

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Superannuation Industry (Supervision) Regulations 1994

*Superannuation Industry (Supervision) Amendment (Pass Through of Employee Details)
Regulation 2014*

Subsection 353(1) of the *Superannuation Industry (Supervision) Act 1993* (SISA) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Pass-through of contributions data

The *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) contain data and payment standards (the Standards) which apply to an employer that makes contributions to a superannuation fund on behalf of its employees. These contributions are generally made to a fund which the employer provides as a default for employees that do not have a choice fund (default fund) or the fund an employee has chosen to be a member of (choice fund). From 1 January 2014 only those funds which offer a MySuper product can be an employer's default fund.

The employer is required to give information to the fund about the employee and the payment (contributions data) when it makes a superannuation contribution on behalf of the employee. The Standards determine the format in which this message must be sent.

The money that relates to the data message flows separately through the payment and banking system and is reconciled by the fund with the corresponding data message.

An employer may have to provide contributions information to a large number of different funds where the fund membership of its employees is diverse.

The purpose of the *Superannuation Industry (Supervision) Amendment (Pass Through of Employee Details) Regulation 2014* (Regulation) is to amend the SIS Regulations so that, from 1 July 2015, a default fund of an employer that receives contributions data which relates to another superannuation fund must pass the contributions data on to the correct fund.

The effect of this is that each fund that offers a MySuper product must provide a service so that an employer who has chosen the fund as their default can deliver all contributions data to a single location and be certain that all data will be routed to the right destination, whether that is the default or any other superannuation fund (pass-through).

Conditions and commencement

The SISA specifies no conditions that need to be met before the power to make the Regulation may be exercised.

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

The Regulation commences on the day after registration.

The Regulation applies from 1 July 2015.

Details

Details of the Regulation are set out in the Attachment.

EXPOSURE DRAFT

Details of the Superannuation Industry (Supervision) Amendment (Pass Through of Employee Details) Regulation 2014

Section 1 — Name of Regulation

This section provides that the title of the Regulation is the *Superannuation Industry (Supervision) Amendment (Pass Through of Employee Details) Regulation 2014* (Regulation).

Section 2 — Commencement

This section provides that the Regulation commences on the day after registration.

Section 3 — Authority

This section provides that the Regulation is made under the *Superannuation Industry (Supervision) Act 1993*.

Section 4 — Schedule(s)

This section provides that 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.

Schedule 1 — Pass-through contributions

SuperStream is a package of reforms designed to make the ‘back office’ of the superannuation system more efficient. Standardised formats for data transfers and payments between superannuation funds and from employers to superannuation funds are being introduced between 1 July 2013 and 1 July 2015.

For administrative convenience and to simplify security matters, a superannuation fund will use the services of a ‘gateway’ provider to facilitate the receipt of contributions data in compliance with its obligations under the Standards. Under these arrangements, generally, the employer will send contributions information to superannuation funds through the gateway network, either directly or via a third party, such as a clearing house.

However, where the employees of an employer are members of different superannuation funds, the employer may still have to send information to multiple destinations.

The Regulation requires that, if a default fund of an employer receives contributions information for an employee who is a member of another fund, the default fund must pass that information on to that fund. The effect of this is that employers will be able to deliver all contributions data to a single location, and be confident that all data will be routed to the right destination, whether that is the MySuper fund or any other superannuation fund.

A number of default funds already provide a similar service via a data and payment clearing service offered to employers. In some cases these services are built into the fund’s internet portal. In others, they are provided by a fund administrator or other service provider. These services are often offered to employers at a very low or zero cost.

The Regulation is not intended to alter these arrangements. In scenarios similar to those outlined above, it is considered that the fund will satisfy the pass-through obligation and that market forces will generally work to keep the price of these services low.

The Regulation is not intended to endorse a combined data and payment clearing model as the only practical application of pass-through, nor does it imply that the offering of such a service will always satisfy a fund's pass-through obligation. An employer is not obliged to take on the additional services provided through a full data and payment clearing model. If any employer chooses to take on these services it does so based on commercial interests.

Alternative models under which a MySuper fund provides a data clearing or data transformation service to employers as a method of facilitating pass-through should also be available to employers who wish to use such a service. These solutions are also expected to be provided at very low or zero cost.

A default fund offering a transitional 'portal' solution that does not currently have the capacity to ensure the delivery of all of a default employer's contributions (including that relating to other superannuation funds), will be required to:

- develop such a service; or
- outsource the delivery of such a service to a third party provider; or
- facilitate and encourage use of data clearing via their nominated gateway provider with direct payments by the employer to target funds.

This may be achieved by including a clearing capability in the portal or by means of an alternative service that allows a default employer to deliver contributions data to a single location from which it is routed to the correct fund.

It is expected that employers with multiple default fund arrangements will choose a fund (or funds) to handle their contributions in line with their commercial needs and the best interests of their employees. In the majority of cases, employers should be able to access a free or low-cost service to route their contributions data to the correct destination.

Employers without an established default fund relationship who want to take advantage of pass-through will need to consider developing such a relationship with a MySuper fund or, alternatively, engaging a third party clearing service. This consideration is expected to be largely based upon what solution or process best meets their commercial needs and the interests of their employees.

The Regulation applies from 1 July 2015.