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Objectives

The purpose of this Circular is to outline the financial reporting requirements that apply to regulated superannuation funds, approved deposit funds (ADFs) and pooled superannuation trusts (PSTs) under the *Superannuation Industry (Supervision) Act 1993* (the SIS Act). These types of funds or trusts are collectively referred to as ‘superannuation entities’. The requirements are primarily set out in Part 13 of the SIS Act and Part 8 of the Regulations under that Act.

2. The Circular will also briefly discuss the relationship between the SIS Act and the relevant Australian Accounting Standards which apply in respect of superannuation entities. The details of those Standards will not be dealt with in this Circular.

3. Note that where a superannuation entity has a corporate trustee, that corporate trustee will, being a company, be subject to certain financial reporting requirements under Corporations Law, accounting standards and related pronouncements. The SIS Act does not prescribe requirements for companies as such, and the Corporations Law and other requirements which are specifically for companies will not be outlined in this Circular.

Interaction of SIS and Australian Accounting Standards

4. The Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants require their members who are engaged in the preparation of accounts or the audit of accounts to ensure that those accounts comply with applicable accounting standards. Australian Accounting Standard AAS25, entitled ‘Financial Reporting by Superannuation Plans’, applies to regulated superannuation funds which are ‘reporting entities’.
5. In broad terms, a ‘reporting entity’ is an entity in respect of which it is reasonable to expect the existence of people who are dependent on ‘general purpose financial reports’ for information. ‘General purpose financial reports’ are reports which are expected to be used by people who are unable to have reports tailored to their specific needs. Further guidance on the application of the ‘reporting entity’ concept is provided in Statement of Accounting Concepts SAC1 and in AAS25.

6. In practice, generally regulated superannuation funds other than certain smaller funds whose members have a close association with the operation of the fund will be reporting entities and AAS25 will apply.

7. The SIS Act requirements are designed to operate in conjunction with AAS25. The Commissioner expects that accounts and statements of a regulated superannuation fund (other than a small fund of the type referred to in paragraph 6) would normally be prepared and audited in accordance with AAS25. Any decision to depart from AAS25 should be carefully considered, and the reasons for it documented.

8. For the great majority of regulated superannuation funds, accounts prepared in accordance with AAS25 and audited on that basis will satisfy the SIS Act requirements.

**Arrangements in the transition to the SIS Act**

9. The SIS requirements referred to in this Circular first apply for the year of income in which a superannuation entity becomes regulated. Typically, this will be the 1994/95 year of income. The requirements apply for the whole of that year even though the entity may have elected to be regulated after the start of the year.

10. For the 1993/94 year of income, the provisions of the OSS Act will continue to apply.
Accounting records
Sections 111, 112 of the SIS Act

11. The SIS Act prescribes certain basic requirements relating to the accounting records of superannuation entities including keeping correct records:

- which explain the transactions and financial position of the entity;
- to enable the preparation of required accounts, statements and returns; and
- to enable the convenient and proper audit of those accounts, statements and returns.

12. These records must be:

- written in English or in a form in which they are readily accessible and readily convertible into written English;
- kept in Australia; and
- kept for at least 5 years after the end of the income year to which the transactions relate.

13. The accounts must be signed. Where a fund has a single individual trustee, the accounts must be signed by that trustee. Where a fund has two or more trustees, the accounts must be signed by at least two trustees. Where a fund has a corporate trustee, the accounts must be signed by at least two directors.
Statements to be prepared
Section 112 of the SIS Act; SIS Regulations 1.03, 8.01 and 8.02

14. For each income year, PSTs and ADFs are required to prepare a statement of financial position and an operating statement.

15. The statements which are required for a regulated superannuation fund depend on whether the fund is a defined benefit fund or an accumulation fund, and whether the benefits paid to each individual member of the fund are wholly determined by reference to life assurance policies.

Defined benefit funds

16. Broadly speaking, under the SIS Act a defined benefit fund is a regulated superannuation fund under which:

- the retirement benefit of one or more members is defined by reference to the member’s salary or a specified amount (or both); and
- some or all of the contributions are paid into the fund and accumulated on an aggregated or pooled basis (i.e. are not allocated in respect of individual members).

17. However, a public sector superannuation scheme need only satisfy the first-mentioned condition to be a defined benefit fund.

18. For each income year, defined benefit funds have the option of preparing:

- a statement of financial position and an operating statement; or
- a statement of net assets and a statement of changes in net assets.

Accumulation funds

19. Any regulated superannuation fund which is not a defined benefit fund is an accumulation fund.

20. For the 1994/95 income year, accumulation funds have a choice as to whether to prepare:

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a statement of financial position and an operating statement; or

a statement of net assets and a statement of changes in net assets;

unless paragraph 22 applies.

21. For the 1995/96 and subsequent income years, accumulation funds are required to prepare a statement of financial position and an operating statement, unless paragraph 22 applies.

**Funds where individual benefits are determined wholly by reference to life policies**

22. Notwithstanding previous paragraphs, if a regulated superannuation fund is, at the end of a year of income, a fund from which the benefits paid to each individual member are determined wholly by reference to life assurance policies, the trustee must satisfy the financial reporting requirements by preparing a report which includes:

- a statement that all benefits in the fund are provided by life assurance policies which are in place by the end of the year of income;
- a statement as to whether such policies have been fully maintained as directed by the relevant insurers;
- a statement as to the insurers with whom such policies are held;
- the amounts contributed by employers and by members for the year of income;
- where not all amounts contributed have been applied as the policy premiums - the amount that has actually been applied as premiums in respect of the year of income; and
- the expenses incurred by the fund in respect of the year of income which are not expenses covered by the premiums.

23. A fund will only be regarded as providing benefits which are wholly determined by reference to life assurance policies if the retirement, death and
disablement benefits of each member are defined by one or more such policies. For example, a personal superannuation arrangement which is totally underwritten by individual life assurance policies will be considered as providing benefits which are wholly determined by reference to life assurance policies. To take another example, an employer-sponsored superannuation arrangement which is totally underwritten by a group policy arrangement will generally be considered as providing benefits which are wholly determined by reference to life assurance policies if the retirement, death and disablement benefits of each member are defined by a group life assurance policy. Note that, if the resignation benefits of a fund are subject to vesting in accordance with the fund’s governing rules, the fund will be regarded as providing benefits which are wholly determined by reference to life assurance policies, provided that:

- if the proceeds paid from the policy upon resignation exceed the resignation benefits, the excess is paid back into the policy, or some other policy, immediately; and

- retirement, death and disablement benefits are wholly determined by reference to a life assurance policy.

24. A fund which invests in a life assurance policy but which:

- defines benefits without reference to the policy; or

- defines retirement, death or disablement benefits partly by reference to the policy;

will not be regarded as providing benefits wholly determined by reference to life assurance policies. In these cases the life assurance policy is relevant to the valuation of the fund (or sub-plan in the case of a master trust) but does not wholly determine each individual member’s retirement, death and disablement benefits.
Audit requirements
Section 113 of the SIS Act; SIS Regulations 1.04, 8.03

25. The accounts and statements of a superannuation entity prepared in respect of each year of income must be audited by an ‘approved auditor’.

26. An ‘approved auditor’ is either a registered company auditor under the Corporations Law or the Auditor-General of the Commonwealth, a State or a Territory. (For excluded superannuation funds, the definition is broader, and is outlined in Superannuation Circular No. III.E.1.)

27. The SIS Act does not specify a period or date by which accounts and statements must be prepared. However, there are prescribed periods within which auditors must give certificates to trustees of superannuation entities following completion of an audit required. These are as follows:

- excluded superannuation funds and excluded ADFs - within 9 months of the end of the year of income
- PSTs, public offer superannuation funds and ADFs (other than excluded funds) - within 4 months of the end of the year of income
- all remaining superannuation entities - within 6 months of the end of the year of income.

28. Whilst auditors are expected to use their best endeavours to meet the audit certificate deadline, the Commissioner recognises that there may be cases where an auditor is provided with necessary information by the trustee of a superannuation entity shortly before the deadline. In these circumstances, the Commissioner would not seek to prosecute the auditor provided the audit is completed as soon as is practicable.
29. However, it is important to note the trustee is obliged to make such arrangements as are necessary to enable the audit to be conducted in accordance with the SIS requirements. Accordingly, the trustee has a responsibility to ensure that the auditor is given all necessary information in sufficient time to complete the audit within the relevant period.

30. The auditor and the trustee should make every effort to work together to meet the audit certificate deadline.

Annual returns
Section 36 of the SIS Act; SIS Regulation 11.02

31. There are prescribed periods for a trustee of a superannuation entity to give the Commissioner an annual return. These periods are identical to those, outlined in paragraph 27, which apply to audit certificates.

32. The return must be lodged together with a trustee certificate and the auditor’s certificate.

Penalties

33. Generally, intentional or reckless failure of a trustee to comply with SIS requirements set out in this Circular will be an offence. The fines imposed in relation to some requirements can be up to $10,000 for individual trustees, or $50,000 for corporate trustees.

34. In addition, there is a possibility that the fund may become a non-complying fund for tax and Superannuation Guarantee purposes. However, this will generally not be the case if the breach is not serious or if one or more of the members were not knowingly involved in the breach.

35. An intentional or reckless breach of the requirement for an auditor to give a certificate within the required time is an offence, with a maximum fine of $5,000.

36. More generally, where the SIS legislation requires accounts or records to be kept or made, it is an offence for a person to make or keep them incorrectly.
unless the person can prove that they did not know, and could not reasonably
be expected to have known, that the accounts or records were incorrect. It is
also an offence for a person to make a false or misleading statement to the ISC
unless the person can prove that they did not know, and could not reasonably
be expected to have known, that the statement was false or misleading. The
fine for such offences may be up $4,000 for an individual or $20,000 for a
corporate trustee.

37. A person who intentionally or recklessly makes or keeps such accounts
or records incorrectly or intentionally or recklessly makes a false or misleading
statement to the ISC is guilty of an offence which is punishable by
imprisonment of up to 12 months.

38. It is also an offence for a person to make or keep incorrect accounts or
records with the intention of deceiving, misleading, hindering or obstructing
the ISC or defeating the purposes of the SIS legislation. Such an offence is
punishable by imprisonment of up to 2 years.