

**Explanatory Statement to Superannuation Industry (Supervision)
Modification Declaration No.4 of 2007**

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Section 332 of the *Superannuation Industry (Supervision) Act 1993*

Section 332 of the *Superannuation Industry (Supervision) Act 1993 (the SIS Act)* provides that APRA may, in writing, declare that a modifiable provision of the SIS Act is to have effect, in relation to a particular person or class of persons, as if it were modified as specified in the declaration.

Superannuation Industry (Supervision) Modification Declaration No.4 of 2007 (**MD 4 of 2007**) modifies sections 29DC and 29MB of the SIS Act.

The instrument will come into force on the date of registration on the Federal Register of Legislative Instruments.

Background

1. Subsection 29DC(1) provides that a licensee must ensure that their RSE licence number is disclosed in documents where the licensee is identifying itself as a trustee of a registered superannuation entity (RSE). Subsection 29MB(1) provides that a licensee must ensure that the RSE registration number is disclosed in documents relating to the RSE.
2. On 24 September 2007 the *Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007 (FSSR Act)* was passed. Under *Part 3, Amendments commencing 12 months after Royal Assent* of the FSSR Act, Items 246, 248 and 254 replace the requirement to disclose an RSE licence and RSE registration number with the requirement to disclose the ABN of the RSE licensee and RSE, effective 24 September 2008.
3. Since the introduction of the RSE licensing requirements under Part 2A of the SIS Act, APRA has provided individual relief, by way of exemption under section 328, to a number of RSE licensees so that they are not required to disclose their RSE licence and registration numbers. In many cases this relief will lapse on 31 December 2007.
4. To facilitate the transition period from the end of the current exemptions until 24 September 2008, as well as allow any RSE licensee to implement the new ABN disclosure regime earlier than 24 September 2008 should they desire to do so, APRA wishes to offer RSE licensees the option to use the ABN of the RSE licensee and RSE as an alternative during the transition period.

Purpose of the instrument

5. APRA has agreed to provide relief to all RSE licensees from the requirement to include their RSE licence and/or RSE registration number on relevant disclosure

documents where the ABN of the RSE licensee and of the RSE is already disclosed. This relief will lapse on 24 September 2008 when the provisions of the FSSR Act come into effect.

Operation of the instrument

6. Granting relief in these circumstances will enable RSE licensees to use:
 - (a) existing disclosure documents that contain the RSE licensee's and/or the RSE's ABN (as required); and/or
 - (b) the RSE licensee's and RSE's ABN in any new disclosure documents (as required) prior to 24 September 2008;in order to meet their obligations under section 29DC and 29MB of the SIS Act.
7. MD 4 of 2007 will allow RSE licensees to utilise the provisions relating to sections 29DC and 29MB of the FSSR Act and does not impose additional obligations or costs on RSE licensees. It should alleviate the need for RSE licensees to make individual requests for relief to APRA under sections 29DC(2) and 29MB(2) of the SIS Act by allowing RSE licensee to implement the FSSR Act provisions during the transitional period.

Consultation

8. APRA consulted the main industry bodies on the draft instrument. No issues with the drafting or the overall approach adopted by APRA were identified in the consultation process.

Commencement

9. MD 4 of 2007 comes into force from the date of registration on the Federal Register of legislative Instruments.