

SUPERCENTRAL



SUPERCENTRAL GOVERNING RULES UPDATE

TRUSTEE AND MEMBER INFORMATION SHEET

Version 04/19

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TOWNSENDS BUSINESS & CORPORATE LAWYERS

Tel 02 8296 6222 www.townsendslaw.com.au

Due to proposed increase in the maximum number of members of self managed superannuation funds, to facilitate the better management of the earnings tax exemption for pensions which are treated as ceasing for taxation purposes, and to further improve the flexibility of the SUPERCentral Governing Rules, they will be updated on and from **5 April 2019**.

This information sheet outlines the changes which will be made, the impact of those changes on each participating fund and their members.

We have also included a FAQ section in respect of the changes.

Q1. What are the details of the changes?

The details of the various changes to the SUPERCentral Governing Rules are set out in the following paragraphs.

(a) Proposed increase in the maximum number of members from 4 to 6

The Morrison Government has proposed to increase the maximum number of members of self managed superannuation funds to 6 members from the current limit of 4. This proposal is intended to apply from 1 July 2019.

While the proposal has not as yet been enacted, the amendment of the Governing Rules will accommodate the proposal assuming the proposal is enacted. This will be achieved by removing from the references to "four" or "4" as being the maximum number of members and replacing them with a reference to "four, or if a greater number is specified, that greater number.

This change has been effected by the following amendments:

- (i) Rule 10.1 – first sentence has been replaced by *"The number of members of the Superannuation Fund must not, at any time, exceed four, or, if a greater number is specified for the purposes of s17A(1)(a) of the SIS Act, that greater number."*;
- (ii) Rule 10.8(a) has been amended by inserting *"exceeding the maximum permitted by Rule 10.1"* in lieu of "being five or more";
- (iii) Rule 10.8(b) has been amended by inserting *"exceeding the maximum permitted by Rule 10.1"* in lieu of "be five or more";

(b) Automatic restart of pensions which have not satisfied the pension standards

New Rule 15.7A has been inserted to ensure that where a pension has failed to satisfy an applicable pension standard in a financial year (typically failing to pay the minimum pension amount), the pension will, unless the pension recipient determines otherwise, have automatically recommenced for taxation purposes immediately upon the start of the following financial year. The recommenced pension will be on the same terms as applied immediately before the start of the financial year in which the pension failed to satisfy the applicable pension standard.

(c) Binding Death Benefit Nominations

The Governing Rules have been amended to expressly refer to binding death benefit nominations as being non-lapsing. Binding death benefit nominations under the Governing Rules have always been of indefinite duration (but revocable at any time) and so not subject to any time-based lapsing

condition. However, to satisfy expectations, Rule 15.18 has been amended to expressly refer to the indefinite duration nominations as non-lapsing.

This change has been effected by amending Rule 15.18 (penultimate paragraph) by inserting "*is both binding on the Trustee and non-lapsing*" for "is binding on the Trustee".

(d) **Extension of crowd-sourced funding regime to proprietary companies**

The Governing Rules have been amended to expressly permit investment in securities issued by unlisted proprietary companies pursuant to offers which qualify as crowd-sourced funding offers. Currently the Governing Rules only permits investment in securities issued by unlisted public companies:

This change has been effected by amending the definition of "CSF Offer" set out in Rule 1.2 as follows: the current definition of "CSF Offer" has been amended to include "*made by an eligible CSF company (within the meaning of s738H and whether a public company or a proprietary company)*".

(e) **Extension of permitted investments to include Foreign Passport Fund Products**

The Governing Rules have been amended to expressly permit investment in foreign investment funds which have been registered in Australia under the Asia Region Funds Passport regime of the Corporations Act for investment by retail investors.

This change has been effected by:

- (i) inserting a new definition in Rule 1.2 of "*Notified Foreign Passport Fund*" and
- (ii) amending Rule 3.4(e) by adding at the end "*including interests in Notified Foreign Passport Funds*".

(f) **UK Pension Transfers**

The Governing Rules have been amended to update the provisions relating to UK pension transfers in light of changes made to UK legislation relating to such transfers.

The updating has been effected by:

- (i) Rule 29.4 (Permitted Access Conditions) has been amended;
- (ii) Rule 29.5 (Mandatory Payment Methods) has been amended to require the payment of the UK transferred amount as a flexi-access drawdown fund (as defined by the relevant UK legislation) while the transferred amount remains subject to the "5 year transfer" rule or the "10 year residence" rule;
- (iii) Rule 29.7 (Statutory references) has been updated to reflect revised and amended statutory instruments which relate to qualifying recognised overseas pension schemes (QROPS) and relevant non-resident UK pension schemes (RUNKS).

Additionally, other amendments of a minor or housekeeping nature have been made.

FAQs for the Trustees

Q1. Can Trustees view the updated Governing Rules?

Yes. Trustees can view the updated Governing Rules by going to the SUPERCentral website and logging in using their user-id and password.

Trustees can also view a marked-up copy of the updated Governing Rules on the SUPERCentral website. The mark-up shows the text which has been included and the text which has been deleted.

Changes which are merely formatting (eg changes in indenting, page breaks, font size and pagination) or are immaterial are not shown on the marked-up copy.

The marked-up copy will be available for viewing for four weeks following the effective date.

Q2. Can Trustees obtain a copy of the updated Governing Rules?

Yes. The updated Governing Rules can be downloaded from the SUPERCentral website and, if desired, printed.

Q3. Do Trustees have to do anything for the updated SUPERCentral Governing Rules to apply to their Fund?

No. The updated Governing Rules will apply automatically after the 14-day notice period has ended. The notice period commences on 21 March 2019 and ends on 4 April 2019. The updated Governing Rules will apply on and from **5 April 2019**.

The SUPERCentral updating process is automatic. The Trustees do not have to sign any document or give any notice for the updated rules to apply.

However, Trustees may, if they wish, record their consideration of the update to the SUPERCentral Governing Rules by completing a template minute which is available from the SUPERCentral website. A link to this template minute is contained in the Trustee Notification.

Q4. Can Trustees reject the updated Rules?

The Trustees can reject the update by giving notice to Super Governing Rules Pty Ltd on or before 4 April 2019.

If Trustees reject the update, then their Fund will cease to be part of the SUPERCentral System.

Q5. Do Trustees have to notify the members of the changes in the SUPERCentral Governing Rules?

Yes. We recommend that Trustees give their members a copy of this information sheet.

FAQs for the Members

Q1. Will the amendments adversely affect my member benefits or have any other adverse consequences?

The amendments do not adversely affect current benefit entitlements.

The amendments will not adversely affect the compliance status of your fund. The amendments will not cause the Fund to cease to be a complying superannuation fund or cease to be a self managed superannuation fund.

Q2. Do I, as a member, have to do anything to accept these amendments?

No. Provided the trustee of your Fund does not reject them, these amendments will apply to your Fund on and from **5 April 2019**.

Q3. Where can I access further information?

Should you require any further information about the update, please contact your SMSF adviser.

Q4. Can I obtain a copy of the updated Governing Rules?

Yes – your Trustee will be able to provide a copy of the updated Governing Rules.