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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Superannuation Legislation Amendment (Transparency Measures) Bill 2016

No. , 2016

(Treasury)

A Bill for an Act to amend the *Corporations Act 2001*, and for related purposes

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1 **A Bill for an Act to amend the *Corporations Act***
2 ***2001*, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Superannuation Legislation*
6 *Amendment (Transparency Measures) Act 2016*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

Schedule 1—Product dashboards

Corporations Act 2001

1 Subsection 1017BA(1)

Repeal the subsection, substitute:

Making product dashboards publicly available

(1) The trustee, or the trustees, of a regulated superannuation fund that has 5 or more members must ensure:

(a) that a product dashboard for each of the fund's:

(i) MySuper products, other than any of a kind prescribed by the regulations; and

(ii) qualifying choice investment options;

is publicly available at all times on the fund's website; and

(b) that each product dashboard sets out the information required by subsection (2) or (3); and

(c) that the information set out in each product dashboard is updated within 28 days after any change to the information; and

(d) if the regulations prescribe either or both of the following:

(i) the way information is to be set out in a product dashboard;

(ii) the way a product dashboard is to be displayed, and be accessible, on the fund's website;

that each product dashboard sets out information, and is displayed and accessible, in accordance with the regulations.

(1A) Subsection (1) does not apply to the trustee, or the trustees, of a regulated superannuation fund:

(a) if the fund is a pooled superannuation trust or an eligible rollover fund; or

(b) if any conditions prescribed by the regulations are met in relation to the fund; or

(c) until 1 October of the current financial year for a product dashboard for a qualifying choice investment option, if that

1 investment option was not one of the fund's qualifying
2 choice investment options for the previous financial year.

3 *What product dashboards must set out*

4 **2 At the end of subsection 1017BA(2)**

5 Add:

6 For the purposes of paragraph (b), the regulations may empower
7 APRA or ASIC to determine instructions for how to set out that
8 other information.

9 **3 Subsection 1017BA(3)**

10 Omit "Subject to subsection (4), the product dashboard for a choice
11 product", substitute "The product dashboard for a qualifying choice
12 investment option".

13 **4 Paragraph 1017BA(3)(a)**

14 Omit "for each investment option offered within the choice product".

15 **5 At the end of subsection 1017BA(3)**

16 Add:

17 For the purposes of paragraph (b), the regulations may empower
18 APRA or ASIC to determine instructions for how to set out that
19 other information.

20 **6 Subsections 1017BA(4) and (4A)**

21 Repeal the subsections, substitute:

22 *Meaning of qualifying choice investment option*

23 (4) A *qualifying choice investment option*, for a regulated
24 superannuation fund, is an investment option that:

- 25 (a) is within one of the fund's choice products; and
26 (b) is one of the fund's 10 largest investment options
27 (disregarding any excluded by subsection (4A)):
28 (i) for choice products; and
29 (ii) as measured by funds under management on 30 June of
30 the previous financial year.

(4A) An investment option is excluded from paragraph (4)(b) if:

- (a) the assets of the fund that are invested under the option are invested only in one or more of the following:
 - (i) a life policy under which contributions and accumulated earnings may not be reduced by negative investment returns or any reduction in the value of assets in which the policy is invested;
 - (ii) a life policy under which the benefit to a member (or a relative or dependant of a member) is based only on the realisation of a risk, not the performance of an investment;
 - (iii) an investment account contract the only beneficiaries of which are a member, and relatives and dependants of a member; or
- (b) the sole purpose of the option is the payment of a pension to members who have satisfied a condition of release of benefits specified in a standard made under paragraph 31(2)(h) of the *Superannuation Industry (Supervision) Act 1993*; or
- (c) the assets of the fund that are invested under the option are invested only in another single asset; or
- (d) the option is of a kind prescribed by the regulations.

(4B) The regulations may prescribe circumstances in which assets of a regulated superannuation fund are, or are not, to be treated as invested in a single asset for the purposes of paragraph (4A)(c).

7 Before subsection 1017BA(5)

Insert:

Meaning of fee

(4C) A *fee*, in relation to a regulated superannuation fund's:

- (a) MySuper product; or
- (b) qualifying choice investment option;

is a fee (other than an excluded fee) that may be charged under the *Superannuation Industry (Supervision) Act 1993* by the trustee, or the trustees, of the fund in relation to the product or investment option.

Lifecycle exceptions and stages

(4D) If a lifecycle exception applies to a MySuper product, then subsections (1), (1A), (2) and (4C) apply in relation to the product as if each reference in those subsections to a MySuper product were a reference to each lifecycle stage of the MySuper product.

(4E) If a lifecycle exception applies to a qualifying choice investment option, then subsections (1), (1A), (3) and (4C) apply in relation to the investment option as if each reference in those subsections to a qualifying choice investment option were a reference to each lifecycle stage of the investment option.

Note: This subsection does not apply to subsection (4). This means that when working out the fund's qualifying choice investment options (including the 10 largest investment options across all of the fund's choice products):

- (a) an option with lifecycle stages is treated as a single option; and
- (b) funds under management of those stages are aggregated.

Definitions

8 Subsection 1017BA(5)

Insert:

custodial arrangement has the same meaning as in section 1012IA.

eligible rollover fund has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

excluded fee means an activity fee, an advice fee or an insurance fee, all within the meaning of the *Superannuation Industry (Supervision) Act 1993*.

9 Subsection 1017BA(5) (definition of fee)

Repeal the definition, substitute:

fee has the meaning given by subsection (4C).

10 Subsection 1017BA(5)

Insert:

investment option, within a choice product:

(a) includes:

- (i) the choice product, if the choice product does not contain multiple investment options; and
- (ii) a financial product acquired under a custodial arrangement; but

(b) does not include a custodial arrangement.

lifecycle exception:

(a) for a MySuper product, has the meaning given by subsection 29TC(2) of the *Superannuation Industry (Supervision) Act 1993*; or

(b) for a qualifying choice investment option, means a rule under the governing rules of the fund that:

- (i) relates to the investment option; and
- (ii) would be covered by paragraph (a) if the investment option were a MySuper product.

lifecycle stage: a **lifecycle stage** of:

(a) a MySuper product to which a lifecycle exception applies; or

(b) a qualifying choice investment option to which a lifecycle exception applies;

means so much of the product or investment option as relates to a particular subclass of members of the fund to whom gains and losses are streamed under the lifecycle exception.

pooled superannuation trust has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

qualifying choice investment option has the meaning given by subsection (4).

11 Paragraphs 1021NA(1)(b) and (c)

Repeal the paragraphs, substitute:

- (b) the person is required under section 1017BA to ensure that a product dashboard is publicly available on the fund's website; and
- (c) the person does not comply with that section in relation to that product dashboard.

1 **12 Paragraph 1539(a)**

2 Omit “1 July 2013”, substitute “31 December 2013”.

3 **13 Paragraph 1539(b)**

4 Omit “1 July 2014”, substitute “1 July 2017”.

Schedule 2—Portfolio holdings disclosure

Corporations Act 2001

1 Subsection 1017BB(1)

Repeal the subsection, substitute:

Obligation to publicise investment information

- (1) The trustee, or the trustees, of a registrable superannuation entity must make the following information about each of the entity's investment options publicly available on the entity's website no later than 90 days after each reporting day:
 - (a) sufficient information to identify each financial product or other property:
 - (i) allocated to the investment option; and
 - (ii) in which an asset (a *disclosable asset*) of the entity, or an associated entity of the entity, is invested at the end of the reporting day;
 - (b) sufficient information to identify each disclosable asset;
 - (c) the total value, at the end of the reporting day, of the disclosable assets;
 - (d) the value, at the end of the reporting day, of each disclosable asset unless that asset is of a kind prescribed by the regulations;
 - (e) if required by the regulations—the total value, at the end of the reporting day, of one or more specified kinds of assets prescribed for the purposes of paragraph (d).

2 Subsections 1017BB(4) and (5)

Repeal the subsections, substitute:

Full exemption

- (4) Subsection (1) does not apply to the trustee, or the trustees, of a registrable superannuation entity if the entity is:
 - (a) a pooled superannuation trust; or
 - (b) a single member fund; or
-

1 (c) a small APRA fund.

2 *Partial exemption*

3 (5) Subsection (1) does not apply to the trustee, or the trustees, of a
4 registrable superannuation entity for:

5 (a) an investment option of the entity that has been closed to new
6 members for at least 5 years; or

7 (b) a financial product, or other property, that:

8 (i) is allocated to an investment option; and

9 (ii) is not a material investment in accordance with
10 regulations prescribed for the purposes of this
11 paragraph; or

12 (c) up to 5% of the assets referred to in subparagraph (1)(a)(ii)
13 for an investment option if:

14 (i) those assets are commercially sensitive; and

15 (ii) making information publicly available about those
16 assets would be detrimental to the interests of the
17 entity's members; or

18 (d) an asset invested in a financial product or other property
19 solely to support a defined benefit interest (within the
20 meaning of the *Income Tax Assessment Act 1997*); or

21 (e) an asset invested in a life policy, or investment account
22 contract, of a kind described in
23 subparagraph 1017BA(4A)(a)(i), (ii) or (iii); or

24 (f) an asset of a kind prescribed by the regulations.

25 The trustee, or the trustees, of the entity may determine which
26 assets make up the 5% mentioned in paragraph (c).

27 Note: An asset covered by paragraph (c), (d), (e) or (f) will not be a
28 disclosable asset.

29 *Definitions*

30 **3 Subsection 1017BB(6)**

31 Insert:

32 *investment option* includes:

33 (a) a choice product that does not contain multiple investment
34 options; and

(b) a MySuper product (within the meaning of the *Superannuation Industry (Supervision) Act 1993*).

member, in relation to a superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*), has the same meaning as in that Act.

pooled superannuation trust has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

small APRA fund means a regulated superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) with less than 5 members.

4 Sections 1017BC, 1017BD and 1017BE

Repeal the sections.

5 Paragraph 1020E(1)(c)

Omit “, or provided under subsection 1017BC(3),”.

6 Subsection 1020E(11) (paragraph (d) of the definition of defective)

Omit “or information provided under section 1017BC”.

7 Section 1021NC

Repeal the section.

8 Subparagraph 1022B(1)(g)(iii)

Omit “or”.

9 Paragraph 1022B(1)(h)

Repeal the paragraph.

10 Subparagraph 1041H(3)(a)(iii)

Omit “, 1021NB or 1021NC”, substitute “or 1021NB”.

11 Subparagraph 1041K(1)(a)(iii)

Omit “, 1021NB or 1021NC”, substitute “or 1021NB”.

1 **12 Section 1540**

2 Omit “30 June 2014”, substitute “31 December 2017”.

3 **13 Section 1541**

4 Repeal the section.

5 **14 After Part 10.22 of Chapter 10**

6 Insert:

7 **Part 10.22A—Transitional provisions relating to**
8 **the Superannuation Legislation**
9 **Amendment (Transparency Measures) Act**
10 **2016**
11

12 **1541A Application of amendments relating to portfolio holdings**
13 **disclosure**

14 The amendments of section 1017BB made by Schedule 2 to the
15 *Superannuation Legislation Amendment (Transparency Measures)*
16 *Act 2016* apply in relation to the reporting day that is 31 December
17 2017 and to later reporting days.

18 **15 Schedule 3 (table items 308AG, 308AH and 308AI)**

19 Repeal the items.