

## ***SPR 2017/1 - Explanatory statement -***



## Explanatory Statement

# Reporting of all new member accounts and closed member accounts by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) in accordance with the *Taxation Administration Act 1953*

### General outline of instrument

1. This instrument is made under:

Section 286-75, Section 388-50 and Section 390-5 of Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953)

Section 17A of the *Superannuation Industry (Supervision) Act 1993*

2. This instrument sets out the way in which superannuation providers in relation to superannuation plans (other than self managed superannuation funds) are required to report all new member accounts and closed member accounts in accordance with section 390-5 of Schedule 1 to the TAA 1953 applying from 31 March 2017.
3. This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### Date of effect

5. This instrument will commence on the day after it is registered on the Federal Register of Legislative Instruments and will apply from 31 March 2017.

### What is this instrument about

6. The principal purpose of the Instrument is to set out the form and manner in which statements are to be provided to report new member accounts and closed member accounts daily or as soon as practicable after the event, but no later than 5 business days. The legislative instrument also establishes the due dates for lodgment of statements, which can be deferred by the exercise of the Commissioner of Taxation's (the Commissioner) discretion under section 388-55 of Schedule 1 to the TAA 1953.

### What is the effect of this instrument

7. The effect of this instrument is that superannuation providers have guidance on their obligations to lodge statements in the approved form to report new member accounts and closed member accounts, the dates by which they must be lodged and the penalty that may be applied for failure to lodge on time in the approved form.
8. This instrument does not change the reporting requirements detailed in the separate legislative instrument - Instrument ID - F2014L00691 - "*Lodgment of statements by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) for each financial year ended 30 June in accordance with the*

*Taxation Administration Act 1953* (registered on 4 June 2014). Instrument ID - F2014L00691 requires the lodgment of member contributions statements (MCS) by superannuation providers under section 390-5 of Schedule 1 to the TAA 1953.

### **Compliance cost impact**

9. Compliance Cost Impact: Minor – there will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

### **Background**

10. Since June 2001 the Commissioner has published requirements for lodgment of returns and statements in accordance with relevant legislation. Since July 2007 these requirements have applied to the Member Contributions Statement (MCS). Since July 2013 the obligation to provide an MCS has been expanded to include all individuals with a superannuation interest.
11. This legislative instrument is being made to require the reporting of all new member accounts and closed member accounts from 31 March 2017, in accordance with section 390-5 of Schedule 1 to the TAA 1953.
12. Exceptions to the requirement to report new and closed member accounts under this legislative instrument are:
  - member accounts closed to contributions;
  - member accounts closed to rollovers; and
  - member accounts that cannot be rolled over.
13. The instrument sets out the lodgment dates of statements and the manner in which they have to be lodged and the penalties that may be applied for failing to lodge the statements on time.

### **Consultation**

14. This instrument was developed in consultation with key industry stakeholders. From July 2015 the ATO undertook consultation via consultative forums including the Superannuation Administration Stakeholder Group, SuperStream Rollover Implementation Working Group, Business Engagement Forums and multiple industry representative consultation meetings on the content to be included in the Legislative Instrument.
15. Information was published on in the software developer's website in the form of a document - SuperTickV3 – Scenarios and related questions in which the ATO provided responses to issues and questions raised industry.
16. The ATO considered all issues in preparing the final legislative instrument. The majority of the feedback sought clarification about the application of the legislative instrument to specific circumstances and the ATO provided clarification. Where appropriate, additional clarity was added by making changes to the draft.

**Legislative references:**

*Taxation Administration Act 1953*

*Superannuation Industry (Supervision) Act 1993*

*Legislation Act 2003*

*Income Tax Assessment Act 1997*

*Human Rights (Parliamentary Scrutiny) Act 2011*

*Acts Interpretation Act 1901*

## **Statement of Compatibility with Human Rights**

This Statement is prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

***Reporting of all new member accounts and closed member accounts by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) in accordance with the Taxation Administration Act 1953'.***

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**

This legislative instrument sets out the way in which superannuation providers of superannuation plans (other than self-managed superannuation funds) are required to lodge statements, in the approved form, in accordance with section 390-5 of Schedule 1 to the *Taxation Administration Act 1953* to report new member accounts and closed member accounts. It also sets out the lodgment dates for the statements and the manner in which they can be lodged.

### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms as it simply provides guidance for superannuation providers on their obligations to lodge statements, the date by which they must be lodged and the penalty that may be applied for failure to lodge on time in the approved form.

### **Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.