

EXPLANATORY STATEMENT

Superannuation Supervisory Levy Imposition Determination 2018

This determination relates to a levy imposed by the *Superannuation Supervisory Levy Imposition Act 1998* (the Act) on superannuation entities.

This determination commences on 1 July 2018 and relates to the 2018-19 financial year. The *Superannuation Supervisory Levy Imposition Determination 2017* is repealed upon commencement of this determination. Consistent with section 7 of the *Acts Interpretation Act 1901*, any obligation or liability incurred in previous financial years remains valid.

The determination commences, or is taken to have commenced, before it is registered. However, commencement prior to registration does not disadvantageously affect the rights of any person as at the date of registration, or impose any liability on any person in respect of anything done, or omitted to be done, before the date of registration. Commencement prior to registration is therefore consistent with subsections 12(2) and 12(3) of the *Legislation Act 2003*.

Subsection 7(3) of the Act requires the Treasurer, by legislative instrument, to determine:

- (a) the maximum restricted levy amount for each financial year;
- (b) the minimum restricted levy amount for each financial year;
- (c) the restricted levy percentage for each financial year;
- (ca) the unrestricted levy percentage for each financial year; and
- (d) how a superannuation entity's levy base is to be worked out.

For superannuation funds other than small APRA funds (SAFs) and single member approved deposit funds (SMADFs), this determination provides that the restricted component of the 2018-19 levy will be calculated at 0.00274 per cent of assets held by the entity, subject to a minimum of \$5,000 and a maximum of \$325,000. The unrestricted component of the 2018-19 levy will be calculated at 0.003911 per cent of assets held by the entity.

For SAFs and SMADFs, this determination provides that the restricted component of the 2018-19 levy will be calculated at zero per cent of assets held by the entity, subject to a minimum of \$590 and a maximum of \$590. The unrestricted component of the 2018-19 levy will be calculated at zero per cent of assets held by the entity. In effect, SAFs and SMADFs will be levied a flat amount of \$590 per fund.

In 2018-19, Pooled Superannuation Trusts (PSTs), as defined in the *Superannuation Industry (Supervision) Act 1993*, are to be levied separately to other superannuation funds, SAFs and SMADFs. This determination provides that for PSTs the restricted component of the 2018-19 levy will be calculated at 0.00137 per cent of assets held by the entity, subject to a minimum of \$5,000 and a maximum of \$162,500. The unrestricted component of the levy will be calculated at 0.001040 per cent of assets held by the entity.

The amount of employer-sponsored receivables that are part of a superannuation entity's assets will not count towards the value of the entity's assets for the purposes of calculating the amount of levy payable to APRA.

The finance sector has been consulted on the 2018-19 supervisory levies through a Treasury and Australian Prudential Regulation Authority (APRA) discussion paper released on the Treasury website on 11 May 2018. The discussion paper discusses potential impacts of the levies on each industry sector and institution regulated by APRA. Six submissions were received during the consultation process, none of which related specifically to the methodology for this levy.

The Office of Best Practice Regulation has previously advised that a Regulatory Impact Statement is not required as supervisory levies are considered *machinery-of-government* in nature.

This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out in Attachment 1.

Statement of Compatibility with Human Rights

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

Superannuation Supervisory Levy Imposition Determination 2018

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 of the Legislative Instrument

This determination relates to a levy imposed by the *Superannuation Supervisory Levy Imposition Act 1998* (the Act) on superannuation entities.

Subsection 7(3) of the Act requires the Treasurer to determine:

- (a) the maximum restricted levy amount for each financial year;
- (b) the minimum restricted levy amount for each financial year;
- (c) the restricted levy percentage for each financial year;
- (ca) the unrestricted levy percentage for each financial year; and
- (d) how an authorised deposit-taking institution's asset value is to be calculated.

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.