

# EXPOSURE DRAFT

## EXPOSURE DRAFT

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Inserts for  
**Treasury Laws Amendment Bill 2024:  
Miscellaneous and technical  
amendments—Autumn 2024**

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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	
2. Schedule 1, Part 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
3. Schedule 1, Part 3, Division 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

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## 1 Schedule 1—Miscellaneous and technical 2 amendments

### 3 Part 1—Amendments commencing day after Royal 4 Assent

#### 5 Division 1—Audit firm’s and audit company’s rotation 6 obligations

##### 7 *Corporations Act 2001*

###### 8 **1 Paragraph 324DC(1)(a)**

9 After “listed company’s”, insert “auditor”.

###### 10 **2 Paragraph 324DC(2)(a)**

11 After “listed company’s”, insert “auditor”.

###### 12 **3 Paragraph 324DD(1)(a)**

13 After “listed company’s”, insert “auditor”.

###### 14 **4 Paragraph 324DD(2)(a)**

15 After “listed company’s”, insert “auditor”.

###### 16 **5 Paragraph 324DD(3)(a)**

17 After “listed company’s”, insert “auditor”.

###### 18 **6 Schedule 3 (table item dealing with subsections 322(1), (1A) 19 (2) and (2A), column headed “Provision”)**

20 Omit “(1A)”, substitute “(1A),”.

#### 21 **Division 2—Insolvency safe harbour**

##### 22 *Corporations Act 2001*

###### 23 **7 Section 9 (definition of *restructuring*)**

24 After “meaning”, insert “(except in paragraph 588GA(2)(e))”.

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## 8 Paragraph 588GA(1)(b)

Omit all the words before subparagraph (i), substitute:

(b) the debt is incurred, or the disposition is made:

(ia) directly or indirectly in connection with any such course of action; or

(ib) in the ordinary course of the company's business; during the period starting at that time, and ending at the earliest of any of the following times:

## 9 Subsection 588GA(2)

Omit "the person".

## 10 Paragraphs 588GA(2)(a) and (b)

Before "is", insert "the person".

## 11 Paragraph 588GA(2)(c)

Before "is" (first occurring), insert "the person".

## 12 Paragraph 588GA(2)(d)

Before "is", insert "the company or the person".

## 13 Paragraph 588GA(2)(e)

Before "is", insert "the person".

## 14 Subparagraph 588GA(4)(a)(i)

Omit "by the time they fall due", substitute "that are payable".

## Division 3—Financial services law

### *Corporations Act 2001*

## 15 Paragraph 912D(3)(b)

Omit "(ba) and (c)", substitute "(c) and (d)".

## 16 Paragraph 912D(3)(c)

Omit "paragraph (d)", substitute "paragraph (e)".

## 17 Paragraph 912D(3)(d)

Omit "paragraph (d) or (e)", substitute "paragraph (e) or (f)".

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## 18 Paragraph 912D(3)(e)

Omit “(ba) and (c)”, substitute “(c) and (d)”.

## 19 Subparagraph 915B(3)(ca)(ii)

Omit “paragraph (e)”, substitute “paragraph (f)”.

## Division 4—Correcting duplicated section number

### *Corporations Act 2001*

## 20 Section 1684 (the section 1684 inserted by item 176 of Schedule 6 to the *Treasury Laws Amendment (2022 Measures No. 4) Act 2023*)

Re-number as section 1685.

## Division 5—Benefits provided by taking out insurance

### *Superannuation Industry (Supervision) Act 1993*

## 21 After subsection 68AAB(3A)

Insert:

(3B) Subsection (3C) applies if:

- (a) the benefits of a member of a regulated superannuation fund (the *original fund*) are transferred from the original fund to another regulated superannuation fund (the *successor fund*); and
- (b) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits.

(3C) Subsection (1) does not apply in relation to the successor fund providing a benefit to, or in respect of, the member if, immediately before the transfer:

- (a) the original fund provided a benefit to, or in respect of, the member under a choice product or MySuper product held by the member by taking out or maintaining insurance; and
- (b) subsection (1):
  - (i) did not apply in relation to the original fund providing that benefit to, or in respect of, the member; but

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(ii) would have applied if paragraphs (1)(a) and (b) were disregarded.

## 22 After subsection 68AAC(3A)

Insert:

(3B) Subsection (3C) applies if:

(a) the benefits of a member of a regulated superannuation fund (the *original fund*) are transferred from the original fund to another regulated superannuation fund (the *successor fund*); and

(b) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits.

(3C) Subsection (1) does not apply in relation to the successor fund providing a benefit to, or in respect of, the member if, immediately before the transfer:

(a) the original fund provided a benefit to, or in respect of, the member under a choice product or MySuper product held by the member by taking out or maintaining insurance; and

(b) subsection (1):

(i) did not apply in relation to the original fund providing that benefit to, or in respect of, the member; but

(ii) would have applied if paragraph (1)(a) were disregarded.

## 23 Application of amendments

The amendments made by this Division apply in relation to a transfer from a regulated superannuation fund to another regulated superannuation fund that occurs on or after the commencement of this item.

## Division 6—Actuaries and auditors of superannuation entities

### *Superannuation Industry (Supervision) Act 1993*

## 24 After paragraph 130(1)(aa)

Insert:

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1 (ab) the person is an auditor or actuary of the superannuation  
2 entity; and

## 3 **25 Paragraph 130(1)(b)**

4 Repeal the paragraph, substitute:

5 (b) the person formed the opinion in the course of, or in  
6 connection with, the performance by the person of any of the  
7 following functions under this Act, the regulations, the  
8 prudential standards or the *Financial Sector (Collection of  
9 Data) Act 2001* in relation to the entity:

10 (i) actuarial or audit functions;

11 (ii) any other functions if, in the course of, or in connection  
12 with, the performance of the functions by the person,  
13 the person obtained sufficient information to enable the  
14 person to assess the financial position of the entity.

## 15 **26 After the heading to subsection 130(7)**

16 Insert:

17 (6) For the purposes of this section, in forming an opinion whether the  
18 financial position of an entity may be about to become  
19 unsatisfactory, a person must consider any matters prescribed by  
20 the regulations for the purposes of this subsection.

21 (6A) Subsection (6) does not limit the matters that a person may  
22 consider in forming such an opinion.

## 23 **27 Paragraph 130AA(1)(b)**

24 Repeal the paragraph, substitute:

25 (b) the lead auditor formed the opinion in the course of, or in  
26 connection with, the performance by the RSE audit company  
27 of any of the following functions under this Act, the  
28 regulations, the prudential standards or the *Financial Sector  
29 (Collection of Data) Act 2001* in relation to the entity:

30 (i) audit functions;

31 (ii) any other functions if, in the course of, or in connection  
32 with, the performance of the functions by the RSE audit  
33 company, the lead auditor obtained sufficient  
34 information to enable the lead auditor to assess the  
35 financial position of the entity; and

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## 28 Paragraph 130AA(2)(b)

Repeal the paragraph, substitute:

- (b) the lead auditor formed the opinion in the course of, or in connection with, the performance by the RSE audit firm of any of the following functions under this Act, the regulations, the prudential standards or the *Financial Sector (Collection of Data) Act 2001* in relation to the entity:
  - (i) audit functions;
  - (ii) any other functions if, in the course of, or in connection with, performance of the functions by the RSE audit firm, the lead auditor obtained sufficient information to enable the lead auditor to assess the financial position of the entity; and

## 29 Paragraph 130AA(4)(c)

Repeal the paragraph, substitute:

- (c) the person formed the opinion in the course of, or in connection with, the performance by an RSE audit firm or RSE audit company of any of the following functions under this Act, the regulations, the prudential standards or the *Financial Sector (Collection of Data) Act 2001* in relation to the entity:
  - (i) audit functions;
  - (ii) any other functions if, in the course of, or in connection with, the performance of the functions by the RSE audit firm or RSE audit company, the person obtained sufficient information to enable the person to assess the financial position of the entity; and

## 30 After the heading to subsection 130AA(12)

Insert:

- (11A) For the purposes of this section, in forming an opinion whether the financial position of an entity may be about to become unsatisfactory, a person must consider any matters prescribed by the regulations for the purposes of this subsection.
- (11B) Subsection (11A) does not limit the matters that a person may consider in forming such an opinion.

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## 1 31 Application of amendments

2 The amendments made by this Division apply in relation to performing  
3 a function under the *Superannuation Industry (Supervision) Act 1993*,  
4 the regulations made under that Act, the prudential standards or the  
5 *Financial Sector (Collection of Data) Act 2001* on or after the  
6 commencement of this item.

## 7 Division 7—Financial reporting for superannuation 8 entities

### 9 *Superannuation Industry (Supervision) Act 1993*

## 10 32 Subsection 166(1) (after table item 16)

11 Insert:

12

16A Section 254A 5 penalty units

## 13 33 Section 253 (note 1)

14 After “Sections 254”, insert “, 254A”.

## 15 34 Section 254 (heading)

16 Omit “to Regulator”, substitute “on establishment of superannuation  
17 entity”.

## 18 35 Subsections 254(1) to (2)

19 Repeal the subsections, substitute:

20 (1) After a superannuation entity is established, each trustee of the  
21 superannuation entity must ensure that the information (if any)  
22 mentioned in subsection (2A) is given to the person or body  
23 mentioned in subsection (2B) in accordance with subsection (2).

24 Note: Section 166 imposes an administrative penalty for a contravention of  
25 subsection (1) of this section in relation to a self managed  
26 superannuation fund.

27 (2) The information must be given:

28 (a) in the approved form (if any); and

29 (b) no later than:

30 (i) the end of the period, starting immediately after the  
31 establishment of the superannuation entity, prescribed



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1 by the regulations for the purposes of this subparagraph;  
2 or  
3 (ii) if no period is prescribed—7 days after the  
4 establishment of the superannuation entity.

5 (2A) The information that must be given is:  
6 (a) the information that the approved form (if any) requires to be  
7 included; or  
8 (b) if there is no approved form—the information prescribed by  
9 the regulations for the purposes of this paragraph in relation  
10 to the superannuation entity.

11 Note: The information may include the tax file number of the entity. See  
12 subsections 299U(8) and (8A).

13 (2B) The information must be given to:  
14 (a) the person or body prescribed by the regulations for the  
15 purposes of this paragraph in relation to the superannuation  
16 entity; or  
17 (b) if no person or body is prescribed in relation to the  
18 superannuation entity—the Commissioner of Taxation.

19 *Receipt*

## 20 **36 Before subsection 254(4)**

21 Insert:

22 *Offences*

## 23 **37 After section 254**

24 Insert:

### 25 **254A Information to be given to Regulator**

26 The Regulator or an authorised person may, by written notice  
27 given to a trustee of a superannuation entity, require each trustee of  
28 the entity to ensure that, within a specified period, the Regulator or  
29 an authorised person is given, in relation to a specified year of  
30 income of the entity:

- 31 (a) such information; or  
32 (b) a report on such matters;  
33 as is set out in the notice.

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- 1 Note 1: The information may include the tax file number of the entity. See  
2 subsection 299U(9).
- 3 Note 2: Failure to comply with the requirement is an offence. See section 285.
- 4 Note 3: Section 166 imposes an administrative penalty for a contravention of  
5 this section in relation to a self managed superannuation fund.

## 6 **38 After subsection 299U(8)**

7 Insert:

- 8 (8A) Information prescribed for the purposes of paragraph 254(2A)(b) in  
9 relation to an entity may include the tax file number of the entity.

## 10 **39 Subsection 299U(9)**

11 Omit “subsection 254(2)”, substitute “section 254A”.

## 12 **40 Application of amendments**

- 13 (1) Section 254 of the *Superannuation Industry (Supervision) Act 1993*, as  
14 amended by this Division, applies in relation to superannuation entities  
15 established on or after the commencement of this item.
- 16 (2) The amendments made by this Division do not apply in relation to a  
17 notice given under subsection 254(2) of the *Superannuation Industry*  
18 *(Supervision) Act 1993* before the commencement of this item.

## 19 **41 Transitional provision**

20 An authorisation:

- 21 (a) made under section 298A of the *Superannuation Industry*  
22 *(Supervision) Act 1993* for the purposes of subsection 254(2)  
23 of that Act; and  
24 (b) in force immediately before that commencement;

25 has effect, from that commencement, as if it had been made for the  
26 purposes of section 254A of that Act, as amended by this Division.

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1 **Part 2—Amendments commencing first day of next**  
2 **quarter**

3 **Division 1—A New Tax System (Goods and Services Tax)**  
4 **Act 1999**

5 *A New Tax System (Goods and Services Tax) Act 1999*

6 **42 Subsection 48-15(2)**

7 Omit “of Schedule 2F”, substitute “in Schedule 2F”.

8 **Division 2—CDEP Scheme**

9 *Income Tax Assessment Act 1936*

10 **43 Subsection 160AAA(1) (paragraph (a) of the definition of**  
11 ***rebtable benefit*)**

12 Omit “, 2.23B or 3.15A”, substitute “or 2.23B”.

13 **44 Subsection 160AAA(1) (paragraphs (c) and (d) of the**  
14 **definition of *rebtable benefit*)**

15 Repeal the paragraphs.

16 **45 Paragraphs 202CB(6)(a) and 202CE(7)(a)**

17 Omit “a CDEP Scheme Participant Supplement,”.

18 *Income Tax Rates Act 1986*

19 **46 Section 16 (paragraph (c) of the definition of *eligible***  
20 ***pensioner*)**

21 Omit “, 2.15 or 3.15A”, substitute “or 2.15”.

22 *Small Superannuation Accounts Act 1995*

23 **47 Subsection 64(7) (paragraph (d) of the definition of**  
24 ***Commonwealth income support payment*)**

25 Repeal the paragraph.

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## *Taxation Administration Act 1953*

### **48 Paragraph 12-110(1)(ca) in Schedule 1**

Omit “pay; or”, substitute “pay.”.

### **49 Paragraph 12-110(1)(d) in Schedule 1**

Repeal the paragraph.

### **50 Application of amendments**

Despite any amendment made by this Division of a particular provision, the provision, as in force immediately before the commencement of the amendment, continues to apply on and after that commencement in relation to a payment made before that commencement.

## **Division 3—Value shifting**

### *Income Tax Assessment Act 1997*

#### **51 Subsection 727-250(2)**

Omit “or exempt income”, substitute “, \*exempt income or \*non-assessable non-exempt income”.

#### **52 Application of amendments**

The amendment made by this Division applies in relation to an indirect value shift that arises on or after 1 July 2003.

## **Division 4—Transfer Pricing Guidelines**

### *Income Tax Assessment Act 1997*

#### **53 Paragraph 815-135(2)(a)**

Omit “19 May 2017”, substitute “20 January 2022”.

#### **54 Application of amendments**

The amendment made by this Division applies:

- (a) in respect of tax other than withholding tax—in relation to income years starting on or after 1 July 2022; and
- (b) in respect of withholding tax—in relation to income derived, or taken to be derived, in income years starting on or after 1 July 2022.

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1 **Part 3—Other amendments**

2 **Division 1—Duty of superannuation trustees to notify the**  
3 **Regulator of significant adverse events**

4 *Superannuation Industry (Supervision) Act 1993*

5 **55 Subsection 106(2)**

6 Repeal the subsection, substitute:

- 7 (1A) Subsection (2) applies if a trustee of a superannuation entity is  
8 required by regulations made for the purposes of  
9 paragraph 1017DA(1)(a) of the *Corporations Act 2001* to provide  
10 fund information (within the meaning of regulations made for the  
11 purposes of this subsection) to holders of interests in the entity.
- 12 (2) An event has a significant adverse effect on the financial position  
13 of the entity if:
- 14 (a) the event occurs before that fund information is provided;  
15 and
  - 16 (b) as a result of the event, a trustee of the entity will not, or may  
17 not, be able, at a time occurring before the entity gives the  
18 fund information, to make payments to beneficiaries as and  
19 when the obligation to make those payments arises.