed by ASIC, the Registrar or persons in official employment of ASIC or the Registrar.
- (3) For the avoidance of doubt, and without limiting subsections (1) and (2), a disclosure that is permitted by those subsections may be made:
 - (a) using notices, forms or systems or any other means by which the disclosure would have been made by ASIC immediately before the commencement day; or
 - (b) in accordance with any arrangement that was in place immediately before the commencement day.
 - (c) All arrangements in relation to payments for the disclosure of registry information in place immediately before the commencement date apply on and from the commencement date.

6 Application to prevent the disclosure of particular protected information

- (1) Any application to the Registrar made under section 19 of the *Commonwealth Registers Act 2020* is to be made on the same basis as an application under the old SIS Act was permitted to be made to ASIC.
- (2) The Registrar may decide the application on the same basis as ASIC would have decided an application under the old SIS Act.
- (3) For the avoidance of doubt, and without limiting subsections (1) and (2), the application or the decision may be made using notices, forms or systems or any other means by which the application would have been made to ASIC or the decision would have been made by ASIC under the old SIS Act.