

# EXPOSURE DRAFT

2016-2017-2018

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT
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## **Treasury Laws Amendment (Protecting Superannuation) Bill 2018**

**No.     , 2018**

*(Treasury)*

**A Bill for an Act to amend the law relating to  
superannuation, and for related purposes**

**EXPOSURE DRAFT**



# EXPOSURE DRAFT

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## Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedules.....	2
<b>Schedule 1—Fees charged to superannuation members</b>		<b>3</b>
Part 1—Amendments		3
<i>Superannuation Industry (Supervision) Act 1993</i>		3
Part 2—Application provisions		7
<b>Schedule 2—Insurance for superannuation members</b>		<b>8</b>
Part 1—Amendments		8
<i>Superannuation Industry (Supervision) Act 1993</i>		8
Part 2—Application and transitional provisions		13
<b>Schedule 3—Inactive low-balance accounts and consolidation into active accounts</b>		<b>17</b>
Part 1—Amendments		17
<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>		17
<i>Taxation Administration Act 1953</i>		39
Part 2—Application and transitional provisions		41



# EXPOSURE DRAFT

1     **A Bill for an Act to amend the law relating to**  
2     **superannuation, and for related purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act is the *Treasury Laws Amendment (Protecting*  
6                     *Superannuation) Act 2018.*

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.

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*Treasury Laws Amendment (Protecting Superannuation)*  
*Bill 2018*

1

EXPOSURE DRAFT

# EXPOSURE DRAFT

1

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## Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1, 2 and 3	The day after this Act receives the Royal Assent.	

2

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

3

4

5

(2) Any information in column 3 of the table is not part of this Act.

6

Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

7

8

### 3 Schedules

9

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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2

*Treasury Laws Amendment (Protecting Superannuation)*  
*Bill 2018*

EXPOSURE DRAFT

# EXPOSURE DRAFT

Fees charged to superannuation members **Schedule 1**  
Amendments **Part 1**

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1 **Schedule 1—Fees charged to superannuation**  
2 **members**

3 **Part 1—Amendments**

4 *Superannuation Industry (Supervision) Act 1993*

5 **1 Subsection 10(1) (definition of exit fee)**

6 Omit “subsection 29V(6)”, substitute “subsection 99BA(2)”.

7 **2 Paragraph 29V(1)(e)**

8 Repeal the paragraph.

9 **3 Paragraph 29V(2)(b)**

10 Omit “, an exit fee”.

11 **4 Subparagraph 29V(3)(b)(ii)**

12 Omit “, an exit fee”.

13 **5 Subsection 29V(6)**

14 Repeal the subsection.

15 **6 Paragraphs 29V(7)(b), (8)(b) and (9)(c)**

16 Omit “, an exit fee”.

17 **7 Paragraphs 29VA(5)(a), (6)(a) and (7)(a)**

18 Omit “, an exit fee”.

19 **8 At the end of section 29VA**

20 Add:

21 *Fees for low-balance members*

22 (11) This rule is satisfied if:

23 (a) the fee is an administration fee or investment fee; and

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*Treasury Laws Amendment (Protecting Superannuation)*  
*Bill 2018*

3

**EXPOSURE DRAFT**

# EXPOSURE DRAFT

## Schedule 1 Fees charged to superannuation members

### Part 1 Amendments

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- 1 (b) the fee is charged at a reduced amount, in accordance with  
2 section 99G, in relation to one or more members of the fund  
3 who hold the MySuper product; and  
4 (c) in relation to the remaining members of the fund who hold  
5 the MySuper product, the fee would satisfy a charging rule in  
6 another subsection of this section if those remaining  
7 members of the fund who hold the MySuper product were the  
8 only members of the fund who held the MySuper product.

#### 9 Paragraph 29VB(1)(d)

10 Omit “(3) or (4)”, substitute “(3), (4) or (4A)”.

#### 11 10 After subsection 29VB(4)

12 Insert:

##### 13 *Reduced fees for low-balance members*

14 (4A) Each of the following is satisfied:

- 15 (a) the administration fee is charged at a reduced amount, in  
16 accordance with section 99G, in relation to one or more  
17 members of the fund who hold the MySuper product;  
18 (b) in relation to the remaining members of the fund described in  
19 paragraph (1)(b), the administration fee would be in  
20 accordance with subsection (2), (3) or (4) if those remaining  
21 members of the fund were the only members of the fund  
22 described in paragraph (1)(b).

#### 23 11 Paragraph 29VB(5)(b)

24 Omit “, an exit fee”.

#### 25 12 After paragraph 31(2)(db)

26 Insert:

- 27 (dc) the calculation of a member’s account balance with the fund  
28 on a particular day, or a member’s account balance with the  
29 fund on a particular day that relates to a choice product or  
30 MySuper product;



# EXPOSURE DRAFT

Fees charged to superannuation members **Schedule 1**  
Amendments **Part 1**

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1 **13 After section 99B**

2 Insert:

3 **99BA No exit fees**

4 (1) The trustee, or the trustees, of a regulated superannuation fund or  
5 an approved deposit fund must not charge exit fees.

6 (2) An *exit fee* is a fee, other than a buy-sell spread, that relates to the  
7 costs of disposing of all or part of a member's interests in a  
8 superannuation entity.

9 **14 Section 99C (heading)**

10 Omit “, switching fees and exit fees”, substitute “and switching fees”.

11 **15 Subsections 99C(1) and (2)**

12 Omit “, a switching fee or an exit fee”, substitute “or a switching fee”.

13 **16 At the end of Part 11A**

14 Add:

15 **99G Fees cap for low-balance accounts**

16 (1) This section applies if:

17 (a) the trustee, or trustees, of a regulated superannuation fund  
18 offer a choice product or MySuper product; and

19 (b) on a balance test day a member of the fund has an account  
20 balance with the fund that relates to the product that is less  
21 than \$6,000.

22 (2) The total combined amount of administration fees and investment  
23 fees charged to the member in relation to the product for the period  
24 of 6 months immediately following the balance test day must not  
25 be greater than an amount worked out as follows:

26 Fee cap percentage ×  $\frac{\text{Member's account balance with the fund}}{\text{on the balance test day}} \times \frac{\text{that relates to the product}}{\text{that relates to the product}}$

27 (3) The regulations may prescribe, for the purposes of this section:

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# EXPOSURE DRAFT

## Schedule 1 Fees charged to superannuation members

### Part 1 Amendments

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- 1 (a) the days that are to be *balance test days*; and  
2 (b) a *fee cap percentage* of no more than 1.5%.
- 3 (4) If the member acquired the product during the period of 6 months  
4 ending on the balance test day, the total combined amount of  
5 administration fees and investment fees charged to the member in  
6 relation to the product for that period must not be greater than the  
7 amount worked using the formula:
- 8 
$$\text{Fee cap based on} \times \text{Reduction factor}$$
  
the balance test day
- 9 where:
- 10 *fee cap based on the balance test day* is the amount worked out  
11 using the formula in subsection (2).
- 12 *reduction factor* is the amount worked out by dividing the number  
13 of days on which the member held the product during the 6 month  
14 period ending on the balance test day by the number of days in that  
15 period.

# EXPOSURE DRAFT

Fees charged to superannuation members **Schedule 1**  
Application provisions **Part 2**

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1 **Part 2—Application provisions**

2 **17 Application of this Schedule**

3 The amendments made by this Schedule apply to fees charged on or  
4 after 1 July 2019.

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*Treasury Laws Amendment (Protecting Superannuation)*  
*Bill 2018*

7

**EXPOSURE DRAFT**

# EXPOSURE DRAFT

Schedule 2 Insurance for superannuation members

Part 1 Amendments

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1 **Schedule 2—Insurance for superannuation**  
2 **members**

3 **Part 1—Amendments**

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

5 **1 After section 68**

6 Insert:

7 **68AAA Benefits provided by taking out insurance—inactive**  
8 **accounts**

- 9 (1) Each trustee of a regulated superannuation fund must ensure that a  
10 benefit is not provided by the fund to, or in respect of, a member of  
11 the fund under a choice product or MySuper product held by the  
12 member by taking out or maintaining insurance if:
- 13 (a) the member's account is inactive in relation to that product  
14 for a continuous period of 13 months; and
- 15 (b) the member has not elected under subsection (2) that the  
16 benefit will be provided to, or in respect of, the member  
17 under the product by taking out or maintaining insurance,  
18 even if the member's account is inactive in relation to that  
19 product for a continuous period of 13 months.
- 20 (2) Each trustee of the regulated superannuation fund must ensure that  
21 each member of the fund who holds a choice product or MySuper  
22 product offered by the fund may elect, in writing, that a benefit  
23 specified in the election is to be provided to, or in respect of, the  
24 member under the product by taking out or maintaining insurance,  
25 even if the member's account is inactive in relation to that product  
26 for a continuous period of 13 months.
- 27 (3) For the purposes of this section, a member of a regulated  
28 superannuation fund has an account that is *inactive* in relation to a  
29 choice product or MySuper product for a period if the trustee, or  
30 trustees of the fund, have not received an amount in respect of the  
31 member that relates to that product during that period.
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8 *Treasury Laws Amendment (Protecting Superannuation)*  
*Bill 2018*

EXPOSURE DRAFT

# EXPOSURE DRAFT

Insurance for superannuation members **Schedule 2**  
Amendments **Part 1**

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- 1 (4) This section ceases to apply to a member of a regulated  
2 superannuation fund in relation to a choice product or MySuper  
3 product offered by the fund if the trustee, or trustees of the fund,  
4 receive an amount in respect of the member that relates to that  
5 product after the account has been inactive in relation to the  
6 product for 13 months. However, the section applies again if the  
7 member's account is again inactive in relation to the product for a  
8 period of 13 months.
- 9 (5) This section does not apply to:  
10 (a) a defined benefit member; or  
11 (b) an ADF Super member (within the meaning of the *Australian*  
12 *Defence Force Superannuation Act 2015*); or  
13 (c) a person who would be an ADF Super member apart from the  
14 fact that the regulated superannuation fund is or was, for the  
15 purposes of Part 3A of the *Superannuation Guarantee*  
16 *(Administration) Act 1992*, a chosen fund for contributions  
17 for the person's superannuation by the Commonwealth.
- 18 (6) Nothing in this section affects a right of a member of a regulated  
19 superannuation fund if:  
20 (a) the right relates to insurance cover; and  
21 (b) in compliance with this section, an insurance premium in  
22 relation to the member for that insurance cover ceases to be  
23 paid; and  
24 (c) the right exists because of insurance premiums paid in  
25 relation to the member before insurance premiums cease to  
26 be paid as mentioned in paragraph (b).
- 27 (7) Nothing in this section affects a right of a member of a regulated  
28 superannuation fund if:  
29 (a) the right is a right to insurance cover for a fixed term, subject  
30 only to the payment of insurance premiums; and  
31 (b) that fixed term begins before the time at which a trustee of  
32 the fund is required under subsection (1) to ensure that a  
33 benefit is not provided to, or in respect of, the member under  
34 a choice product or MySuper product held by the member by  
35 taking out or maintaining insurance.

# EXPOSURE DRAFT

## Schedule 2 Insurance for superannuation members

### Part 1 Amendments

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#### 68AAB Benefits provided by taking out insurance—low-balance accounts

- 1  
2
- 3 (1) Each trustee of a regulated superannuation fund must ensure that a  
4 benefit is not provided by the fund to, or in respect of, a member of  
5 the fund under a choice product or MySuper product held by the  
6 member by taking out or maintaining insurance if:
- 7 (a) the member has an account balance with the fund that relates  
8 to the product that is less than \$6,000; and
- 9 (b) on or after 1 July 2019, the member has not had an account  
10 balance with the fund that relates to the product that was  
11 equal to or greater than \$6,000; and
- 12 (c) the member has not elected under subsection (2) that the  
13 benefit will be provided to, or in respect of, the member  
14 under the product by taking out or maintaining insurance,  
15 even if the member has an account balance with the fund that  
16 relates to the product that is less than \$6,000.
- 17 (2) Each trustee of the regulated superannuation fund must ensure that  
18 each member of the fund who holds a choice product or MySuper  
19 product offered by the fund may elect, in writing, that a benefit  
20 specified in the election is to be provided to, or in respect of, the  
21 member under the product by taking out or maintaining insurance,  
22 even if the member has an account balance with the fund that  
23 relates to the product that is less than \$6,000.
- 24 (3) This section does not apply to:
- 25 (a) a defined benefit member; or
- 26 (b) an ADF Super member (within the meaning of the *Australian*  
27 *Defence Force Superannuation Act 2015*); or
- 28 (c) a person who would be an ADF Super member apart from the  
29 fact that the regulated superannuation fund is or was, for the  
30 purposes of Part 3A of the *Superannuation Guarantee*  
31 *(Administration) Act 1992*, a chosen fund for contributions  
32 for the person's superannuation by the Commonwealth.
- 33 (4) Nothing in this section affects a right of a member of a regulated  
34 superannuation fund if:
- 35 (a) the right relates to insurance cover; and

# EXPOSURE DRAFT

Insurance for superannuation members **Schedule 2**  
Amendments **Part 1**

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- 1 (b) in compliance with this section, an insurance premium in  
2 relation to the member for that insurance cover ceases to be  
3 paid; and  
4 (c) the right exists because of insurance premiums paid in  
5 relation to the member before insurance premiums cease to  
6 be paid as mentioned in paragraph (b).
- 7 (5) Nothing in this section affects a right of a member of a regulated  
8 superannuation fund if:  
9 (a) the right is a right to insurance cover for a fixed term, subject  
10 only to the payment of insurance premiums; and  
11 (b) that fixed term begins before the time at which a trustee of  
12 the fund is required under subsection (1) to ensure that a  
13 benefit is not provided to, or in respect of, the member under  
14 a choice product or MySuper product held by the member by  
15 taking out or maintaining insurance.

## 16 **68AAC Benefits provided by taking out insurance—members under** 17 **25 years old**

- 18 (1) Each trustee of a regulated superannuation fund must ensure that a  
19 benefit is not provided by the fund to, or in respect of, a member of  
20 the fund under a choice product or MySuper product held by the  
21 member by taking out or maintaining insurance if:  
22 (a) the member is under the age of 25 years; and  
23 (b) the member has not elected under subsection (2) that the  
24 benefit will be provided to, or in respect of, the member  
25 under the product by taking out or maintaining insurance,  
26 even if the member is under the age of 25 years.
- 27 (2) Each trustee of the regulated superannuation fund must ensure that  
28 each member of the fund who holds a choice product or MySuper  
29 product offered by the fund and who is under the age of 25 years  
30 may elect, in writing, that a benefit specified in the election is to be  
31 provided to, or in respect of, the member under the product by  
32 taking out or maintaining insurance, even if the member is under  
33 the age of 25 years.
- 34 (3) This section does not apply to:

# EXPOSURE DRAFT

## Schedule 2 Insurance for superannuation members

### Part 1 Amendments

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- 1 (a) a defined benefit member; or  
2 (b) an ADF Super member (within the meaning of the *Australian*  
3 *Defence Force Superannuation Act 2015*); or  
4 (c) a person who would be an ADF Super member apart from the  
5 fact that the regulated superannuation fund is or was, for the  
6 purposes of Part 3A of the *Superannuation Guarantee*  
7 *(Administration) Act 1992*, a chosen fund for contributions  
8 for the person's superannuation by the Commonwealth.

### 2 After subsection 68AA(8)

9  
10 Insert:

11 *Inactive accounts, low-balance accounts and members under the*  
12 *age of 25 years*

13 (8A) This section does not require the provision of death benefit in  
14 respect of a MySuper member of a regulated superannuation fund,  
15 if death benefit is not to be provided in respect of the MySuper  
16 member by taking out or maintaining insurance because of  
17 section 68AAA, 68AAB or 68AAC.

18 (8B) This section does not require the provision of permanent incapacity  
19 benefit to a MySuper member of a regulated superannuation fund,  
20 if permanent incapacity benefit is not to be provided in respect of  
21 the MySuper member by taking out or maintaining insurance  
22 because of section 68AAA, 68AAB or 68AAC.



# EXPOSURE DRAFT

Insurance for superannuation members **Schedule 2**  
Application and transitional provisions **Part 2**

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## 1 **Part 2—Application and transitional provisions**

### 2 **3 Application of section 68AAA**

3 (1) Section 68AAA of the *Superannuation Industry (Supervision) Act 1993*,  
4 as inserted by item 1 of this Schedule, applies on and after 1 July 2019  
5 (the *commencement day*).

6 (2) However, a period during which a member's account is inactive in  
7 relation to a choice product or MySuper product offered by a regulated  
8 superannuation fund is to be taken into account for the purposes of  
9 section 68AAA even if the period begins before the commencement  
10 day.

11 (3) Each trustee of a regulated superannuation fund that offers a choice  
12 product or MySuper product under which a benefit may be provided by  
13 taking out or maintaining insurance must ensure that:

14 (a) on 1 April 2019, each member of the fund who has an  
15 account in relation to one or more of those products that has  
16 been inactive for a continuous period of 6 months before that  
17 day is identified; and

18 (b) on or before 1 May 2019, each of the members of the fund  
19 identified under paragraph (a) is given notice in writing in  
20 accordance with subitem (4).

21 (4) The notice must:

22 (a) state that, on and after 1 July 2019, a benefit will not be  
23 provided to the member under the product by taking out or  
24 maintaining insurance if:

25 (i) for a continuous period of 13 months, the member's  
26 account is inactive in relation to that product (as defined  
27 for the purposes of section 68AAA of the  
28 *Superannuation Industry (Supervision) Act 1993*); and

29 (ii) the member has not elected that the benefit will be  
30 provided to, or in respect of, the member under the  
31 product by taking out or maintaining insurance, even if  
32 the member's account is inactive in relation to that  
33 product for a continuous period of 13 months; and

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# EXPOSURE DRAFT

## Schedule 2 Insurance for superannuation members

### Part 2 Application and transitional provisions

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- 1 (b) set out the method by which the member can make such an  
2 election in writing.
- 3 (5) An election made under paragraph (4)(b) before the commencement day  
4 has effect on and after the commencement day as if it were an election  
5 made under subsection 68AAA(2) of the *Superannuation Industry*  
6 *(Supervision) Act 1993*.
- 7 (6) Despite subitem (3), a trustee of a regulated superannuation fund that  
8 offers a choice product or MySuper product does not have to ensure that  
9 a notice is given to a member of the fund to whom it would otherwise  
10 be required to be given under that subitem if:
- 11 (a) after 8 May 2018 but before 1 April 2019, the member has  
12 given the fund notice in writing that the member elects to  
13 have one or more benefits provided under the product or the  
14 products held by the member by taking out or maintaining  
15 insurance; and
- 16 (b) the only benefits provided to the member under the product  
17 or products held by the member by taking out or maintaining  
18 insurance are covered by the election.
- 19 The notice mentioned in paragraph (a) has effect on and after the  
20 commencement day as if it were an election made under  
21 subsection 68AAA(2) of the *Superannuation Industry (Supervision) Act*  
22 *1993*.

#### 4 Application of section 68AAB

- 23
- 24 (1) Section 68AAB of the *Superannuation Industry (Supervision) Act 1993*,  
25 as inserted by item 1 of this Schedule, applies on and after 1 July 2019  
26 (the *commencement day*).
- 27 (2) Each trustee of a regulated superannuation fund that offers a choice  
28 product or MySuper product under which a benefit may be provided by  
29 taking out or maintaining insurance must ensure that:
- 30 (a) on 1 April 2019, each member of the fund who has an  
31 account in relation to one or more of those products with a  
32 balance that is less than \$6,000 is identified; and
- 33 (b) on or before 1 May 2019, each of the members of the fund  
34 identified under paragraph (a) is given notice in writing in  
35 accordance with subitem (3).
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# EXPOSURE DRAFT

Insurance for superannuation members **Schedule 2**  
Application and transitional provisions **Part 2**

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- 1 (3) The notice must:  
2 (a) state that, on and after 1 July 2019, a benefit will not be  
3 provided to the member under the product by taking out or  
4 maintaining insurance if:  
5 (i) the member has an account balance with the fund that  
6 relates to the product that is less than \$6,000; and  
7 (ii) on or after that day, the member has not had an account  
8 balance with the fund that relates to the product that was  
9 equal to or greater than \$6,000; and  
10 (iii) the member has not elected that the benefit will be  
11 provided to, or in respect of, the member under the  
12 product by taking out or maintaining insurance, even if  
13 the account balance with the fund that relates to the  
14 product is less than \$6,000; and  
15 (b) set out the method by which the member can make such an  
16 election in writing.
- 17 (4) An election under paragraph (3)(b) made before the commencement day  
18 has effect on and after the commencement day as if it were an election  
19 made under subsection 68AAB(2) of the *Superannuation Industry*  
20 *(Supervision) Act 1993*.
- 21 (5) Despite subitem (2), a trustee of a regulated superannuation fund that  
22 offers a choice product or MySuper product does not have to ensure that  
23 a notice is given to a member of the fund to whom it would otherwise  
24 be required to be given under that subitem if:  
25 (a) before 1 April 2019, the member has given the fund notice  
26 that the member elects to have one or more benefits provided  
27 under the product or the products held by the member by  
28 taking out or maintaining insurance; and  
29 (b) the only benefits provided to the member under the product  
30 or products held by the member by taking out or maintaining  
31 insurance are covered by the election.
- 32 The notice mentioned in paragraph (a) has effect on and after the  
33 commencement day as if it were an election made under  
34 subsection 68AAB(2) of the *Superannuation Industry (Supervision) Act*  
35 *1993*.
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# EXPOSURE DRAFT

Schedule 2 Insurance for superannuation members

Part 2 Application and transitional provisions

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1 **5 Application of section 68AAC**

2 Section 68AAC of the *Superannuation Industry (Supervision) Act 1993*,  
3 as inserted by item 1 of this Schedule, applies in relation to a benefit  
4 provided by a regulated superannuation fund to, or in respect of, a  
5 member of the fund under a choice product or MySuper product held by  
6 the member, if the member begins to hold the product on or after 1 July  
7 2019.

# EXPOSURE DRAFT

Inactive low-balance accounts and consolidation into active accounts **Schedule 3**  
Amendments **Part 1**

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1 **Schedule 3—Inactive low-balance accounts**  
2 **and consolidation into active accounts**

3 **Part 1—Amendments**

4 ***Superannuation (Unclaimed Money and Lost Members) Act***  
5 ***1999***

6 **1 After paragraph 6(d)**

7 Insert:

- 8 (da) the matching of benefits of inactive low-balance account  
9 members and persons entitled to them; and

10 **2 At the end of paragraph 6(e)**

11 Add:

- 12 (iv) certain amounts relating to superannuation of inactive  
13 low-balance account members; and

14 **3 After paragraph 6(ea)**

15 Insert:

- 16 (eb) the payment of:  
17 (i) unclaimed money; and  
18 (ii) certain amounts relating to superannuation of lost  
19 members; and  
20 (iii) certain amounts relating to superannuation of inactive  
21 low-balance account members;  
22 into funds in which the member is active; and

23 **4 Section 7**

24 After:

25 Superannuation providers must pay to the Commissioner of  
26 Taxation the value of any such accounts. Later, the  
27 Commissioner must, if satisfied that it is possible to do so, pay  
28 an amount he or she has received in respect of a person:

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# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts Part 1 Amendments

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- (a) to a fund identified by the person; or
- (b) if the person has reached eligibility age or the amount is less than \$200—to the person; or
- (c) if the person has died—to the person’s death beneficiaries or legal personal representative.

insert:

*Superannuation of inactive low-balance members*

At times determined by the Commissioner, superannuation providers must give the Commissioner of Taxation details relating to inactive low-balance accounts.

Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:

- (a) to a fund identified by the person; or
- (b) if the person has reached eligibility age or the amount is less than \$200—to the person; or
- (c) if the person has died—to the person’s death beneficiaries or legal personal representative.

*Reunification of amounts held by the Commissioner*

If, having taken the steps required in relation to unclaimed amounts, or amounts held by the Commissioner for lost members or inactive low-balance members, the Commissioner still holds an amount, the Commissioner must pay that amount to a fund in which the member for whom the Commissioner holds the amount is active, or in accordance with the regulations.

# EXPOSURE DRAFT

Inactive low-balance accounts and consolidation into active accounts **Schedule 3**  
Amendments **Part 1**

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1 **5 Section 8 (definition of *account*)**

2 Repeal the definition, substitute:

3 *account*, in a fund that is an RSA, means:

4 (a) if the RSA is an account—that account; or

5 (b) if the RSA is a policy (within the meaning of the RSA Act)—  
6 that policy.

7 **6 Section 8**

8 Insert:

9 *inactive low-balance account* has the meaning given by  
10 subsection 20QA(1).

11 *inactive low-balance member* has the meaning given by  
12 subsection 20QA(2).

13 **7 Section 8 (paragraph (a) of the definition of *scheduled***  
14 ***statement day*)**

15 Omit “or 4A”, substitute “, 3B or 4A”.

16 **8 Paragraph 15A(a)**

17 Omit “Part 4A”, substitute “Parts 3B and 4A”.

18 **9 Paragraph 15A(b)**

19 Omit “Part 4A”, substitute “Part 3B or 4A”.

20 **10 After paragraph 19(1)(d)**

21 Insert:

22 (da) amounts paid to the Commissioner under section 20QD  
23 (amounts from inactive low-balance accounts); and

24 (db) each person in respect of whom there is an amount referred to  
25 in paragraph (da) of this subsection; and

26 **11 After subparagraph 20H(1)(b)(ii)**

27 Insert:

# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts

### Part 1 Amendments

---

1 (iiaa) the amounts (if any) paid to the Commissioner under  
2 section 20QD in respect of the person; and

#### 3 **12 After subparagraph 20H(1)(b)(v)**

4 Insert:

5 (va) the amounts (if any) paid by the Commissioner under  
6 subsection 20QF(2) in respect of the person; and

#### 7 **13 Paragraph 20H(2B)(a)**

8 After “subsection 17(1) or (2),”, insert “section 20QD or  
9 subsection 20QF(2), or”.

#### 10 **14 Subsection 20H(3)**

11 After “subparagraphs (1)(b)(i), (ii)”, insert “, (iiaa)”.

#### 12 **15 After Part 3A**

13 Insert:

### 14 **Part 3B—Payment of low balances in inactive** 15 **accounts to the Commissioner**

#### 16 **Division 1—Preliminary**

#### 17 **20Q Object of Part**

18 The object of this Part is to set up a procedure for dealing with  
19 inactive low-balance accounts.

#### 20 **20QA Meaning of *inactive low-balance account* and *inactive*** 21 ***low-balance member***

22 (1) An account in a fund is taken to be an *inactive low-balance*  
23 *account* if:

24 (a) the superannuation provider has not received an amount in  
25 respect of the member on whose behalf the account is held  
26 within the last 13 months; and

27 (b) the balance of the account is less than \$6,000; and

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# EXPOSURE DRAFT

Inactive low-balance accounts and consolidation into active accounts **Schedule 3**  
Amendments **Part 1**

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1 (c) the account does not support or relate to a defined benefit  
2 interest (within the meaning of section 291-175 of the *Income*  
3 *Tax Assessment Act 1997*).

4 Note: The balance of an account does not reflect any earnings, fees or  
5 charges that have not yet been credited to, or debited from, the  
6 account.

7 (2) A person on whose behalf a superannuation provider holds an  
8 inactive low-balance account is an *inactive low-balance member*.

# EXPOSURE DRAFT

Schedule 3 Inactive low-balance accounts and consolidation into active accounts

Part 1 Amendments

---

1 **Division 2—Statements on inactive low-balance accounts**

2 **20QB Statements on inactive low-balance accounts**

3 *Superannuation provider must give statement to the Commissioner*

4 (1) A superannuation provider must, for each unclaimed money day,  
5 give the Commissioner a statement, in the approved form, of  
6 information relevant to either or both of the following:

- 7 (a) each inactive low-balance account as at the end of the day;  
8 (b) the administration of any of the following in connection with  
9 each inactive low-balance account:  
10 (i) this Part;  
11 (ii) the *Superannuation (Departing Australia*  
12 *Superannuation Payments Tax) Act 2007*;  
13 (iii) the *Income Tax Assessment Act 1997*, Part 3AA of this  
14 Act, and Chapters 2 and 4 in Schedule 1 to the *Taxation*  
15 *Administration Act 1953*, so far as they relate to this  
16 Part or the *Superannuation (Departing Australia*  
17 *Superannuation Payments Tax) Act 2007*.

18 Note 1: For State or Territory public sector superannuation schemes, see  
19 sections 20QG and 20QH.

20 Note 2: The *Taxation Administration Act 1953* provides for offences and  
21 administrative penalties if the statement required under subsection (1)  
22 includes false or misleading information: see sections 8K, 8M, 8N and  
23 8R of that Act and Division 284 in Schedule 1 to that Act.

24 Note 3: The approved form may also require the statement to include certain  
25 tax file numbers: see subsection 25(2B) of this Act.

26 (2) If, at the end of the unclaimed money day, there are no balances  
27 held in inactive low-balance accounts, the statement must say so.

28 Note: If the fund is a regulated superannuation fund that has fewer than 5  
29 members, see subsection (4).

30 (3) The statement must also contain information, required by the form,  
31 relevant to any account that ceases to be an inactive low-balance  
32 account during the period that:

- 33 (a) starts on the unclaimed money day; and
-

# EXPOSURE DRAFT

1 (b) ends on the day on which the statement is given to the  
2 Commissioner.

3 (4) This section does not apply if, at the end of the unclaimed money  
4 day:

5 (a) the fund is a regulated superannuation fund that has fewer  
6 than 5 members; and

7 (b) there are no inactive low-balance accounts in the fund.

8 *When statement must be given*

9 (5) The superannuation provider must give the Commissioner the  
10 statement by the end of the scheduled statement day for the  
11 unclaimed money day.

12 Note 1: The Commissioner may defer the time for giving the statement: see  
13 section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

14 Note 2: The *Taxation Administration Act 1953* provides for offences and  
15 administrative penalties if the statement is not given when it must be:  
16 see sections 8C and 8E of that Act and Division 286 in Schedule 1 to  
17 that Act.

18 *Relationship to rest of Act*

19 (6) This section does not apply in relation to:

20 (a) an amount that is unclaimed money at the end of the  
21 unclaimed money day; or

22 (b) amounts payable to a person identified in a notice the  
23 Commissioner has given the superannuation provider under  
24 section 20C; or

25 (c) an amount payable to the Commissioner in respect of a lost  
26 member under section 24E.

27 Note 1: Section 16 requires the superannuation provider to give the  
28 Commissioner a statement about unclaimed money.

29 Note 2: Section 20E requires the superannuation provider to give the  
30 Commissioner a statement about the superannuation interest of a  
31 person identified in a notice given to the provider under section 20C  
32 (which is about notices identifying former temporary residents).

33 Note 3: Section 24C requires the superannuation provider to give the  
34 Commissioner statements about lost member accounts.

# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts Part 1 Amendments

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1     **20QC Error or omission in statement**

2                     *Scope*

3             (1) This section applies if:

4                     (a) a superannuation provider gives the Commissioner a  
5                             statement under section 20QB; and

6                     (b) the superannuation provider becomes aware of a material  
7                             error, or material omission, in any information in the  
8                             statement.

9                     *Superannuation provider must give information*

10             (2) The superannuation provider must, in the approved form, give the  
11                     Commissioner the corrected or omitted information.

12             (3) Information required by subsection (2) must be given no later than  
13                     30 days after the superannuation provider becomes aware of the  
14                     error or omission.

15                     Note 1:     The Commissioner may defer the time for giving the information: see  
16                             section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

17                     Note 2:     The *Taxation Administration Act 1953* provides for offences and  
18                             administrative penalties if the information is not given when it must  
19                             be: see sections 8C and 8E of that Act and Division 286 in Schedule 1  
20                             to that Act.

21     **Division 3—Payment in respect of inactive low-balance**  
22                     **accounts**

23     **20QD Payment in respect of inactive low-balance accounts**

24                     *Provider must pay Commissioner*

25             (1) A superannuation provider must pay the Commissioner (for the  
26                     Commonwealth) the amount worked out under subsection (2) in  
27                     respect of a person if:

28                     (a) an account is an inactive low-balance account as at the end of  
29                             an unclaimed money day; and

# EXPOSURE DRAFT

- 1 (b) the account is held by the provider on behalf of the person;  
2 and  
3 (c) the account is still an inactive low-balance account at the  
4 time (the *calculation time*) immediately before the earlier of:  
5 (i) the time (if any) the payment is made; and  
6 (ii) the time at which the payment is due and payable  
7 (assuming that the payment must be made); and  
8 (d) at the calculation time, in accordance with sections 68AAA  
9 and 68AAB benefits are no longer provided by the fund to, or  
10 in respect of, a member under a choice product or MySuper  
11 product held by the member by taking out or maintaining  
12 insurance.
- 13 The amount is due and payable at the end of the scheduled  
14 statement day for the unclaimed money day.
- 15 Note 1: For State or Territory public sector superannuation schemes, see  
16 sections 20QG and 20QH.
- 17 Note 2: Subsection 20QE(2) makes it an offence not to comply with a  
18 requirement under this subsection.
- 19 Note 3: The amount the superannuation provider must pay the Commissioner  
20 is a tax-related liability for the purposes of the *Taxation*  
21 *Administration Act 1953*. Division 255 in Schedule 1 to that Act deals  
22 with payment and recovery of tax-related liabilities. Division 284 in  
23 that Schedule provides for administrative penalties connected with  
24 such liabilities.
- 25 Note 4: The Commissioner may defer the time at which the amount is due and  
26 payable: see section 255-10 in Schedule 1 to the *Taxation*  
27 *Administration Act 1953*.
- 28 Note 5: Section 20QJ provides for refunds of overpayments by the  
29 superannuation provider to the Commissioner.
- 30 (2) The amount payable in respect of the inactive low-balance member  
31 is the amount that would have been payable by the superannuation  
32 provider if the member had requested that the balance of the  
33 account be rolled over or transferred to a complying  
34 superannuation fund (within the meaning of the SIS Act).
- 35 (3) For the purposes of subsection (2):  
36 (a) work out the amount that would have been payable at the  
37 calculation time; and
-

# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts

### Part 1 Amendments

---

- 1 (b) assume that the request were made before the calculation  
2 time; and  
3 (c) assume that the inactive low-balance member had not died  
4 before the calculation time.

5 *Family Law payment splits*

- 6 (4) If, as a result of a payment split that applies in relation to the  
7 account, the non-member spouse (or his or her legal personal  
8 representative if he or she has died) is, or could in the future be,  
9 entitled to be paid an amount, then:  
10 (a) for the purposes of subsection (2), take account only of the  
11 inactive low-balance member's entitlement to payment  
12 remaining after any reduction by the payment split  
13 (disregarding subsection 90MB(3) of the *Family Law Act*  
14 *1975*); and  
15 (b) the superannuation provider must also pay an amount (the  
16 ***non-member spouse amount***) to the Commissioner in respect  
17 of the non-member spouse; and  
18 (c) the non-member spouse amount is due and payable at the  
19 same time as the amount payable under subsection (1); and  
20 (d) the amount of the non-member spouse amount is the amount  
21 of the reduction mentioned in paragraph (a).

22 Note 1: Part VIII B of the *Family Law Act 1975* is about splitting amounts  
23 payable in respect of a superannuation interest between the parties to a  
24 marriage. Subsection 90MB(3) of that Act provides that the Part has  
25 effect subject to this Act.

26 Note 2: Subsection 20QE(2) of this Act makes it an offence not to comply  
27 with a requirement under this subsection.

28 *Miscellaneous*

- 29 (5) This section does not require the superannuation provider to pay  
30 the Commissioner:  
31 (a) an amount that is unclaimed money at the end of the  
32 unclaimed money day; or  
33 (b) an amount payable to a person identified in a notice the  
34 Commissioner has given the provider under section 20C; or

# EXPOSURE DRAFT

Inactive low-balance accounts and consolidation into active accounts **Schedule 3**  
Amendments **Part 1**

---

1 (c) an amount payable to the Commissioner in respect of a lost  
2 member under section 24E.

3 Note 1: Unclaimed money is payable to the Commissioner under  
4 subsection 17(1).

5 Note 2: An amount mentioned in paragraph (5)(b) is payable to the  
6 Commissioner under section 20F.

7 (6) Upon payment to the Commissioner of an amount as required  
8 under this section, the superannuation provider is discharged from  
9 further liability in respect of that amount.

10 (7) For the purposes of this section, ignore accounts with nil balances,  
11 or balances below nil, as at the calculation time mentioned in  
12 subsection (1).

## 13 **20QE Payment in respect of inactive low-balance accounts—late** 14 **payments**

### 15 *General interest charge on late payment*

16 (1) If any of the amount a superannuation provider must pay under  
17 section 20QD remains unpaid after it is due and payable, the  
18 superannuation provider is liable to pay general interest charge on  
19 the unpaid amount for each day in the period that:

- 20 (a) starts at the time it is due and payable; and  
21 (b) ends at the end of the last day on which either of the  
22 following remains unpaid:  
23 (i) the amount unpaid when it is due and payable;  
24 (ii) general interest charge on any of the amount.

### 25 *Offence of failing to make payment to Commissioner*

26 (2) A person commits an offence if:  
27 (a) the person is subject to a requirement under  
28 subsection 20QD(1) or (4); and  
29 (b) the person engages in conduct; and  
30 (c) the person's conduct breaches the requirement.

# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts

### Part 1 Amendments

---

1 Penalty for an offence against subsection (2): 100 penalty  
2 units.

#### 3 **20QF Payment by Commissioner in respect of person for whom an** 4 **amount has been paid to Commissioner**

5 (1) This section applies in relation to a person if:

6 (a) a superannuation provider paid an amount to the  
7 Commissioner under section 20QD in respect of the person;  
8 and

9 (b) the Commissioner is satisfied, on application in the approved  
10 form or on the Commissioner's own initiative, that it is  
11 possible for the Commissioner to pay the amount in  
12 accordance with subsection (2).

13 (2) The Commissioner must pay the amount:

14 (a) to a single fund if:

15 (i) the person has not died; and

16 (ii) the person directs the Commissioner to pay to the fund;  
17 and

18 (iii) the fund is a complying superannuation plan (within the  
19 meaning of the *Income Tax Assessment Act 1997*); or

20 (b) in accordance with subsection (4) if:

21 (i) the person has died; and

22 (ii) the Commissioner is satisfied that, if the superannuation  
23 provider had not paid the amount to the Commissioner,  
24 the provider would have been required to pay an amount  
25 or amounts (death benefits) to one or more other  
26 persons (death beneficiaries) because of the deceased  
27 person's death; or

28 (c) to the person's legal personal representative if the person has  
29 died but subparagraph (b)(ii) does not apply; or

30 (d) to the person if this paragraph applies (see subsection (3)).

31 Note: Money for payments under subsection (2) is appropriated by  
32 section 16 of the *Taxation Administration Act 1953*.

33 (3) Paragraph (2)(d) applies if:

34 (a) subparagraph (2)(a)(ii) does not apply; and

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# EXPOSURE DRAFT

Inactive low-balance accounts and consolidation into active accounts **Schedule 3**  
Amendments **Part 1**

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- 1 (b) any of the following subparagraphs apply:  
2 (i) the person has reached the eligibility age;  
3 (ii) the amount is less than \$200;  
4 (iii) a terminal medical condition (within the meaning of the  
5 *Income Tax Assessment Act 1997*) exists in relation to  
6 the person; and  
7 (c) the person has not died.

- 8 (4) In a case covered by paragraph (2)(b), the Commissioner must pay  
9 the amount under subsection (2) by paying to each death  
10 beneficiary the amount worked out using the following formula:

$$\text{Amount payable under subsection (2)} \times \frac{\text{Death benefit for the death beneficiary}}{\text{Total death benefits}}$$

11

12 Note: If there is only one death beneficiary, the whole of the amount is  
13 payable to that beneficiary.

- 14 (5) If:  
15 (a) the Commissioner makes a payment under subsection (2) to a  
16 fund, a legal personal representative or a person; and  
17 (b) the payment is in accordance with paragraph (2)(a), (c) or  
18 (d);

19 the Commissioner must also pay to the fund, legal personal  
20 representative or person the amount of interest (if any) worked out  
21 in accordance with the regulations.

22 Note: Money for payments under subsection (5) is appropriated by  
23 section 16 of the *Taxation Administration Act 1953*.

- 24 (6) If:  
25 (a) the Commissioner makes a payment under subsection (2) to a  
26 death beneficiary; and  
27 (b) the payment is in accordance with paragraph (2)(b);  
28 the Commissioner must also pay to the death beneficiary the  
29 amount of interest (if any) worked out in accordance with the  
30 regulations.

31 Note: Money for payments under subsection (6) is appropriated by  
32 section 16 of the *Taxation Administration Act 1953*.

# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts

### Part 1 Amendments

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1 (7) Regulations made for the purposes of subsection (5) or (6) may  
2 prescribe different rates for different periods over which the  
3 interest accrues. For this purpose, *rate* includes a nil rate.

4 (8) This section does not apply to an amount that is to be, is or has  
5 been, taken into account in determining whether the Commissioner  
6 must make a payment under subsection 20H(2) or (3).

7 Note: Subsections 20H(2) and (3) provide for payment by the Commissioner  
8 of amounts equal to amounts paid to the Commissioner under  
9 subsections 17(1), 20F(1), 20QD(1) and 24E(1) in respect of a person  
10 who:

- 11 (a) is identified in a notice under section 20C; or  
12 (b) used to be the holder of a temporary visa.

### 13 Division 4—Various rules for special cases

#### 14 20QG State or Territory public sector superannuation schemes

15 Subject to section 20QH, sections 20QB and 20QD do not apply to  
16 a superannuation provider in relation to an unclaimed money day  
17 if, because of section 18, the superannuation provider does not  
18 have to comply with subsection 16(1) or 17(1) in relation to the  
19 unclaimed money day.

#### 20 20QH Prescribed public sector superannuation schemes

21 (1) Section 6, subsections 19(1) to (3), this Part (other than  
22 sections 20QE and 20QG) and subsection 25(2B) apply as if:

- 23 (a) a public sector superannuation scheme that:  
24 (i) is prescribed for the purposes of this section; and  
25 (ii) in the case of a Commonwealth public sector  
26 superannuation scheme—is not a fund;  
27 were a fund; and

28 Note: The regulations may prescribe a scheme by reference to a class of  
29 schemes: see subsection 13(3) of the *Legislation Act 2003*.

- 30 (b) the trustee of the scheme were the superannuation provider;  
31 and  
32 (c) a member of the scheme were a member of the fund.

# EXPOSURE DRAFT

Inactive low-balance accounts and consolidation into active accounts **Schedule 3**  
Amendments **Part 1**

---

- 1 (2) Despite subsection (1), in the case of a State or Territory public  
2 sector superannuation scheme:
- 3 (a) section 20QB (statements on inactive low-balance accounts):
- 4 (i) permits, rather than requires, the trustee to give a  
5 statement to the Commissioner; and
- 6 (ii) does not permit the trustee to give a statement to the  
7 Commissioner if the governing rules of the scheme  
8 prohibit the trustee from giving the statement to the  
9 Commissioner; and
- 10 (b) section 20QD (payment of balances from inactive  
11 low-balance accounts):
- 12 (i) does not apply in relation to an unclaimed money day if  
13 the trustee does not give a statement in relation to the  
14 unclaimed money day to the Commissioner under  
15 section 20QB; and
- 16 (ii) permits, rather than requires, the trustee to pay an  
17 amount to the Commissioner; and
- 18 (iii) does not apply to an amount to the extent that the  
19 governing rules of the scheme prohibit the trustee from  
20 paying the amount to the Commissioner.
- 21 (3) Subparagraphs (2)(a)(i) and (b)(ii) do not apply in relation to an  
22 unclaimed money day if, disregarding this section:
- 23 (a) the public sector superannuation scheme is a fund; and
- 24 (b) the superannuation provider has to comply with  
25 subsections 16(1) and 17(1) in relation to the unclaimed  
26 money day.

## 27 **20QJ Refund of overpayment made by superannuation provider**

- 28 (1) This section applies if:
- 29 (a) a superannuation provider for a fund (the *first fund*) has  
30 made a payment to the Commissioner under section 20QD in  
31 respect of a person; and
- 32 (b) the Commissioner is satisfied that the amount paid exceeded  
33 the amount (if any) that was payable under that section in  
34 respect of the person.

# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts Part 1 Amendments

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- 1 (2) The Commissioner must pay the excess:  
2 (a) to the superannuation provider; or  
3 (b) to a superannuation provider for another fund if the  
4 Commissioner is satisfied that:  
5 (i) the first fund no longer exists; and  
6 (ii) the other fund provides rights relating to the person  
7 equivalent to those provided by the first fund.

8 Note: Money for payments under subsection (2) is appropriated by  
9 section 16 of the *Taxation Administration Act 1953*.

### 10 **20QK Commissioner may recover overpayment**

- 11 (1) This section applies if:  
12 (a) the Commissioner makes a payment in respect of a person  
13 under, or purportedly under, this Part; and  
14 (b) the amount paid exceeds the amount (if any) properly  
15 payable under this Part in respect of the person.
- 16 (2) The Commissioner may recover all or part of the excess from a  
17 person (the *debtor*) described in subsection (3) as a debt due by the  
18 debtor to the Commonwealth if the conditions specified in  
19 subsection (4) are met.
- 20 (3) The persons from whom the Commissioner may recover are as  
21 follows:  
22 (a) the person to whom the payment was made (whether the  
23 payment was made to the person in his or her own right or as  
24 the legal personal representative of someone else who had  
25 died);  
26 (b) the superannuation provider for the fund to which the  
27 payment was made;  
28 (c) if the payment, or an amount wholly or partly attributable to  
29 that payment, was transferred to another fund—the  
30 superannuation provider for that other fund.
- 31 (4) The conditions for recovery are that:  
32 (a) the Commissioner gave the debtor written notice, as  
33 prescribed by the regulations, of the proposed recovery and  
34 the amount to be recovered; and
-

# EXPOSURE DRAFT

- 1 (b) at least 28 days have passed since the notice was given; and  
2 (c) the amount recovered is not more than the amount specified  
3 in the notice.
- 4 (5) Despite subsections (2) and (3), if the Commissioner gives a notice  
5 described in paragraph (4)(a) to a superannuation provider for a  
6 fund, and the fund does not hold an amount attributable to the  
7 payment, the Commissioner cannot recover from the  
8 superannuation provider.
- 9 (6) The Commissioner may revoke a notice described in  
10 paragraph (4)(a).
- 11 (7) The total of the amounts recovered from different debtors in  
12 relation to the same excess must not be more than the excess.
- 13 (8) A notice described in paragraph (4)(a) is not a legislative  
14 instrument.

## 20QL Superannuation provider to return payment from Commissioner that cannot be credited

### 17 *Scope*

- 18 (1) This section applies if:  
19 (a) a payment (the *Commissioner's payment*) is made to a fund  
20 under subsection 20QF(2) or (5) in accordance with a  
21 person's direction; and  
22 (b) the superannuation provider for the fund has not credited the  
23 payment to an account for the benefit of the person by the  
24 time (the *repayment time*) that is the end of the 28th day after  
25 the day on which the Commissioner's payment was made.

### 26 *Repayment*

- 27 (2) The superannuation provider is liable to repay the Commissioner's  
28 payment to the Commonwealth. The repayment is due and payable  
29 at the repayment time.

30 Note: The amount the superannuation provider is liable to repay is a  
31 tax-related liability for the purposes of the *Taxation Administration*

# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts Part 1 Amendments

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1 *Act 1953*. Division 255 in Schedule 1 to that Act deals with payment  
2 and recovery of tax-related liabilities.

3 (3) The superannuation provider must give the Commissioner, in the  
4 approved form, information relating to the Commissioner's  
5 payment when repaying it.

6 Note: The *Taxation Administration Act 1953* provides for offences and  
7 administrative penalties if the form is not given when it must be or  
8 includes false or misleading information: see sections 8C, 8K and 8N  
9 of that Act and Divisions 284 and 286 in Schedule 1 to that Act.

### 10 *General interest charge*

11 (4) If any of the amount the superannuation provider is liable to repay  
12 under subsection (2) remains unpaid by the superannuation  
13 provider after the repayment time, the superannuation provider is  
14 liable to pay general interest charge on the unpaid amount for each  
15 day in the period that:

- 16 (a) starts at the repayment time; and  
17 (b) ends at the end of the last day on which either of the  
18 following remains unpaid:  
19 (i) the amount unpaid at the repayment time;  
20 (ii) general interest charge on any of the amount.

### 21 **20QM Compensation for acquisition of property**

22 (1) If the operation of this Part would result in an acquisition of  
23 property from a person otherwise than on just terms, the  
24 Commonwealth is liable to pay a reasonable amount of  
25 compensation to the person.

26 (2) If the Commonwealth and the person do not agree on the amount  
27 of the compensation, the person may institute proceedings in a  
28 court of competent jurisdiction for the recovery from the  
29 Commonwealth of such reasonable amount of compensation as the  
30 court determines.

31 (3) In this section:

32 *acquisition of property* has the same meaning as in  
33 paragraph 51(xxxi) of the Constitution.

# EXPOSURE DRAFT

Inactive low-balance accounts and consolidation into active accounts **Schedule 3**  
Amendments **Part 1**

---

1                    *just terms* has the same meaning as in paragraph 51(xxxi) of the  
2                    Constitution.

## 3                    **16 Subsection 24B(3)**

4                    Repeal the subsection.

## 5                    **17 After Part 4A**

6                    Insert:

## 7                    **Part 4B—Reunification of superannuation balances**

### 8                    **Division 1—Preliminary**

#### 9                    **24N Object of this Part**

10                    The object of this Part is to set out a procedure for transferring  
11                    amounts received by the Commissioner under Parts 3, 3B and 4A  
12                    in respect of a person into a single active account held by a  
13                    superannuation provider in respect of the person.

### 14                    **Division 2—Transferring balances to an active account**

#### 15                    **24NA Transferring balances to an active account**

16                    (1) This section applies in relation to a person if:

17                        (a) the Commissioner is satisfied that:

18                              (i) a superannuation provider has paid an amount to the  
19                              Commissioner under subsection 17(1) (unclaimed  
20                              money) and, after applying Part 3 and section 20H, the  
21                              Commissioner holds an amount under that Part in  
22                              respect of the person (a *superannuation amount*); or

23                              (ii) a superannuation provider has paid an amount to the  
24                              Commissioner under section 20QD (an amount from an  
25                              inactive low-balance account) and, after applying  
26                              Part 3B and section 20H, the Commissioner holds an  
27                              amount under that Part in respect of the person (a  
28                              *superannuation amount*); or

# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts

### Part 1 Amendments

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- 1 (iii) a superannuation provider has paid an amount to the  
2 Commissioner under section 24E (an amount from a lost  
3 member account) and, after applying Part 4A and  
4 section 20H, the Commissioner holds an amount under  
5 that Part in respect of the person (a *superannuation*  
6 *amount*); and
- 7 (b) the superannuation amount is not a non-member spouse  
8 amount; and
- 9 (c) the Commissioner is satisfied, on application in the approved  
10 form or on the Commissioner's own initiative, that it is  
11 possible for the Commissioner to pay the superannuation  
12 amount in accordance with subsection (2).
- 13 (2) The Commissioner must pay each superannuation amount in  
14 respect of the person to a single fund if:
- 15 (a) the person has not died; and
- 16 (b) the superannuation provider for the fund holds an account on  
17 behalf of the person in the fund; and
- 18 (c) the superannuation provider has received an amount in  
19 respect of the person during the last financial year preceding  
20 the day on which the payment by the Commissioner is made;  
21 and
- 22 (d) the balance of the account will be equal to or greater than  
23 \$6,000 if all of the superannuation amounts in respect of the  
24 person are paid into the account; and
- 25 (e) under the terms of the fund, and under the law of the  
26 Commonwealth, the fund can accept payment of the  
27 superannuation amount in respect of the person.
- 28 (3) If there is more than one fund in relation to which  
29 paragraphs (2)(b), (c), (d) and (e) are satisfied in respect of a  
30 person, the Commissioner must pay each superannuation amount  
31 in respect of the person in accordance with the regulations.
- 32 (4) If:
- 33 (a) there is a regulated superannuation fund in relation to which  
34 paragraphs (2)(b), (c), (d) and (e) are satisfied in respect of a  
35 person; and
- 36 (b) the person holds more than one product offered by the fund;
-



# EXPOSURE DRAFT

1 the Commissioner must pay each superannuation amount in respect  
2 of the person in accordance with the regulations.

3 (5) Without limiting subsections (3) and (4), regulations made for the  
4 purposes of those subsections may:

- 5 (a) permit the Commissioner to pay parts of a superannuation  
6 amount in respect of a person to different funds; and  
7 (b) permit the Commissioner to pay part of a superannuation  
8 amount in respect of a person to a regulated superannuation  
9 fund for crediting to an interest held by the person in a  
10 product offered by the fund; and  
11 (c) determine how the part of a superannuation amount to be  
12 paid to a fund, or in relation to a product offered by a  
13 regulated superannuation fund, is to be calculated.

14 (6) In this section:

15 ***non-member spouse amount*** means:

- 16 (a) an amount that is unclaimed money under subsection 12(2)  
17 and that is paid to the Commissioner under subsection 17(1);  
18 or  
19 (b) an amount that is a non-member spouse amount under  
20 subsection 24E(4) and that is paid to the Commissioner under  
21 that subsection; or  
22 (c) an amount that is a non-member spouse amount under  
23 subsection 20QD(4) and that is paid to the Commissioner  
24 under that subsection.

25 ***product*** offered by a regulated superannuation fund means:

- 26 (a) a choice product offered by the fund (as defined for the  
27 purposes of the SIS Act); or  
28 (b) a MySuper product offered by the fund (as defined for the  
29 purposes of the SIS Act).

# EXPOSURE DRAFT

**Schedule 3** Inactive low-balance accounts and consolidation into active accounts  
**Part 1** Amendments

---

1 **24NB Superannuation provider to return payment from**  
2 **Commissioner that cannot be credited**

3 *Scope*

- 4 (1) This section applies if:
- 5 (a) a payment (the *Commissioner's payment*) is made to a fund
  - 6 under subsection 24NA(2) or regulations made for the
  - 7 purposes of subsection 24NA(3) or (4); and
  - 8 (b) the superannuation provider for the fund has not credited the
  - 9 payment to an account to which the payment relates for the
  - 10 benefit of the person by the time (the *repayment time*) that is
  - 11 the end of the 28th day after the day on which the
  - 12 Commissioner's payment was made.

13 *Repayment*

- 14 (2) The superannuation provider is liable to repay the Commissioner's
- 15 payment to the Commonwealth. The repayment is due and payable
- 16 at the repayment time.

17 Note: The amount the superannuation provider is liable to repay is a

18 tax-related liability for the purposes of the *Taxation Administration*

19 *Act 1953*. Division 255 in Schedule 1 to that Act deals with payment

20 and recovery of tax-related liabilities.

- 21 (3) The superannuation provider must give the Commissioner, in the
- 22 approved form, information relating to the Commissioner's
- 23 payment when repaying it.

24 Note: The *Taxation Administration Act 1953* provides for offences and

25 administrative penalties if the form is not given when it must be or

26 includes false or misleading information: see sections 8C, 8K and 8N

27 of that Act and Divisions 284 and 286 in Schedule 1 to that Act.

28 *General interest charge*

- 29 (4) If any of the amount the superannuation provider is liable to repay
- 30 under subsection (2) remains unpaid by the superannuation
- 31 provider after the repayment time, the superannuation provider is
- 32 liable to pay general interest charge on the unpaid amount for each
- 33 day in the period that:

- 34 (a) starts at the repayment time; and
-

# EXPOSURE DRAFT

Inactive low-balance accounts and consolidation into active accounts **Schedule 3**  
Amendments **Part 1**

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- 1 (b) ends at the end of the last day on which either of the  
2 following remains unpaid:  
3 (i) the amount unpaid at the repayment time;  
4 (ii) general interest charge on any of the amount.

## 5 **18 After subsection 25(2A)**

6 Insert:

7 *Statement about inactive low-balance accounts*

- 8 (2B) The approved form of statement by a superannuation provider for  
9 the purposes of section 20QB may require the statement to contain  
10 the tax file number of:  
11 (a) the superannuation provider; and  
12 (b) the fund; and  
13 (c) a member of the fund if:  
14 (i) the statement relates to an account, in the fund, held on  
15 behalf of the member; and  
16 (ii) the member has quoted his or her tax file number to the  
17 superannuation provider.

## 18 ***Taxation Administration Act 1953***

### 19 **19 Subsection 8AAB(4) (after table item 33)**

20 Insert:

21

33A	20QE	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>	payment in respect of inactive low-balance accounts
33B	20QL	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>	repayment of Commissioner's payment in respect of inactive low-balance accounts that cannot be credited to an account

22

# EXPOSURE DRAFT

## Schedule 3 Inactive low-balance accounts and consolidation into active accounts

### Part 1 Amendments

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1     **20 Subsection 8AAB(4) (after table item 35)**

2             Insert:

3

35A	24NB	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>	repayment of Commissioner's payment that cannot be credited to an active account
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4

5     **21 Subsection 250-10(2) in Schedule 1 (after table item 69)**

6             Insert:

7

69AA	payment of value of inactive low-balance accounts to the Commissioner	20QD	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>
69AB	payment from Commissioner that cannot be credited	20QL	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>

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8

9     **22 Subsection 250-10(2) in Schedule 1 (after table item 69B)**

10            Insert:

11

69BA	payment from Commissioner that cannot be credited	24NB	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>
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# EXPOSURE DRAFT

Inactive low-balance accounts and consolidation into active accounts **Schedule 3**  
Application and transitional provisions **Part 2**

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1 **Part 2—Application and transitional provisions**

2 **23 Application of this Schedule**

- 3 (1) The amendments made by this Schedule apply in relation to unclaimed  
4 money days that occur on or after 30 June 2019.
- 5 (2) However, a period during which a member's account in a fund is  
6 inactive is to be taken into account for the purposes of  
7 paragraph 20QA(1)(a) of the *Superannuation (Unclaimed Money and*  
8 *Lost Members) Act 1999*, as inserted by item 8 of this Schedule, even if  
9 the period begins before 30 June 2019.