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HOUSE OF REPRESENTATIVES

SUPERANNUATION LEGISLATION AMENDMENT (STRONGER SUPER)
BILL 2012
SUPERANNUATION SUPERVISORY LEVY IMPOSITION AMENDMENT
BILL 2012

EXPLANATORY MEMORANDUM

(Circulated by the authority of the
Deputy Prime Minister and Treasurer, the Hon Wayne Swan MP)

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
APRA	Australian Prudential Regulation Authority
APRA Act	<i>Australian Prudential Regulation Authority Act 1998</i>
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
BECS	Bulk Electronic Clearing System
Commissioner	Commissioner of Taxation
DHS	Department of Human Services
ITAA 1997	<i>Income Tax Assessment Act 1997</i>
LIA 2003	<i>Legislative Instruments Act 2003</i>
Regulators	Commissioner of Taxation and Australian Prudential Regulatory Authority
RSA Act	<i>Retirement Savings Accounts Act 1997</i>
RSA provider	Retirement Savings Account provider
SIS Act	<i>Superannuation Industry (Supervision) Act 1993</i>
SIS regulations	<i>Superannuation Industry (Supervision) Regulations 1994</i>
SMSFs	Self-Managed Superannuation Funds
TAA 1953	<i>Taxation Administration Act 1953</i>

General outline and financial impact

Data and payment standards relating to superannuation and retirement savings

Schedule 1 of the Superannuation Legislation Amendment (Stronger Super) Bill 2012 amends the *Superannuation Industry (Supervision) Act 1993* (SIS Act) and the *Retirement Savings Accounts Act 1997* (RSA Act) to introduce a framework to support the implementation of superannuation data and payment regulations and standards that will apply to specified superannuation transactions undertaken by superannuation entities/retirement savings account providers (RSA providers) and employers.

Date of effect: These amendments apply to:

- trustees of a superannuation entity/RSA providers in relation to conduct that occurs on or after 1 July 2013;
- an entity that is a medium to large employer (20 or more employees) on 1 July 2014 in relation to conduct that occurs on or after 1 July 2014; and
- an entity that is a small employer (fewer than 20 employees) on 1 July 2014 in relation to conduct that occurs on or after 1 July 2015, unless the regulations prescribe an alternate application date after 1 July 2015.

Proposal announced: This measure was announced in the then Assistant Treasurer and Minister for Financial Services and Superannuation's Media Release No. 131 of 21 September 2011.

Financial impact: Nil.

Human rights implications: This Schedule does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter 1, paragraphs 1.107 to 1.111.

Compliance cost impact: This measure is expected to temporarily impose additional compliance costs on employers, regulated superannuation entities and RSA providers that engage in the superannuation industry. Compliance costs will vary across these stakeholders depending on the

role they perform in the system and the manner that engagement with the data and payment regulations and standards occurs. Ongoing compliance costs will reduce over the medium to long term for all stakeholders.

Summary of regulation impact statement

Regulation impact on business

Impact: A Regulation Impact Statement (RIS) has been finalised for the implementation of the Stronger Super reforms and can be found on the Office of Best Practice Regulation's website. The relevant section of the Stronger Super RIS covered in this Bill is the chapter on SuperStream.

Schedule 1 of the Superannuation Legislation Amendment (Stronger Super) Bill 2012 amends the SIS Act and the RSA Act to introduce a framework to support the implementation of superannuation data and payment standards that will apply to specified superannuation transactions undertaken by superannuation entities, Retirement Savings Account providers and employers.

The SuperStream Advisory Council will oversee the implementation and the ongoing effectiveness of the SuperStream changes.

Main points:

- Estimates undertaken by the Superannuation industry have identified that SuperStream will save in the order of \$1 billion each year in processing costs. Averaged over the approximate 33 million accounts existing today, this saving is in the order of \$30 per account each year.
- The cost of implementing the SuperStream reforms is \$467 million in total (from 2012-13 to 2017-18) and \$121 million in 2012-13 to be paid for by a new SuperStream levy on Australian Prudential Regulatory Authority regulated funds. If you averaged the full levy increase of \$121 million to apply in 2012-13 (and the highest amount of levy to be collected) across the approximate 33 million accounts existing today, the cost is in the order of \$4 per account.
- These amendments will temporarily increase compliance costs for superannuation funds, Approved Deposit Funds, RSA providers and employers, though the impact will vary considerably and is dependent on whether compliance with the data and payment standards is outsourced to a third party

provider (such as a clearing house or administrator) or an information system upgrade is undertaken (and the extent that the data and payment standards are integrated into payroll and human resource systems). In the longer term, the costs of administration will reduce significantly as a result of these reforms.

- These amendments will improve the quality of data across superannuation transactions by removing the multitude of different data and system requirements across the superannuation industry that employers need to interact with significantly improving the employer experience.
- For superannuation entities and RSA providers, these amendments will simplify the processing of superannuation transactions by introducing standardised formats and e-commerce that will reduce the number of multiple, inactive or lost member accounts.
- A new penalty regime will be introduced to ensure that superannuation entities, RSA providers and employers comply with the superannuation data and payment standards.

Costs of implementing SuperStream measures

Schedule 2 of the Superannuation Legislation Amendment (Stronger Super) Bill 2012 amends the *Australian Prudential Regulation Authority Act 1998* to enable costs associated with the implementation of the *SuperStream* measures to be included in the determination specifying the amount of the levy that is payable to the Commonwealth.

Date of effect: 1 July 2012.

Proposal announced: This measure was announced on 10 December 2010 as part of the Government's Stronger Super package of reforms.

Financial impact: Commonwealth costs associated with the implementation with SuperStream is \$467 million over 7 years. SuperStream costs of \$467 million will be collected through the Superannuation Supervisory Levy from 2012-13 to 2017-18.

Human rights implications: This Schedule does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter 2, paragraphs 2.24 to 2.28.

Compliance cost impact: Nil.

Amendment to the *Superannuation Supervisory Levy Imposition Act 1998*

Schedule 1 of the Superannuation Supervisory Levy Imposition Amendment Bill 2012 amends the *Superannuation Supervisory Levy Imposition Act 1998* to enable the Treasurer to make more than one determination for a financial year.

Date of effect: 1 July 2012.

Proposal announced: A levy on funds regulated by the Australian Prudential Regulation Authority (APRA) to collect costs associated with SuperStream was announced on 10 December 2010 as part of the Government's Stronger Super package of reforms.

Financial impact: Nil.

Human rights implications: This Bill does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter 3, paragraphs 3.11 to 3.15.

Compliance cost impact: Nil.

Chapter 1

Data and payment standards relating to superannuation and retirement savings

Outline of chapter

1.1 Schedule 1 of the Superannuation Legislation Amendment (Stronger Super) Bill 2012 amends the *Superannuation Industry (Supervision) Act 1993* (SIS Act) and the *Retirement Savings Accounts Act 1997* (RSA Act) to introduce a framework to support the implementation of superannuation data and payment regulations and standards that will apply to specified superannuation transactions undertaken by superannuation entities, retirement savings account providers (RSA providers) and employers.

1.2 For the purposes of this explanatory memorandum, references to superannuation data and payment regulations and standards and associated provisions will also apply to the RSA Act.

1.3 Schedule 1 also amends the *Taxation Administration Act 1953* (TAA 1953) to introduce an administrative penalty framework for non-compliance with the superannuation data and payment regulations and standards.

1.4 Schedule 1 of this Bill:

- enables superannuation data and payment regulations and standards to be made relating to superannuation entities, RSA providers and employers;
- provides the Commissioner of Taxation (Commissioner) with the ability to issue mandatory superannuation data and payment standards for superannuation entities, RSA providers and employers;
- enables superannuation data and payment regulations and standards to deal with payments and information related to superannuation transactions and reports; and
- introduces a new penalty framework to ensure trustees of superannuation entities, RSA providers and employers comply with the superannuation data and payment regulations and standards.

Context of amendments

1.5 Currently, there are no mandated data, payment or transmission requirements for transactions within the superannuation system (apart from some specification of reports and forms). As a result, the superannuation system is dominated by paper based transactions that are inefficient in both processing costs and the time taken for transactions to occur, and superannuation to be deposited into member accounts.

1.6 The implementation of data and payment regulations and standards will allow participants in the superannuation system to communicate by using standardised business terms in a consistent and reliable format, while electronic transmission (using agreed transport and security protocols) will allow for a more automated and timely processing of transactions with fewer errors. This will result in improved efficiency (particularly the processing of contributions and roll-overs by superannuation entities and RSA providers), an easier system for employers to use, fewer lost accounts and more timely flow of money to member accounts.

1.7 The superannuation data and payment regulations and standards will be mandated for superannuation entities (including Approved Deposit Funds), RSA providers and for employers.

1.8 The Regulators (being the Commissioner and Australian Prudential Review Authority (APRA)) will support the roll-out of the new data and payment regulations and standards through help and education activities but this will need to be supported by a new compliance framework. The compliance framework will address breaches of the data and payment regulations and standards and is designed to allow flexibility for the Regulators in dealing with transgressions.

Summary of new law

1.9 Schedule 1 of this Bill:

- permits superannuation data and payment regulations and standards to be made relating to superannuation entities, RSA providers and employers;
- amends the SIS Act and RSA Act to provide the Commissioner with the ability to issue mandatory superannuation data and payment standards;

- enables superannuation data and payment regulations and standards to deal with payments and information related to superannuation transactions and reports;
- enables the Commissioner to specify a unique identifier for use with any payment or information related to superannuation transactions;
- implements a compliance regime for the superannuation data and payment regulations and standards that applies to trustees of regulated superannuation entities, RSA providers and employers;
- introduces a new penalty framework to ensure employers, trustees of superannuation entities and RSA providers comply with the superannuation data and payment regulations and standards. The Commissioner will administer an administrative penalty regime that will apply to employers and self-managed superannuation funds (SMSFs), and APRA-regulated superannuation entities and RSA providers when reporting to the Commissioner. APRA will administer an infringement notices regime that will apply to APRA-regulated superannuation entities and RSA providers;
- provides the Regulators with the power to give directions to superannuation trustees, RSA providers and employers in certain situations where there is reason to believe contraventions of the superannuation data and payment regulations and/or standards have occurred or are likely to occur; and
- amends the SIS Act and RSA Act to enable the Commissioner to correct and rectify information in the Commissioner's possession for the purpose of ensuring the information complies with the superannuation data and payment regulations and/or standards.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The Commissioner has general administration of superannuation data and payment standards.	No equivalent.

<i>New law</i>	<i>Current law</i>
Regulations may be made in relation to superannuation data and payment matters.	No equivalent.
Regulations may deal with payments and information related to superannuation transactions and reports.	No equivalent.
Regulations may specify different requirements to be complied with by different classes of regulated superannuation entities, RSA providers and employers.	No equivalent.
The Commissioner may issue superannuation data and payment standards by legislative instrument.	No equivalent.
Data and payment standards may specify different requirements to be complied with by different classes of superannuation entities/RSA providers and employers.	No equivalent.
Other third-party standards may be adopted or incorporated, with or without modification, by the regulations or the superannuation data and payment standards.	No equivalent.
The superannuation data and payment regulations or standards may specify the format of one or more unique identifiers to be included in superannuation payments and information.	No equivalent.
The Commissioner must consult with APRA in preparing the superannuation data and payment standards.	No equivalent.
The Commissioner and APRA will ensure compliance with the superannuation data and payment regulations and standards in alignment with existing regulatory responsibilities.	No equivalent.
An administrative penalty regime will be introduced and administered by the Commissioner.	No equivalent.

<i>New law</i>	<i>Current law</i>
An infringement notice regime will be introduced and administered by APRA.	No equivalent.
Regulators will have the power to give directions to superannuation trustees/RSA providers and employers in certain situations where there is reason to believe contraventions of the superannuation data and payment regulations and/or standards have occurred or are likely to occur.	No equivalent.
The Commissioner may correct information the Commissioner holds to ensure information complies with the superannuation data and payment regulations and/or standards.	No equivalent.

Detailed explanation of new law

System of standards for superannuation data and payments

1.10 Schedule 1 inserts a new Part 4A into the RSA Act and Part 3B into the SIS Act.

1.11 The object of these Parts is to further the interests of beneficiaries of superannuation entities and RSA providers by improving the superannuation system. The Parts do this by providing for a system of superannuation data and payment regulations and standards applicable to RSA providers, superannuation entities (regulated superannuation funds, Approved Deposit Funds and pooled superannuation trusts) and employers in their dealings with RSA providers and superannuation entities. *[Schedule 1, item 1, section 45 of the RSA Act and item 2, section 34H of the SIS Act]*

1.12 To ensure that the data and payment regulations and standards within the RSA Act and SIS Act will apply to employers and is constitutional, a provision has been included that states that the incidental aspect of the corporations power contained in section 51(xx) of the Constitution applies. *[Schedule 1, item 1, section 45A of the RSA Act and item 2, section 34J of the SIS Act]*

1.13 Schedule 1 implements the legislative framework that will support the operation of the superannuation data and payment regulations and standards. This framework:

- enables the Commissioner to determine mandatory superannuation data and payment standards;
- enables regulations relating to superannuation data and payment matters to be made; and
- introduces a new penalty framework.

1.14 The regulations will inform superannuation entities and RSA providers and employers of their key obligations under the standards, specify the operational and information requirements that apply and prescribe those activities/behaviours that support the general operation of the superannuation data and payment standards framework.

General administration of the superannuation data and payment regulations and standards

1.15 The Commissioner has general administration of Part 3B of the SIS Act to the extent it relates to SMSFs and employers. *[Schedule 1, item 12, subparagraph 6(1)(e)(ia) and item 13, subparagraph 6(1)(fa)(ii) of the SIS Act]*

1.16 The Commissioner has general administration of the superannuation data and payment regulations and standards to the extent they relate to superannuation entities and employers. *[Schedule 1, item 13, subparagraph 6(1)(fa)(i) of the SIS Act]*

1.17 The Commissioner has general administration of compliance with the superannuation data and payment regulations and standards to the extent it relates to SMSFs and employers and to information and payments given to the Commissioner. *[Schedule 1, item 13, subparagraphs (6)(1)(e)(ia), 6(1)(fa)(ii) and (iii) of the SIS Act]*

1.18 APRA has general administration of compliance with the superannuation data and payment regulations and standards, and the giving of infringement notices to the extent they relate to APRA regulated superannuation entities. *[Schedule 1, item 11, subparagraph (6)(1)(a)(ib) of the SIS Act]*

1.19 The Commissioner has general administration of Part 4A of the RSA Act to the extent it relates to the making of data and payment standards relating to RSA providers and employers, employer compliance with the data and payment regulations and standards and to information and payments given to the Commissioner. *[Schedule 1, item 5, subparagraphs 3(1)(f)(i), (ii) and (iii) of the RSA Act]*

1.20 APRA has general administration of compliance with the superannuation data and payment regulations and standards, and the giving of infringement notices to the extent they relate to RSA providers. *[Schedule 1, item 4, paragraph 3(1)(bb) of the RSA Act]*

1.21 The Commissioner will be able to enforce compliance with the superannuation data and payment regulations and standards for superannuation entities and RSA providers when reporting member related information (such as Member Contributions Statement) to the Australian Taxation Office (ATO). The Commissioner also has general administration of the correction and rectification of information in his possession. *[Schedule 1, item 5, subparagraph 3(1)(f)(iv) of the RSA Act and item 13, subparagraph 6(fa)(iv) of the SIS Act]*

1.22 Schedule 1 also makes further minor amendments to reflect this division of general administration. *[Schedule 1, item 10, paragraph 6(1)(a)(fa) of the SIS Act]*

Framework for the superannuation data and payment regulations and standards

1.23 Reference in this explanatory memorandum to the superannuation data and payment regulations and standards also means data and payment regulations and standards relating to retirement savings accounts (RSAs).

1.24 The Commissioner may issue superannuation data and payment standards in the form of legislative instruments, supported by the provisions in Part 4A of the RSA Act and Part 3B of the SIS Act. Additional requirements will be specified in the regulations.

1.25 The legislative instrument for the superannuation data and payment standards will contain technical specifications (such as required data items and message format) that superannuation entities, RSA providers and employers will need to comply with.

1.26 The regulations may require RSA providers, trustees of superannuation entities and employers in their dealings with RSA providers and superannuation entities to comply with superannuation data and payment matters. *[Schedule 1, item 1, paragraphs 45B(1)(a) and (b) of the RSA Act and item 2, paragraphs 34K(1)(a) and (1)(b) of the SIS Act]*

1.27 A superannuation data and payment matter refers to information and payments that relate to an RSA account holder or a member of a superannuation entity (or an employee for whose benefit a contribution to an RSA provider or a superannuation entity is to be made by the employer) and are connected with the operation of the RSA provider or

superannuation entity. *[Schedule 1, item 1, paragraphs 45B(5)(a) and (b) of the RSA Act and item 2, paragraphs 34K(5)(a) and (b) of the SIS Act]*

1.28 The regulations may prescribe different requirements in relation to superannuation data and payment matters for different classes of RSA providers, superannuation entities or employers. This provides the flexibility to tailor the application of certain requirements to different classes. *[Schedule 1, item 1, subsection 45B(2) of the RSA Act and item 2, subsection 34K(2) of the SIS Act]*

1.29 The Commissioner may, by legislative instrument, determine standards relating to superannuation data and payment matters that are applicable to RSA providers, trustees of superannuation entities and employers in their dealings with RSA providers and superannuation entities. *[Schedule 1, item 1, paragraphs 45B(3)(a) and (b) of the RSA Act and item 2, paragraphs 34K(3)(a) and (b) of the SIS Act]*

1.30 The superannuation data and payments standards may specify different requirements to be complied with by a class of RSA provider, superannuation entity or employer. The inclusion of additional flexibility within the superannuation data and payment standards will enable specific data or payment items to be tailored to certain classes to ensure appropriate administration occurs. *[Schedule 1, item 1, subsection 45B(4) of the RSA Act and item 2, subsection 34K(4) of the SIS Act]*

1.31 The ability to specify different requirements that must be complied with by certain classes of RSA provider, superannuation entity or employers will enable the Commissioner to customise the superannuation data and payment standards to the characteristics of particular classes of RSA provider or superannuation entities, such as self-managed superannuation funds. This will also provide scope for more flexibility.

1.32 The regulations will specify superannuation transactions, reports and records that will need to comply with the superannuation data and payment standards. Transactions include both data (information) and payments of superannuation.

1.33 Payments and transactions that are covered by the superannuation data and payment regulations and standards include:

- transactions between two RSA providers or superannuation entities (such as a roll-over of superannuation benefits);
- transactions between an employer and an RSA provider or a superannuation entity (such as contributions and the registration of members); and

- reporting from an RSA provider or a superannuation entity to the Commissioner (such as Member Contribution Statement reporting).

[Schedule 1, item 1, paragraphs 45B(6)(a), (b) and (c) of the RSA Act and item 2, paragraphs 34K(6)(a), (b) and (c) of the SIS Act]

1.34 The regulations enable any other kind of payment or information relating to superannuation data and payment matters to be prescribed. For example, the regulations may prescribe the performance standards (processing timeframes) that will apply to certain transactions (such as roll-overs or contributions). *[Schedule 1, item 1, paragraph 45B(6)(e) of the RSA Act and item 2, paragraph 34K(6)(e) of the SIS Act]*

1.35 The superannuation data and payment regulations and standards may also apply to payments or information made or provided by the Commissioner. For example, payments and information relating to unclaimed superannuation or roll-overs initiated by members through an online service provided by the Commissioner. *[Schedule 1, item 1, paragraph 45B(6)(f) of the RSA Act and item 2, paragraph 34K(6)(f) of the SIS Act]*

1.36 The superannuation data and payment regulations and standards may specify a format for a unique identifier for use with any superannuation data and payment matter connected with the operation of an RSA provider or superannuation entity. *[Schedule 1, item 1, paragraph 45B(6)(d) of the RSA Act and item 2, paragraph 34K(6)(d) of the SIS Act]*

1.37 Such a unique identifier would link a payment with the relevant transaction's member information. For example, a unique identifier would link the transfer of money and the transfer of information between superannuation entities when a member's benefits are rolled over or transferred. This will result in improved processing outcomes for the superannuation entities and more timely allocation of payments for beneficiaries.

1.38 To simplify the operation of the superannuation data and payment regulations and standards, the regulations and/or standards may adopt or incorporate other third party standards that exist at a particular time or from time to time. For example, the ability to use existing payment standards, such as the Bulk Electronic Clearing System (BECS) Direct Credit Standard will ensure alignment with existing payment channels. *[Schedule 1, item 1, paragraphs 45B(7)(a) and (b) of the RSA Act and item 2, paragraphs 34K(7)(a) and (b) of the SIS Act]*

1.39 The incorporation of third party standards that exist from time to time is an exception to subsection 14(2) of the *Legislative Instruments Act 2003* (LIA 2003). Paragraph 34K(7)(b) has been incorporated to future proof the interactions between the superannuation data and

payment regulations and standards and third party standards that are adopted or incorporated, such as the BECS, that may be updated. Without this flexibility, the superannuation and data payment regulations and standards would be compromised as it could only reference a third party standard that existed at a point in time.

1.40 Despite provisions in the LIA 2003, the standards may adopt or incorporate components of third party standards, or other matters contained in any other instrument or writing. *[Schedule 1, item 1, subsection 45B(8) of the RSA Act and item 2, subsection 34K(8) of the SIS Act]*

1.41 Although the superannuation data and payment standards will be issued by the Commissioner, the Commissioner must consult with APRA when preparing the standards. *[Schedule 1, item 1, subsection 45B(9) of the RSA Act and item 2, subsection 34K(9) of the SIS Act]*

1.42 The requirement to consult with APRA is in addition to further consultation requirements contained in section 17 of the LIA 2003.

1.43 However, superannuation data and payment standards are not invalidated or rendered unenforceable by a failure to consult with APRA during their preparation. *[Schedule 1, item 1, subsection 45B(10) of the RSA Act and item 2, subsection 34K(10) of the SIS Act]*

Interaction between data and payment standards and regulations

1.44 The superannuation data and payment standards made by the Commissioner may elaborate, supplement or otherwise deal with any aspect of the regulations made under Part 4A of the RSA Act or Part 3B of the SIS Act. This approach is intended to provide maximum flexibility in the application of the standards. *[Schedule 1, item 1, subsection 45C(1) of the RSA Act and item 2, subsection 34L(1) of the SIS Act]*

1.45 However, if the standards made by the Commissioner are inconsistent with the provisions in Part 4A of the RSA Act or Part 3B of the SIS Act or provisions in the regulations under those parts, they will have no effect. *[Schedule 1, item 1, subsection 45C(2) of the RSA Act and item 2, subsection 34L(2) of the SIS Act]*

Compliance with superannuation data and payment regulations and standards

1.46 A compliance regime is to be introduced that provides the Regulators with flexibility as to an appropriate penalty. An administrative penalty/infringement notice regime will be introduced that operates as an alternative to a new strict liability offence.

1.47 Offences of strict liability will apply to contraventions of the superannuation data and payment regulations and standards and failure to comply with Regulators' directions. The development of a compliance framework that incorporates an administrative penalty regime and a strict liability offence regime provides a graduated approach to dealing with contraventions of these provisions.

1.48 The strict liability offences do not carry penalties of imprisonment and most of the maximum penalties are 20 penalty units, except in the case of a failure to comply with a direction of a Regulator in which case the maximum penalty is 50 penalty units given the more serious nature of failing to comply with a direction.

1.49 In framing these offences, consideration was given to the principles contained in Report 6/2002 of the Senate Scrutiny of Bills Committee on the Application of Absolute and Strict Liability Offences in Commonwealth Legislation.

1.50 For a Regulator, the requirement to prove 'intent' of a superannuation entity, RSA provider or an employer to not comply with the superannuation data and payment regulations and standards would be problematic and make the provisions difficult to enforce.

1.51 The underlying nature of these provisions is to benefit beneficiaries of RSA providers and superannuation entities. The failure to comply with these provisions will have an impact on the beneficiaries of RSA providers and superannuation entities in receiving superannuation payments.

1.52 Contraventions of the superannuation data and payment regulations and/or standards will result in a strict liability offence as this is the most efficient means of administering regulatory penalties and maintaining confidence in the regime. The adherence to the superannuation data and payment regulations and standards by all participants in the superannuation system is essential to meeting the policy outcome of standardised transactions within the superannuation industry.

1.53 It is a reasonable expectation that RSA Providers, superannuation entities and employers will implement appropriate processes to deal with superannuation transactions for their members and employees to ensure their compliance with the superannuation data and payment regulations and standards.

1.54 RSA providers and trustees of superannuation entities are required to comply with regulations made under Part 4A of the RSA Act and Part 3B of the SIS Act, and any superannuation data and payment standards that are applicable to RSA providers or superannuation entities.

[Schedule 1, item 1, paragraphs 45D(1)(a) and (b) of the RSA Act and item 2, paragraphs 34M(1)(a) and (b) of the SIS Act]

1.55 Section 288-110 of the TAA 1953 provides the option of an administrative penalty where RSA providers or superannuation entities have not complied with the superannuation data and payment regulations and/or standards required to be complied with when reporting to the Commissioner. *[Schedule 1, item 1, subsection 45D(1) of the RSA Act and item 2, subsection 34M(1) of the SIS Act]*

1.56 An offence of strict liability will occur where an RSA provider or a trustee of a superannuation entity has not ensured that the superannuation data and payment regulations and standards are complied with. Penalty — 20 penalty units. *[Schedule 1, item 1, subsection 45D(2) of the RSA Act and item 2, subsection 34M(2) of the SIS Act]*

1.57 A contravention of any superannuation data and payment regulations and/or standards by an RSA provider or a trustee of a superannuation entity does not affect the validity of the transaction. For example, if a roll-over is received by a superannuation entity and does not contain all data elements required, the roll-over as a transaction may be valid but does not comply with the standards. *[Schedule 1, item 1, subsection 45D(3) of the RSA Act and item 2, subsection 34M(3) of the SIS Act]*

1.58 Employers dealing with payments and information relating to an employee, for whose benefit a contribution of superannuation is to be made, must comply with regulations made under Part 4A of the RSA Act and Part 3B of the SIS Act and any superannuation data and payment regulations and standards that are applicable to employers. *[Schedule 1, item 1, paragraphs 45E(1)(a) and (b) of the RSA Act and item 2, paragraphs 34N(1)(a) and (b) of the SIS Act]*

1.59 Section 288-110 of the TAA 1953 provides an administrative penalty where employers have not complied with the superannuation data and payment regulations and/or standards. *[Schedule 1, item 1, subsection 45E(1) of the RSA Act and item 2, subsection 34N(1) of the SIS Act]*

1.60 An offence of strict liability will occur where an employer has not complied with the superannuation data and payment regulations and/or standards. Penalty — 20 penalty units. *[Schedule 1, item 1, subsection 45E(2) of the RSA Act and item 2, subsection 34N(2) of the SIS Act]*

1.61 A contravention of any superannuation data and payment regulation and/or standard by an employer does not affect the validity of the transaction. For example, if a contribution is received by a superannuation entity that does not contain all data elements required, the contribution as a transaction may be valid but does not comply with the standards. *[Schedule 1, item 1, subsection 45E(3) of the RSA Act and item 2, subsection 34N(3) of the SIS Act]*

Regulator's power to give directions in certain circumstances

1.62 APRA will be able to give directions to APRA-regulated superannuation entities and RSA providers where there is reason to believe that contraventions of the superannuation data and payment regulations and/or standards has or is likely to occur. *[Schedule 1, item 4, paragraph 3(1)(bb) of the RSA Act and item 12, subparagraph 6(1)(a)(ib) of the SIS Act]*

1.63 The Commissioner will be able to give directions to RSA providers and APRA-regulated superannuation entities (for payments and information given to the Commissioner), and SMSFs and employers where there is reason to believe that contraventions of the superannuation data and payment regulations and/or standards has or is likely to occur. *[Schedule 1, item 5, subparagraphs 3(1)(f)(ii) and (iii) of the RSA Act and, item 12, subparagraph 6(1)(e)(ia) and item 13, subparagraphs 6(1)(fa)(ii) and (iii) of the SIS Act]*

1.64 The Regulator will be able to issue a written direction to an RSA provider or a trustee of a superannuation entity, if the Regulator reasonably believes that the RSA provider or superannuation entity may have or is likely to contravene a superannuation data and payment regulation and/or standard. *[Schedule 1, item 1, paragraphs 45F(1)(a) and (b) of the RSA Act and item 2, paragraphs 34P(1)(a) and (b) of the SIS Act]*

1.65 In determining whether to give a direction, the Regulator must consider the extent to which the RSA provider or superannuation entity is operating in a way that is contrary to the object of the relevant Part as well as any other relevant matter. *[Schedule 1, item 1, paragraphs 45F(2)(a) and (b) of the RSA Act and item 2, paragraphs 34P(2)(a) and (b) of the SIS Act]*

1.66 The Regulator may give a direction to an RSA provider or a trustee of a superannuation entity that requires the RSA provider or trustee to either do a specified act to rectify the contravention, or refrain from doing an act to rectify the contravention (or prevent the likely contravention from occurring). *[Schedule 1, item 1, paragraphs 45F(4)(a) and (b) of the RSA Act and item 2, paragraphs 34P(4)(a) and (b) of the SIS Act]*

1.67 The RSA provider or the trustee of a superannuation entity will have a minimum of 21 days after the direction is issued to ensure the RSA provider or superannuation entity complies with the direction. The timeframe will be determined by the Regulator. *[Schedule 1, item 1, subsections 45F(5) and (6) of the RSA Act and item 2, subsections 34P(5) and (6) of the SIS Act]*

1.68 Section 288-110 of the TAA 1953 provides an administrative penalty where an RSA provider or a trustee of a superannuation entity has not complied with a direction within the specified time period. *[Schedule 1, item 1, subsection 45F(6) of the RSA Act and item 2, subsection 34P(6) of the SIS Act]*

1.69 An offence of strict liability will occur where an RSA provider or a trustee of a superannuation entity has not complied with the direction within the time specified. Penalty — 50 penalty units. *[Schedule 1, item 1, subsection 45F(7) of the RSA Act and item 2, subsection 34P(7) of the SIS Act]*

1.70 The Regulator may (through written notification) vary the direction given to an RSA provider or a trustee of the superannuation entity. The direction may be revoked if the Regulator determines the direction is no longer necessary or appropriate. *[Schedule 1, item 1, subsections 45F(8) and (9) of the RSA Act and item 2, subsections 34P(8) and (9) of the SIS Act]*

1.71 The Commissioner will be able to issue a written direction to an employer if the Commissioner has reasonable grounds to believe that the employer may have or is likely to contravene a superannuation data and payment regulation and/or standard. *[Schedule 1, item 1, paragraphs 45G(1)(a) and (b) of the RSA Act and item 2, paragraphs 34Q(1)(a) and (b) of the SIS Act]*

1.72 In determining whether to give a direction, the Commissioner must consider the extent to which the employer is operating in a way that is contrary to the object of the relevant Part as well as any other relevant matter. *[Schedule 1, item 1, paragraphs 45G(2)(a) and (b) of the RSA Act and item 2, paragraphs 34Q(2)(a) and (b) of the SIS Act]*

1.73 The Commissioner may give a direction to an employer that requires the employer to either do a specified act to rectify the contravention, or refrain from doing an act to rectify the contravention (or prevent the likely contravention from occurring). *[Schedule 1, item 1, paragraphs 45G(4)(a) and (b) of the RSA Act and item 2, paragraphs 34Q(4)(a) and (b) of the SIS Act]*

1.74 The employer will have a minimum of 21 days after the direction is issued to ensure the employer comply with the direction. The timeframe will be determined by the Commissioner. *[Schedule 1, item 1, subsections 45G(5) and (6) of the RSA Act and item 2, subsections 34Q(5) and (6) of the SIS Act]*

1.75 Section 288-110 of the TAA 1953 provides an administrative penalty where the employer has not complied with direction within the specified time period. *[Schedule 1, item 1, subsection 45G(6) of the RSA Act and item 2, subsection 34Q(6) of the SIS Act]*

1.76 An offence of strict liability will occur where the employer has not complied with the direction within the time specified. Penalty — 50 penalty units. *[Schedule 1, item 1, subsection 45G(7) of the RSA Act and item 2, subsection 34Q(7) of the SIS Act]*

1.77 The Regulator may (through written notification) vary the direction given to the employer. The Regulator may revoke the direction

if it is determined the direction is no longer necessary or appropriate. *[Schedule 1, item 1, subsections 45G(8) and (9) of the RSA Act and item 2, subsection 34Q(8) and (9) of the SIS Act]*

Infringement notices

1.78 APRA will have the general administration of the Division covering infringement notices. The issuing of infringement notices will therefore be restricted to APRA regulated superannuation entities and RSA providers. *[Schedule 1, item 4 paragraph 3(1)(bb) of the RSA Act and item 11, subparagraph 6(1)(a)(ib) of the SIS Act]*

1.79 APRA may issue an infringement notice where they have reasonable grounds that a contravention of a provision governing compliance with the superannuation data and payment regulations or standards or directions to comply with the superannuation data and payment regulations and/or standards has occurred. *[Schedule 1, item 1, subsection 45H(1) of the RSA Act and item 2, subsection 34R(1) of the SIS Act]*

1.80 An infringement notice is to be issued within 12 months after the day on which the contravention occurred. *[Schedule 1, item 1, subsection 45H(2) of the RSA Act and item 2, subsection 34R(2) of the SIS Act]*

1.81 The infringement notice must include prescribed information and state that, if the infringement is paid within 28 days, and the provision is a strict liability offence the person is not liable to be prosecuted in court. If the infringement is not paid within 28 days, and the provision is also a strict liability offence, the RSA provider or trustee of the superannuation entity may be prosecuted in a court. *[Schedule 1, item 1, subsection 45J(1) of the RSA Act and item 2, subsection 34S(1) of the SIS Act]*

1.82 The maximum amount of the infringement notice must be equal to one-fifth of the maximum penalty that a court could impose on a person for the contravention. *[Schedule 1, item 1, subsection 45J(2) of the RSA Act and item 2, subsection 34S(2) of the SIS Act]*

1.83 A person to whom an infringement notice is issued may request APRA to extend the timeframe for payment of the notice. *[Schedule 1, item 1, subsection 45K(1) of the RSA Act and item 2, subsection 34T(1) of the SIS Act]*

1.84 A person to whom an infringement notice is issued may write to APRA seeking the withdrawal of the notice within 21 days of the notice being issued. *[Schedule 1, item 1, subsection 45L(1) of the RSA Act and item 2, subsection 34U(1) of the SIS Act]*

1.85 APRA may withdraw the infringement notice, whether the result of representation or not, and take into account the circumstances outlined. *[Schedule 1, item 1, subsections 45L(2) and (3) of the RSA Act and item 2, subsections 34U(2) and (3) of the SIS Act]*

1.86 APRA must notify the person of the withdrawal of the notice and refund to the person an amount equal to the amount paid. *[Schedule 1, item 1, subsections 45L(4) and (5) of the RSA Act and item 2, subsections 34U(4) and (5) of the SIS Act]*

1.87 If a person pays the amount of the infringement notice within the specified period any liability for the contravention will be discharged and if the provision is a strict liability offence provision the person may not be prosecuted in court. *[Schedule 1, item 1, subsection 45M (1) of the RSA Act and item 2, subsection 34V(1) of the SIS Act]*

1.88 APRA is not required to issue an infringement notice to a person for an alleged contravention of provisions governing compliance with the superannuation data and payment regulations and/or standards. *[Schedule 1, item 1, subsection 45N(a) of the RSA Act and item 2, subsection 34W(a) of the SIS Act]*

1.89 APRA can issue two or more infringement notices to a person for alleged infringement of provisions contraventions of the superannuation data and payment regulations and/or standards. *[Schedule 1, item 1, subsection 45N(c) of the RSA Act and item 2, subsection 34W(c) of the SIS Act]*

1.90 The issuing of an infringement notice does not limit a court's discretion to determine the amount of a penalty to be imposed for contraventions of the superannuation data and payment regulations and/or standards. *[Schedule 1, item 1, subsection 45N(d) of the RSA Act and item 2, subsection 34W(d) of the SIS Act]*

Correction and rectification of information

1.91 The Commissioner may correct information in the Commissioner's possession to ensure that the information complies with the superannuation data and payment regulations and/or standards. *[Schedule 1, item 1, paragraphs 45P(1)(a) and (b) of the RSA Act and item 2, paragraphs 34X(1)(a) and (b) of the SIS Act]*

1.92 The correction of any information by the Commissioner does not remove a person's liability for any contraventions of the superannuation data and payment regulations and/or standards. *[Schedule 1, item 1, subsections 45P(2) of the RSA Act and item 2, subsection 34X(2) of the SIS Act]*

1.93 This provision will provide the Commissioner with the flexibility to rectify information that may be provided incorrectly or missing. For example, the Commissioner would be able to correct missing member details or fund details that would otherwise compromise the information.

Administrative penalties

1.94 A new miscellaneous administrative penalty will be inserted into the TAA 1953 for contraventions of the superannuation data and payment regulations and/or standards. *[Schedule 1, item 3, subsection 288-110 of the TAA 1953]*

1.95 The administrative penalties will only apply to those parts of the RSA Act and the SIS Act where the Commissioner has general administration. *[Schedule 1, item 5, subparagraphs 3(1)(f)(ii) and (iii) of the RSA Act and item 13, subparagraphs 6(1)(fa)(ii) and (iii) of the SIS Act]*

1.96 RSA Providers and trustees of superannuation entities are liable for an administrative penalty if the entity has not complied with the superannuation data and payment regulations and/or standards, and/or have not complied with the Regulator's direction to comply. *[Schedule 1, item 3, paragraphs 288-110(1)(a) and (b) and (2)(a) and (b) of the TAA 1953]*

1.97 Employers are liable for an administrative penalty if the entity has not complied with superannuation data and payment regulations and/or standards, and/or have not complied with the Regulator's direction to comply.

1.98 The amount of administrative penalty is equal to one-fifth of the maximum penalty that a court could impose on a person for the contravention. *[Schedule 1, item 3, paragraphs 288-110(3)(a) and (b) and (4)(a) and (b) of the TAA 1953]*

1.99 The base penalty amount for an administrative penalty for not complying with the superannuation data and payment regulations and/or standards is 4 penalty units. *[Schedule 1, item 3, paragraph 288-110(6)(a) of the TAA 1953]*

1.100 The base penalty amount for an administrative penalty for not complying with the Regulator's direction to comply with the superannuation data and payment regulations and/or standards is 10 penalty units. *[Schedule 1, item 3, paragraph 288-110(6)(b) of the TAA 1953]*

1.101 The insertion of the administrative penalty regime in the TAA 1953 will also enable the Commissioner to use existing remission provisions.

Application and transitional provisions

1.102 The amendments in this schedule apply to RSA providers and trustees of a superannuation entity in relation to conduct that occurs on or

after 1 July 2013. *[Schedule 1, item 20, subsections (1)(a) and (b) of the RSA Act and SIS Act]*

1.103 The amendments in this schedule apply to an entity that is a medium to large employer on 1 July 2014 in relation to conduct that occurs on or after 1 July 2014. *[Schedule 1, item 20, subsection (2) of the RSA Act and SIS Act]*

1.104 The amendments in this schedule apply to an entity that is a small employer on 1 July 2014 in relation to conduct that occurs on or after 1 July 2015, unless the regulations prescribe an alternate application date after 1 July 2015. *[Schedule 1, item 20, subsection (3) of the RSA Act and SIS Act]*

1.105 A medium to large employer means an employer that employs 20 or more employees as at 1 July 2014. A small employer means an employer that employs fewer than 20 employees as at 1 July 2014. *[Schedule 1, item 20, subsection (4) of the RSA Act and SIS Act]*

1.106 All employees employed at 1 July 2014 are to be counted for the purpose of calculating whether an employer is a medium to large or small employer to determine the date from which the superannuation data and payment regulations and standards will apply. *[Schedule 1, item 20, subsection (4) of the RSA Act and SIS Act]*

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Data and payment standards relating to superannuation and retirement savings

1.107 This Schedule 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

1.108 Schedule 1 to the Superannuation Legislation Amendment (Stronger Super) Bill (No.1) 2012 amends the SIS Act and the RSA Act to introduce a framework to support the implementation of superannuation data and payment standards that will apply to specified superannuation transactions undertaken by superannuation entities and employers.

1.109 The purpose of the new schedule is to improve the administration and management of super accounts making the processing of everyday transactions easier, cheaper and faster for members and employers.

Human rights implications

1.110 This Schedule does not engage any of the applicable rights or freedoms.

Conclusion

1.111 This Schedule is compatible with human rights as it does not raise any human rights issues.

Minister for Superannuation, the Hon Bill Shorten

Chapter 2

Costs of implementing SuperStream measures

Outline of chapter

- 2.1 Schedule 2 to this Bill amends section 50 of the *Australian Prudential Authority Act 1998* (APRA Act).
- 2.2 The amendments enable costs associated with the implementation of the SuperStream measures to be included in the Minister's determination specifying the amount of the levy that is payable to the Commonwealth.
- 2.3 The amendments also enable the Minister to make a determination that specifies the proportion of levy money paid to Australian Prudential Regulation Authority (APRA) that is to be credited to the APRA Special Account.

Context of amendments

- 2.4 As part of the Stronger Super reform package, the Government announced that expenditure associated with the introduction of SuperStream would be financed by a temporary levy on industry.
- 2.5 Government costs associated with the implementation of SuperStream will be recovered through the Superannuation Supervisory levy that applies to APRA-regulated funds.
- 2.6 Costs associated with the implementation of SuperStream will be collected through the existing collection mechanism that exists for the Superannuation Supervisory levy.
- 2.7 APRA is primarily funded through industry levies known as the Financial Sector Levies. The total funding requirement is determined by the annual Portfolio Budget Statement submitted to, and approved by, the Government.
- 2.8 Under subsection 50(1) of the APRA Act, the Minister is to make, for each financial year, a determination specifying the amount of levy money payable to the Commonwealth, in respect of levy (or each

class of levy) for that financial year. The amount specified in the determination is to cover the costs to the Commonwealth of providing market integrity and consumer protection functions for prudentially regulated institutions and administering the function of making determinations about the release on compassionate grounds of benefits that are in a superannuation entity or retirement savings account.

2.9 The amendments in Part 1 of Schedule 2 provide that the Minister's determination under subsection 50(1) of the APRA Act will include an amount of levy money to also cover the costs to the Commonwealth of implementing SuperStream.

2.10 The APRA Act currently requires APRA to collect and return the proportions collected on behalf of Australian Securities and Investments Commission (ASIC), Department of Human Services (DHS) and the Australian Taxation Office (ATO) to the Commonwealth in the first instance. Once the ATO, DHS and ASIC amounts have been met in consolidated revenue, the APRA Act provides that APRA receives the residual amounts collected through the levy to fund its supervisory activities.

2.11 This disbursement method and the variation in the timing that levies are paid by regulated institutions can cause cash flow difficulties for APRA.

2.12 The amendment in Part 2 of Schedule 2 to this Bill will provide an amendment to the APRA Act to ensure that levies collected by APRA are allocated on a proportionate basis between the Commonwealth and APRA's special account. This revised process will enable a more timely allocation of revenue to support APRA's regulatory functions.

Summary of new law

2.13 Schedule 2 to this Bill amends the APRA Act to enable costs associated with the implementation of the SuperStream measures to be included in the Minister's determination specifying the amount of the levy that is payable to the Commonwealth.

2.14 The amendments enable the Minister to make a determination that specifies the proportion of levy money paid to APRA that is to be credited to the APRA Special Account.

2.15 Schedule 2 also inserts a definition for SuperStream measures.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The Minister is able to include costs associated with the implementation of SuperStream in the determination made that specifies the amount of levy money payable to the Commonwealth.	Costs related to the implementation of SuperStream cannot be included in the Minister's determination that specifies the amount of levy money payable to the Commonwealth.
The Minister is able to make a determination specifying the proportion of amounts of levy money that is to be credited to the APRA Special Account.	Amounts of levy money can only be credited to the APRA Special Account when the amount collected exceeds the Commonwealth costs of providing market integrity and consumer protection functions and administering the release of benefits on compassionate grounds total of the amount collected
Definition of SuperStream measures.	No equivalent.

Detailed explanation of new law

Amendments to the APRA Act

2.16 Subsection 50(1) of the APRA Act enables the Minister to make by legislative instrument, for each financial year, a determination specifying the amount of levy money payable to the Commonwealth in respect of the levy (or each class of levy) for that financial year, to cover the costs to the Commonwealth of providing market integrity and consumer protection functions for prudentially regulated institutions and administering the function of making determinations about the release on compassionate grounds of benefits that are in a superannuation entity or retirement savings account.

2.17 An amendment will be made to subsection 50(1) that enables the Minister's determination to specify the amount of levy money that is payable to the Commonwealth to cover the costs to the Commonwealth of implementing the SuperStream measures until 30 June 2018. *[Schedule 2, items 1 and 2, subparagraphs 50(1)(a)(iii) and 50(1)(b)(iii) of the APRA Act]*

2.18 The Minister will be able to make a determination for each financial year specifying the proportion of amounts of levy money that is to be credited to the APRA Special Account on an ongoing basis. *[Schedule 2, item 4, section 50(1)(A) of the APRA Act]*

2.19 Currently, subsection 50(2) provides that a levy amount collected to cover the costs to the Commonwealth of providing market integrity and consumer protection functions for prudentially regulated institutions and administering the function of making determinations about the release on compassionate grounds is not to be credited to the APRA Special Account. Further, subsection 50(3) provides that if levy amounts collected exceed the costs to the Commonwealth, these amounts can be credited to the APRA Special Account.

2.20 Existing subsections 50(2) and 50(3) will be repealed and replaced by new subsections 50(2) and 50(3)(a) and (b) that determine the proportion of amount of levy money paid to APRA on behalf of the Commonwealth and to be credited to the APRA Special Account, and states that levy money paid to APRA, that exceeds the amount included in the Minister's determination to be credited to the APRA Special Account, will also be credited to the APRA Special Account. *[Schedule 2, item 4, subsection 50(2) and paragraphs 50(3)(a) and (b) of the APRA Act]*

2.21 An amendment will be made to subsection 50(6) to insert a definition of the measures covered by SuperStream. *[Schedule 2, item 5, section 50(6) of the APRA Act]*

Application and transitional provisions

2.22 The amendments in this schedule apply from 1 July 2012, and to the 2012-13 financial year.

Consequential amendments

2.23 Nil.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Cost of Implementing SuperStream measures

2.24 This Schedule 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

2.25 Schedule 2 of this Bill amends the *Australian Prudential Regulation Authority Act 1998* to enable costs associated with the implementation of the SuperStream measures to be included in the determination of Commonwealth costs.

2.26 These amendments will enable the determination specifying the amount of levy money payable to the Commonwealth to include costs associated with the implementation of SuperStream and also to determine the proportion of levy money paid to APRA that is to be credited to the APRA Special Account.

Human rights implications

2.27 This Schedule does not engage any of the applicable rights or freedoms.

Conclusion

2.28 This Schedule is compatible with human rights as it does not raise any human rights issues.

Minister for Superannuation, the Hon Bill Shorten

Chapter 3

Amendment to the Superannuation Supervisory Levy Imposition Act 1998

Outline of chapter

3.1 Schedule 1 of the Superannuation Supervisory Levy Imposition Amendment Bill 2012 amends the *Superannuation Supervisory Levy Imposition Act 1998* to enable the Treasurer to make more than one determination for a financial year.

Context of amendments

3.2 As part of the Stronger Super reform package, the Government announced that expenditure associated with the introduction of SuperStream would be financed by a temporary levy on industry.

3.3 Government costs associated with the implementation of SuperStream will be recovered through the Superannuation Supervisory Levy that applies to APRA-regulated funds.

3.4 The amendment made in Schedule 1 is to provide the Treasurer the ability to make a subsequent determination, for a financial year, of the restricted and unrestricted levy amounts, restricted and unrestricted levy percentages and the superannuation entity levy base.

3.5 This amendment will provide flexibility for the Treasurer in the event that amendments to the *Australian Prudential Regulation Authority Act 1998* (APRA Act), that provide for costs associated with the implementation of SuperStream to be included in the Minister's determination that specifies the amount of levy money payable to the Commonwealth, are delayed beyond 30 June 2012.

Summary of new law

3.6 Schedule 1 amends the *Superannuation Supervisory Levy Imposition Act 1998* to enable the Treasurer to make more than one determination for a financial year.

3.7 The amendment enables the Treasurer to make more than one determination, for a financial year, on any or all of the components included in the determination, being — the restricted levy amount, the unrestricted levy amounts, the restricted levy percentage, the unrestricted levy percentages and the superannuation entity levy base.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The Treasurer is able to make more than one determination for a financial year.	No equivalent.

Detailed explanation of new law

Treasurer able to make multiple determinations for a financial year

3.8 An amendment will be made to insert at the end of subsection 7, a provision that provides the ability for the Treasurer to make more than one determination, for a financial year, on any or all of the components included in the determination. [*Schedule 1, item 1, section 7 of the Superannuation Supervisory Levy Imposition Act 1998*]

Application and transitional provisions

3.9 The amendment in this Schedule applies from 1 July 2012.

Consequential amendments

3.10 Nil.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Amendment to the *Superannuation Supervisory Levy Imposition Act 1998*

3.11 This Bill 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

3.12 Schedule 1 of this Bill amends the *Superannuation Supervisory Levy Imposition Act 1998* to enable the Treasurer to make a subsequent determination, for a financial year, of the restricted and unrestricted levy amounts, restricted and unrestricted levy percentages and the superannuation entity levy base.

3.13 This amendment will provide flexibility for the Treasurer in the event that amendments to the APRA Act, that provide for costs associated with the implementation of SuperStream to be included in the Minister's determination that specifies the amount of levy money payable to the Commonwealth, are delayed beyond 30 June 2012.

Human rights implications

3.14 This Bill does not engage any of the applicable rights or freedoms.

Conclusion

3.1 This Bill is compatible with human rights as it does not raise any human rights issues.

Minister for Superannuation, the Hon Bill Shorten.

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Superannuation Legislation Amendment (Stronger Super) Bill 2012

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Item 1, subsections 45P(1)(a) and (b) of the RSA Act and item 2, subsection 34X(1)(a) and (b) of the SIS Act	1.91
Item 1, subsection 45P(2) of the RSA Act and item 2, subsection 34X(2) of the SIS Act	1.92
Item 3, subsection 288-110 of the TAA 1953	1.94
Item 3, paragraphs 288-110(1)(a) and (b) and (2)(a) and (b) of the TAA 1953	1.96
Item 3, paragraphs 288-110(3)(a) and (b) and (4)(a) and (b) of the TAA 1953	1.98
Item 3, paragraph 288-110(6)(a) of the TAA 1953	1.99
Item 3, paragraph 288-110(6)(b) of the TAA 1953	1.100

<i>Bill reference</i>	<i>Paragraph number</i>
Item 4, paragraph 3(1)(bb) of the RSA Act	1.20
Item 4, paragraph 3(1)(bb) of the RSA Act and item 11, subparagraph 6(1)(a)(ib) of the SIS Act	1.78
Item 4, paragraph 3(1)(bb) of the RSA Act and item 12, subparagraph 6(1)(a)(ib) of the SIS Act	1.62
Item 5, subparagraphs 3(1)(f)(i), (ii) and (iii) of the RSA Act	1.19
Item 5, subparagraphs 3(1)(f)(ii) and (iii) of the RSA Act and item 13, subparagraphs 6(1)(fa)(ii) and (iii) of the SIS Act	1.95
Item 5, subparagraphs 3(1)(f)(ii) and (iii) of the RSA Act and, item 12, subparagraph (6)(1)(e)(ia) and item 13, subparagraphs 6(1)(fa)(ii) and (iii) of the SIS Act	1.63
Item 5, subparagraph 3(1)(f)(iv) of the RSA Act and item 13, subparagraph 6(fa)(iv) of the SIS Act	1.21
Item 10, paragraph 6(1)(a)(fa) of the SIS Act	1.22
Item 11, subparagraph (6)(1)(a)(ib) of the SIS Act	1.18
Item 12, subparagraph 6(1)(e)(ia) and item 13, subparagraph 6(1)(fa)(ii) of the SIS Act	1.15
Item 13, subparagraphs (6)(1)(e)(ia), 6(1)(fa)(ii) and (iii) of the SIS Act	1.17
Item 13, subparagraph 6(1)(fa)(i) of the SIS Act	1.16
Item 20, subsections (1)(a) and (b) of the RSA Act and SIS Act	1.102
Item 20, subsection (2) of the RSA Act and SIS Act	1.103
Item 20, subsection (3) of the RSA Act and SIS Act	1.104
Item 20, subsection (4) of the RSA Act and SIS Act	1.105
Item 20, subsection (4) of the RSA Act and SIS Act	1.106

Schedule 2: Costs of implementing SuperStream measures

<i>Bill reference</i>	<i>Paragraph number</i>
Items 1 and 2, subparagraphs 50(1)(a)(iii) and 50(1)(b)(iii) of the APRA Act	2.17
Item 4, section 50(1)(A) of the APRA Act	2.18
Item 4, subsection 50(2) and paragraphs 50(3)(a) and (b) of the APRA Act	2.20
Item 5, section 50(6) of the APRA Act	2.21

Supervisory Levy Imposition Amendment Bill 2012

Schedule 1: Amendment to the Superannuation Supervisory Levy Imposition Act 1998

<i>Bill reference</i>	<i>Paragraph number</i>
Item 1, section 7 of the <i>Superannuation Supervisory Levy Imposition Act 1998</i>	3.8