

EXPLANATORY STATEMENT

ASIC SUPERANNUATION (AMENDMENT) INSTRUMENT 2016/345

Prepared by the Australian Securities and Investments Commission

Superannuation Industry (Supervision) Act 1993

The Australian Securities and Investments Commission (**ASIC**) makes *ASIC Superannuation (Amendment) Instrument 2016/345* (the **Instrument**) under section 335 of the *Superannuation Industry (Supervision) Act 1993* (the **SIS Act**).

Subsection 332(1) of the SIS Act provides that ASIC may, in writing, declare that a modifiable provision is to have effect, as if it were modified as specified in the declaration, in relation to a particular person or a class of persons or a particular group of individual trustees or a class of groups of individual trustees. The modifiable provisions include a provision of Part 2B of the SIS Act and a provision of regulations made under Part 2B. By section 335, ASIC may, in writing, vary or revoke a declaration under subsection 332(1).

1. Background

To promote systemic transparency, section 29QB of the SIS Act requires the publication, on the public section of the fund's website, of information and documents prescribed in regulations 2.37 and 2.38 of the *Superannuation Industry (Supervision) Regulations 1994 (SIS Regulations)*. These requirements, originally scheduled to commence on 1 July 2013, were deferred by ASIC Class Orders [CO 13/830], [CO 13/1275] and [CO 14/592] and largely came into effect on 1 July 2015.

Under these requirements, an RSE licensee of a registrable superannuation entity is required to make publicly available and to keep up to date at all times, on the registrable superannuation entity's website, details and remuneration of executive officers and individual trustees and information and documents relevant to the superannuation fund.

ASIC Class Order [CO 14/509] clarified the requirement under section 29QB of the SIS Act that superannuation websites must be kept up to date at all times. To achieve this, that class order provided RSE licensees with a safe harbour so that if they update the registrable superannuation entity's website within the time frames prescribed they will be taken to comply with the updating obligations under section 29QB.

[CO 14/509] also modified regulations 2.37 and 2.38 of the SIS Regulations by clarifying how references to 'financial year' are to operate in various circumstances.

[CO 14/592] deferred the start date until 1 July 2015 for certain disclosures required under subsection 29QB(1) of the SIS Act for standard employer-sponsored sub-plans; and ASIC Superannuation (Amendment No. 1) Instrument 2015 further deferred this start date until 1 July 2016.

2. Purpose of the class order

The purpose of the Instrument is to further defer the start date until 1 July 2017 for certain disclosures required under subsection 29QB(1) of the SIS Act for standard employer-sponsored sub-plans. This will give RSE licensees enough time to comply with the full requirements of section 29QB of the SIS Act in relation to these types of sub-plans.

3. Operation of the class order

The Instrument amends [CO 14/509] to defer the start date of disclosure requirements in relation to such documents until 1 July 2017 for standard employer-sponsored sub-plans. This means that in respect of standard employer-sponsored sub-plans, RSE documents such as product disclosure statements, trust deeds and governing rules, actuarial reports of defined benefit funds, annual reports and summaries of significant event notices do not have to be published on the RSE's website until 1 July 2017 or may be redacted if the document relates to both the sub-plan and the RSE more generally.

This deferral is intended to give RSE licensees enough time to transition to compliance with the full requirements of section 29QB of the SIS Act in relation to standard employer-sponsored sub-plans. On and from 1 July 2017, RSE licensees must publish the RSE documents mentioned above in respect of standard employer-sponsored sub-plans.

4. Consultation

ASIC did not undertake a public consultation process with respect to deferring the start date of disclosure requirements for standard employer-sponsored sub-plans under [CO 14/509] as it is a minor modification to extend the duration of the interim relief. The purpose of extending the interim relief is to give RSE licensees enough time to comply with the full obligations of section 29QB of the SIS Act in relation to standard employer-sponsored sub-plans. To this end, we consulted The Treasury, which had no objection to this extension.

Statement of Compatibility with Human Rights

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

ASIC Superannuation (Amendment) Instrument 2016/345

The 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

ASIC Superannuation (Amendment) Instrument 2016/345 (the **Instrument**) amends ASIC Class Order [CO 14/509].

Class Order [CO 14/509] relates to regulations 2.37 and 2.38 of the Superannuation Industry (Supervision) Regulations 1994 (SIS Regulations), made for the purposes of section 29QB of the Superannuation Industry (Supervision) Act 1993 (SIS Act), which require the licensee of a registrable superannuation entity (RSE) to make publicly available, and to keep up to date at all times, on the registrable superannuation entity's website:

- a) details of executive officers and individual trustees, including their remuneration (regulation 2.37); and
- b) specified information relating to the relevant superannuation fund, such as trust deeds and summaries of significant event notices given to members of the fund (regulation 2.38).

The amendments made by the Instrument to Class Order [CO 14/509] defer the start date until 1 July 2017 for certain disclosures required under subsection 29QB(1) of the SIS Act for standard employer-sponsored sub-plans. This will give RSE licensees enough time to comply with the full requirements of section 29QB of the SIS Act in relation to these types of sub-plans.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

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