

1 March 2021

Data Economy Unit
Market Conduct Division
The Treasury
Langton Crescent
PARKES ACT 2600

via email: mbcomms@treasury.com.au

Dear Sir/Madam

Consultation paper on Modernising Business Communications

Chartered Accountants Australia and New Zealand and CPA Australia (together 'the Major Accounting Bodies') welcome the opportunity to respond to Treasury's consultation paper on Modernising Business Communications ('the Paper'). Together, we represent over 280,000 professional accountants in Australia, New Zealand and around the world.

The Major Accounting Bodies support the technology neutrality of Treasury portfolio laws. We see this as a major step towards simplifying regulatory obligations and modernising communication with and across government for individuals and businesses.

Key Points

- As 98 per cent of Australian business are small and medium enterprises (SME), and it is recognised that many do not have the digital skills and capacity to fully benefit from this and other digital initiatives, consideration must be given to significantly increasing the funding of projects that enhance the digital capability of these SMEs.
- Any changes aimed at modernising business communications should be carefully considered, widely communicated, and supported with resources, training, and awareness within the business community.
- We recommend Treasury undertakes appropriate steps to make digital financial reporting standard practice as this could enable users of financial reports to access information more effectively and efficiently.
- It is important that intermediaries are front of mind for Treasury and government agencies when modernising business communications. Intermediaries such as accountants, bookkeepers and lawyers are fundamental to business compliance with many Treasury portfolio laws. By way of example, according to the ATO, 95 per cent of businesses lodge their tax returns through a tax agent.

The following appendix provides our general comments on the Paper, as well as responses to specific questions.

If you have any questions about our submission, please contact Karen McWilliams (CA ANZ) at karen.mcwilliams@charteredaccountantsanz.com or Gavan Ord (CPA Australia) at gavan.ord@cpaaustralia.com.au.

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Appendix

General comments

It is important that laws are modernised to allow for current and future technologies. In doing so, important considerations must include:

- data security
- data retention
- privacy
- identity verification
- communication preferencing
- the ageing population and those without access to digital solutions (e.g. in remote locations) and the ability and willingness of some to be able to engage with new technologies and new ways of working.

The COVID-19 pandemic has seen businesses and entire industries shift to remote activities. The quick adoption of temporary relief measures, such as allowing annual general meetings to be held virtually and electronic document execution shows that Australian businesses generally have the desire to modernise the manner in which they comply with laws and interact with government.

However, we observed that SMEs found such changes more challenging than their larger counterparts. This is mainly due to lower levels of digital literacy and limited financial and human resources. We strongly recommend that current government programs designed to support small business digital adoption be significantly expanded and, where gaps are identified, new programs added.

We also strongly suggest that frequent and wide-reaching consultation be maintained during implementation to ensure changes are broadly communicated and supported with resources, training and awareness raising amongst the community. Such consultation should include a cost benefit analysis, what support may be needed to help businesses and any potential unintended consequences.

Leadership and cross collaboration in government

The Australian Treasury has the opportunity to lead by example in modernising business communications through cross-collaboration with other departments and leveraging existing developments in areas such as Single Touch Payroll reporting, digital identity (MyGovID), e-invoicing, open banking and modernising business registers. Currently, businesses need to use a variety of different platforms to communicate with Government agencies. This is not only onerous for users and digital service providers, but it is also costly.

We suggest that Government considers the interoperability of different platforms, systems and software when modernising business communications. Concerns over cyber security and data sharing and storage (including timeframes for storage) will also have to be taken into consideration. These considerations could reduce red tape by improving current regulatory and

reporting systems, provide a solid foundation for the management and protection of data and improve communication between government, individuals, and businesses.

Further, we note that the Australian Bureau of Statistics (ABS) is currently undertaking a project to streamline reporting and data collection of the quarterly business indicators survey. The project is considering the interoperability of business software with information required for the survey.

Although it appears to be outside of scope of this paper, modernising business communications may offer the opportunity for the Government to reduce red tape through the alignment of common definitions used across various government departments. For example, in its [pre-budget submission](#), CA ANZ urges the government to continue its work on creating a more uniform, whole of government approach to small business definitions.

Digital communications and intermediaries

As many government services develop digital communication processes, the role and user experience of intermediaries must be incorporated into the design. Many businesses rely on their advisors to receive notices, satisfy reporting obligations and manage their affairs.

By way of example, the ATO has been enhancing its digital delivery of services for some time with ongoing consultation and input from stakeholders, including tax intermediaries. With 95 per cent of small businesses using a tax agent to lodge their tax return, the flow of information through intermediaries is a critical component of digital delivery design. The ATO's communication preferencing [list](#) of 83 documents reflects the significant volume of communication between the ATO and its clients that is managed by tax intermediaries.

As changes in the delivery of notices have been made, the intermediary experience has at times been negatively impacted due to unexpected or poorly understood alterations, often the result of poor consultation with the sector. This includes rules such as defaulting to digital communication after any form is lodged electronically with the ATO or not issuing notifications to intermediaries when a digital communication is sent to a taxpayer. Such communication breakdowns have led to missed notices, late payments, penalties and lost productivity.

Such experiences highlight the importance of intermediaries being included in ongoing consultation and user testing, to ensure that systems are designed to support how business want to interact with government (including through their intermediaries).

A structured change program that educates and empowers intermediaries to set preferences and manage communications on behalf of their clients will minimise the risk of negative events and ensure that businesses receive the right information at the right time in the manner in which they expect.

Registers and portals

The high cost of searching the ASIC Registry has previously been raised by us in our responses to several projects including the Modernising Business Registers program.

We recommend that searches of the ASIC Registry should be at no cost. The Australian Government's [Public Data Policy Statement](#) commits Commonwealth Government entities to make non-sensitive data open by default. There is a further commitment within the Policy Statement to only charge for specialised data services.

We believe that the free availability of the ASIC Registry can have many benefits including:

- Improving the probability of business success. Ready and free access to ASIC registry data should assist businesses make more informed decisions on who they should interact with.
- Reducing the risk of phoenix and other similar activity.
- Assisting business meet certain regulatory obligations. For example, undertaking customer due diligence under Anti Money Laundering legislation.
- Allowing for a deeper understanding of Australian businesses and the economy through macro-level research and analysis of such data.

Recent reforms to the insolvency framework facilitate electronic communications and virtual meetings yet access to key information to facilitate the same remains expensive. Insolvency practitioners, who must investigate the history of a corporation, its directors and find any related entity, have no choice but to spend substantial amounts of the funds due to creditors searching ASIC registers.

Currently companies and insolvency practitioners pay to retrieve information held electronically on ASIC registers, despite also paying to lodge the forms that provide this information to ASIC. As noted above, we recommend making a search of ASIC registers free of charge.

Digital financial reporting

Digital technologies have facilitated an exponential increase in the availability and consumption of information and data in recent times. However, Australian financial reporting remains reliant on legacy platforms that require lodgment of word or pdf documents. This makes it a challenging and lengthy process to retrieve data for analysis, for both internal and external users of financial information. Globally, both developed and developing economies are increasingly adopting digital financial reporting and permit entities to lodge financial information in digital formats.

Standard Business Reporting (SBR), which was introduced by the Government in 2010, aims to simplify business reporting obligations. Digital financial reporting, which forms part of SBR, is voluntary in Australia with a very limited uptake by companies. Companies that do lodge digital financial statements in Australia are typically those that are required to lodge under other international requirements. For example, Australian companies that are dual listed in the US prepare XBRL-tagged financial statements to lodge with the US Securities and Exchange Commission.

Among many benefits of digital financial reporting, the more pertinent ones are:

- automating regulatory filings
- facilitating business information processing
- cost reduction for users of financial reports as they are able to navigate and extract information from financial reports more efficiently
- enabling sector level analysis.

The Parliamentary Joint Committee (PJC) on Corporations and Financial Services, when examining the regulation of audit in Australia recommended that the Australian Government take action to make digital financial reporting standard practice in Australia ([see recommendation 10](#)). We support this important recommendation and urge Treasury to incorporate this PJC recommendation into these reforms.

The benefits and potential of digital reporting are captured in CA ANZ's report on [The Future of Financial Reporting](#).

Technical committee and roundtables

We recommend the Government form a technical committee of experts, including representatives of government, industry, academia and intermediaries (such as accountants and lawyers) to oversee and track modernisation efforts.

Consultation questions

1. Do the business communication requirements in Treasury laws create a burden on business?

Yes, where legislation requires written notice, records and non-electronic forms to be used with physical signature approval. This adds time, cost and inconvenience for business and their representatives. Improving the way businesses and their representatives interact with government should reduce regulatory burden.

There are many laws that require updating to allow for sufficient flexibility in communication. For example, section 18(3) of the *Superannuation Industry (Supervision) Act 1993 – SIS Act* - requires APRA to be informed of an election being made by written notice that is: (a) in the approved form; and (b) signed by the trustee. Within this legislation there is no indication that this notice can be carried out or signed electronically.

Appendix 2 to this document (separate attachment) contains a full summary of the SIS Act and its regulations about the different methods of communicating and whether or not an approved form must be used. It is clear that there is a significant amount of inconsistency in this one piece of Commonwealth legislation and related subsidiary legislation.

2. What is the cost of complying with the current regulations? Please provide a breakdown of costs and an indication of the frequency at which these communications occur.

a. Would these costs be reduced if the law was technology neutral? Please provide a breakdown of any anticipated savings and any non-monetary benefits.

Comments received from our members and other stakeholders indicate that the cost of implementing digital communication solutions, such as e-signatures and accompanying compliance costs, can be high, especially for smaller businesses. The identification of

suitable digital solutions and the integration of those into existing systems will be the most cost-effective pathway.

Additional government support for SMEs will be required to offset extra ongoing costs such as training staff and clients on how to properly use such digital communications tools. These higher costs are a major issue hampering the uptake of e-signature solutions, especially amongst SMEs.

3. Do you agree with the categories of communication outlined in the consultation paper?

a. Are there other types of business communication that should be considered?

All business communication between regulators, intermediaries and business should be considered over time.

b. Do you agree with the proposed principles outlined in the consultation paper or are there additional or alternative principles that should be considered?

See our responses to other questions.

c. What, if any, barriers would restrict implementation of the proposed principles?

See our responses to other questions.

4. How could stakeholders (such as consumers and investors) benefit or be disadvantaged from greater technology neutrality in Treasury laws? Please provide any relevant data, if available.

The transition towards digital practices creates risks that can be exploited by mischievous actors. That is not a particularly new phenomenon. However, in the digital realm it appears any exploitation may have wider ramifications than in the physical realm.

As noted in our response to Question 2, implementation of new technologies to meet any improvements will come at a cost, particularly for SMEs. Moreover, as outlined earlier, different digital solutions employed by different regulators would create further burden and cost for businesses.

5. Which of the options identified on page 3 do you consider would provide the biggest benefits while appropriately managing risk?

We support option II:

“Agreeing principles in one or more forms of communication to guide legislative change.

The Government will then:

- a) *identify and prioritise the changes to provisions in Treasury portfolio legislation required to give effect to these principles.*
- b) *Reduce or remove exemptions to the Electronic Transactions Act 1999 for Treasury portfolio laws creating burden though a lack of technology neutrality”.*

Agreement of principles could result in the change that is needed to remove unnecessary regulatory burden for business and individuals. It could also provide an opportunity to remove subjectivity by aligning definitions as well as allowing for greater flexibility for businesses to meet their regulatory obligations.

While we believe that the principles are suitable to guide change, we emphasise that a unified whole of government approach to business communication is needed. This requires regulators to adopt and employ interoperable digital platforms and solutions that are easy to use.

6. *If technology neutral reforms are introduced, what should businesses do to manage the impact of these changes, to ensure that benefits are realised and disadvantages overcome?*

We note that the question addresses businesses' initiatives to manage technological change. While businesses should play an active role in digital transformation, we believe that it should be the government's responsibility to help business, especially SMEs manage the change.

Similar to building road infrastructure, the government should build, enhance and upgrade digital infrastructure and ensure that digital communication platforms and systems are easy to use and that data and cyber security standards are easy to comply with.

Further, as discussed previously, the government has a key role to play in building and supporting the digital capability and capacity of SMEs. This is essential for business and the economy to fully benefit from these reforms.

We note that programs such as the Department of Industry, Science, Energy and Resources' Australian Small Business Advisory Services (ASBAS) provide support to only a small number of businesses.

Australia will only enjoy the full benefits of modernising business communications and other government-led digital initiatives where the digital literacy and capacity of small business is improved.

CPA Australia's [pre-budget submission](#) recommends that the government significantly increases funding to new and existing programs that assist small business improve their digital capability. Examples of such programs from other jurisdictions include:

- Singapore's [SME Go Digital program](#). This is one of several programs the Singapore Government runs to improve digital capability. This program includes spending of S\$250 million (A\$244 million) to help businesses digitise in partnership with digital platform solution providers.
- Hong Kong's HK\$1.5 billion (\$A250 million) [Digital Business Programme](#), which supports enterprises adopt IT solutions.
- Spain's [Acelera PYME](#) (SME Accelerate Plan). A €200 million (A\$315 million) program designed to incentivise Spain's SMEs to adopt new technologies.

7. What transitional issues do you foresee for businesses, consumers and regulators in moving to technology neutral communication methods?

a. What are the key implementation risks and their likelihood of occurring? How can we mitigate these risks? Please provide examples.

As noted above, it is important that the needs of older Australians, including older small business owners, and those located in remote areas, are considered as a part of transition. A one size fits all model may not be appropriate. It will be important that awareness raising, and notices are provided through channels that these groups currently use to access information.

Access to technology should also be factored as a transitional issue. Some individuals and small businesses do not have access to technology for financial reasons, while others might not have access to reliable internet connections. It will be important for government to consider options for such people and businesses.

Another transitional issue is the accessibility of legacy data after switching to new systems or upgrading existing systems. Many users still need access to historical data and would prefer to access that data through new platforms and systems rather than having to maintain two systems indefinitely. If systems are upgraded or replaced, a legacy data migration strategy is needed to avoid the loss of data and allow easy access to such data. Data migration costs could be reduced through only requiring the migration of data within the minimum record retention periods required for companies. Such data migration needs to be simple for business.

To ameliorate these and other issues, we recommend the development of a roadmap which guides business on digital transformation. This roadmap should outline what adopters can expect, the issues they are likely to face and how to overcome them. This roadmap should further emphasise the importance of cyber security and cyber resilience.

APPENDIX 2 - Appendix 2 - SIS Act and Regs - in writing and approved forms

SIS Act	"In writing"		Must use approved form
10	Defn of approved purposes	(used for ADFs)	No
11A	Approved forms	Regulator can approve a form and on the form can require or permit it be given electronically	No
11D	Electronic lodgements of documents other than approved forms	Can be given electronically if if regulator and person seeking to lodge agree in writing that it be lodged electronically or regulator has approved (in writing electronic lodgement)	No
18	Public offer super fund	APRA can delare in writing a fund to be or not to be a POSF	No
19	Regulated super fund	Funds must immediately declare a breach (in writing)	Yes
29C	Applications for RSE licenses	APRA can revoke a declaration (in writing)	Yes
29CA	APRA may request further information	Trustee must regulator written notice in the approved form signed by electing to regulatoed	Yes
29CB	Period etc. for deciding applications from existing trustees in licensing transition period	Applications must be made on the approved form	Yes
29CC	Period for deciding other applications	APRA can request other information be provided in writing	Yes
29F	Applications for variation of RSE licences	Redundant provision	No
29FA	APRA may request further information	APRA can extend period of time to assess a license application but must inform applicant in writing	No
29FB	Period for deciding other applications	Applications must be made on the approved form	Yes
29G	Cancellation of RSE licenses	For applications to change RSE licenses - similar to Sec 29CA	No
29HA	Application for approval to hold a controlling stake (in RSE licensee)	For applications to change RSE licenses - similar to Sec 29CC	No
29HB	APRA may request further information	APRA may cancel a license in writing; if RSE has requested cancellation then this must be completed on the approved form	Yes
29HC	Period for deciding Sec 29HA applications	Information must be given to APRA in writing and provide required information	Yes
29HE	Notice of approval for Sec 29HA applications	APRA may request further information for Sec 29HA applications	No
29L	Applications for registration	APRA can extend period of time to assess a license application but must inform applicant in writing	No
29LA	APRA may request further information for application for registrable superannuation entity	APRA must tell applicant in writing	No
29LB	Period for deciding Sec 29L applications	RSE licensee can apply to be registrable super entity	Yes
29MA	Notice of approval for Sec 29L applications	Information must be given to APRA in writing and provide required information	Yes
29S	Application for authority to offer MySuper product	APRA may request further information for Sec 29L applications	No
29SAA	Election to transfer accrued default amount	APRA can extend period of time to assess a license application but must inform applicant in writing	No
29SAB	Election to transfer assets attributed to a MySuper product if authorisation cancelled	APRA must tell applicant in writing	No
29SAC	Election not to charge MySuper members for payment of conflicted remuneration	Application must be provided on the approved form. Applicant must give APRA correct information in writing after supplied information ceases to be correct	Yes
29SA	APRA may request further information to offer MySuper product	Member directs in writing to a different product - <u>specifically electronic under Electronic Transactions Regulations</u>	Yes
29SB	Period of time to decide MySuper application	APRA cancels My Super authorisation under Sec 29U and RSE elects in writing to take appropriate action under prudential standards	Yes
29TC	Characteristics of a MySuper product	Election must be in writing and must be in approved form	Yes
29TD	Notice of authority	Information must be given to APRA in writing	No
29U	Cancelling authority to offer MySuper product	APRA must tell applicant in writing in time period to be extended	No
29WA	Contributions in relation to which no election is made are to be paid into MySuper product	Beneficiary must approve in writing for replacement class in the fund	No
29WB	Contributions by large employer in relation to which no election is made to be paid into large employer MySuper product	APRA to notify RSE licensee in writing of the authority	No
34A	Portability forms	APRA may cancel MySuper authorisation in writing and must tell Fair Work Commission in writing	No
34C	APRA may determine prudential standards	Member direction not given unless in writing and trustee must retain records - <u>specifically electronic under Electronic Transactions Regulations</u>	No
34K	ATO may make data & payment standards	Member direction not given unless in writing and trustee must retain records - <u>specifically electronic under Electronic Transactions Regulations</u>	No
34P	Regulator's power to give directions in certain circumstances - trustees of eligible superannuation entities	Beneficiary can ask ATO to transfer or roll-over benefits; regulations can demand that these must be provided on approved form	Yes
34Q	Regulator's power to give directions in certain circumstances - employers	May also vary or revoke a standard	No
34T	Infringement notices	May apply, adopt or incorporate any matter contained in another instrument <u>or writing</u>	No
35A	Accounting records	About data & payment standards - must be given in writing; direction can also be varied (in writing); form remains in force until regulator revokes it (in writing)	No
35AB	Auditor requests for documents	About data & payment standards - must be given in writing; direction can also be varied (in writing); form remains in force until regulator revokes it (in writing)	No
35AE	Accounting records	Recipient can apply in writing for extension to comply with notice	No
35C	Audit of accounts and statements	RSE licensee and registrable super entity accounting records must be kept in writing or in manner than makes them readily accessible and covertible to writing. RSE licensee must tell APRA location and any change to that location of accounting records on approved form	Yes
35D	Trustee to lodge annual returns	(RSE licensee and registrable super entity) Auditor must make request in writing	No
40	Notices by regulator to trustees	SMSF accounting records must be kept in writing or in manner than makes them readily accessible and covertible to writing	No
42	Regulator notices about complying status for non-SMSFs	Trustee must appoint SMSF auditor on approved form. SMSF Auditor can request documents in writing	Yes
42A	Regulator notices about complying status for SMSFs	Annual return must be on approved form	Yes
52	Non-SMSF - annual outcome assessment	Regulator may give written notice to trustee about complying status of fund	No
53	Covenants to repay amounts to beneficiaries in ADF	Redundant provision	No
62	Sole Purpose Test	Redundant provision	No
62AAA	Insurance benefits - inactive accounts	Must perform outcome assessment in writing inc assessment about promotion of financial interests	No
62AAB	Insurance benefits - low balance accounts	Beneficiary, by written notice, can request the trustee pays the member the beneficiary's interest in the fund	No
62AAC	Insurance benefits - members under 25 years	Regulator can approve other ancilliary purposes in writing	No
62AAE	Employer-sponsor contribution exception	Member can opt-in to maintain insurance in writing - <u>specifically electronic under Electronic Transactions Regulations</u>	No
62AAF	Dangerous occupation exceptions	Exemption from insurance ceasing if employer sponsor says in writing that it will pay insurance premiums	No
		Trustee can provide exception in writing (after Fellow of Inst of Actuaries of Aust have certified that occupations are risky and remains in force until trustee tells APRA in writing it has ceased)	No

63	Certain regulated superannuation funds not to accept employer contributions in certain circumstances	Regulator may give trustee written notice not to accept employer contributions; if fund not complying equal representative rules but then does comply but has not told APRA on the approved form then it must not accept employer contributions	Yes
70A	Standard employer sponsor	Regulator may declare in writing that person is not standard employer sponsor and may revoke declaration but must tell trustee in writing	No
71	In house assets	Regulator can provide written notice to trustee declaring an asset to be, or not to be, an in house asset of the fund	No
83B	IHA provisions - db fund	Trustee must make declaration in writing	No
92	Equal representation fund - Non-public offer super funds	APRA can agree arrangement in relation to management and control of fund; APRA can revoke arrangement if trustee applies in writing	No
93A	Trustee who is an employer-sponsor of a fund may still be an independent trustee	APRA must give notice to trustee in writing and may vary a notice in writing	No
104A	Trustees etc. of self managed superannuation fund - recognition of obligations and responsibilities	Trustee must sign declaration in approved form that trustee understands duties as SMSF trustee with prescribed time	Yes
106	Duty to notify the Regulator of significant adverse events	Trustee must notify regulator immediately in writing	No
106A	Duty to notify Commissioner of Taxation of change in status of entity	If fund has become or ceased to be SMSF trustee must give written notice to ATO	No
118	Consent to appointment	Person must certify to be trustee unless the person has consented to appointment in writing	No
123	Custodian of super funds	Entity can temporarily can tell APRA and super fund trustee in writing that they are otherwise ineligible	No
124	Investment managers must be appointed in writing		No
126B	Application for waiver of disqualified status	must be in writing; regulator can give written notice to individual of disqualification, revocation or refusal to revoke	No
126C	Application for waiver of disqualified status must be decided within period of time	Regulator must provide written notice of extension within specific time period	No
126D	Notifying of outcome of disqualification application decision	Regulator must advise applicant of decision in writing	No
126F	Regulator's power to seek further material	Regulator can request further information in writing	No
126J	Court power to revoke or vary a disqualification etc	Individual can apply to Federal Court for variation or revocation of regulatory disqualification decision; must give regulator written notice about application	No
126K	Disqualified person not to be trustee, custodian or investment mgr of super fund	Person must tell regulator immediately in writing if they are super fund trustee and they become disqualified	No
128A	Application for registration as an approved SMSF auditor	Must be on approved form	Yes
128B	Registration as an approved SMSF auditor	If SMSF auditor application rejected, regulator must tell applicant and reasons for decision in writing	No
128D	Conditions on SMSF auditor registration	ASIC can impose, vary or revoke conditions on SMSF auditors registration in a written notice	No
128E	Cancelling SMSF auditor registration	The regulator may cancel a SMSF auditor registration and must provide a written notice setting out the decision and reasons for it	No
128G	SMSF auditors annual statements	Auditor must submit annual statement in writing	Yes
128H	Notification of certain matters	If a specified matter occurs the SMSF must give the regulator particulars in writing	Yes
128P	ATO may refer SMSF auditor matters to ASIC	Must tell SMSF auditor of referral in writing	No
129	Obligations of actuaries and auditors—compliance	Auditor/actuary must tell trustee in writing immediately about compliance concerns; for non-SMSFs must tell regulator in writing if concerns about about interests of members or beneficiaries; if SMSF must tell ATO in writing of matter on <u>approved form</u>	Yes
130	Obligations of actuaries and auditors—solvency	Auditor/actuary must tell trustee in writing immediately about solvency concerns	No
130BA	Auditor must notify the Regulator of attempts to unduly influence etc. the auditor etc.	Auditor must notify in writing	No
130C	Actuaries and auditors—failure to implement actuarial recommendations	For defined benefit funds - if actuarial recommended contributions not made by employer sponsor or other breaches; trustee and Regulator must be told as soon as possible in writing	No
130E	Court power to revoke or vary a disqualification etc.	Individual or regulator can apply to Federal Court for variation or revocation of regulatory disqualification decision; individual must give regulator written notice about application and vice versa within specified period	No
130F	Approved SMSF auditors—disqualification and suspension orders	If a regulator refuses and application to revoke disqualification orders then a written notice must be given to the SMSF auditor setting our appropriate details	No
131	Actuaries—disqualification orders	If a regulator refuses and application to revoke disqualification orders then a written notice must be given to the SMSF auditor setting our appropriate details	No
131AA	APRA may direct removal of auditor or actuary	APRA may direct a trustee to end an actuary's or auditor's appointment. APRA must give written notice to trustees and the person and give them a chance to make a submission on this matter	No
131A	The Regulator may refer matters to a professional association	Regulator must tell auditor or actuary about referral to professional association	No
131DB	APRA may give directions	Directions must be in writing	No
131DC	APRA varying or revoking a direction	Directions must be in writing	No
131EB	Direction to relinquish control over an RSE licensee and may also revoke such a direction	Directions must be in writing	No
131ED	Consequences of a direction to relinquish control	If APRA directs a person to relinquish control over a RSE then the person must take steps within 90 days of receiving this notice. APRA can extend this time period by issuing a written notice	No
133	Suspension or removal of trustee of superannuation entity	If Regulator suspends or removes a trustee or extends a suspension then it must give a written notices setting out the decision and the reason for them	No
135	Terms and conditions of appointing acting trustee	Former trustee must be notified in writing	No
140	Acting trustee to notify appointment to beneficiaries	Acting trustee must give each beneficiary notice concerning their appointment	Yes
141	The Regulator may give directions to acting trustee	Regulator must give written notice to acting trustee and direct the person to do or not to do one or more specific acts or things in relation to the super entity	No
141A	Property vested in acting trustee—former trustee's obligations relating to books, identification of property and transfer of property	Acting trustee can, in writing, give a notice to the former trustee to identify assets of the fund and explain how the assets were accounted for. Also acting trustee to provide a notice in writing to the former trustee to transfer ownership of fund assets.	No
145	Application for approval of transfer	Transferor fund must apply to APRA for approval to transfer all benefits to transferee fund	Yes
161	Approved education courses for SMSF trustees	ATO can approve, in writing, one or more education courses	No
163	Variation or revocation on Regulator's own initiative	ATO can vary or revoke a rectification direction or education direction by written notice	No
164	Variation on request	A person can request that a rectification or education direction can ask for variation by submitting a written notice to the ATO	No
223C	Chair of APRA may determine infringement officers	If APRA Chair provide directions to infringements officers these must be in writing	No
223D	Relevant chief executive	APRA chair may, in writing, delegate powers and functions	No
224B	Infringement notices	Chief executive may extend payment period in writing	No

229	Application for financial assistance	Application must be made to relevant minister in writing	No
231	Minister may grant financial assistance	Minister must determine in writing if financial assistance is in public interest and the amount of assistance to be provided	No
233	Financial assistance to be subject to conditions	Minister must detail in writing to whom financial assistance is to be paid within super fund and any other conditions	No
242A	Application for authority to operate an eligible rollover fund	Redundant provision	N/A
242B	Election to transfer amounts held in eligible rollover fund if authorisation cancelled	Election must be in writing and must be in approved form	Yes
242C	Election not to charge members of eligible rollover fund for payment of conflicted remuneration	Election must be in writing and must be in approved form	Yes
242D	APRA may ask for more information	Redundant provision	N/A
242E	Period for deciding applications for authority	Redundant provision	N/A
242G	Notice of authority	Redundant provision	N/A
242J	Cancelling authority to operate eligible rollover fund	APRA may cancel ERF authority in writing	No
248	Claims for benefits	Person who believes they are entitled to a benefit in an ERF can apply for payment of benefit	Yes
252	Claims to rolled-over benefits	Person who believes they are entitled to a benefit in a super fund can apply for payment of benefit	Yes
252A	APRA or Commissioner of Taxation may request certain information	APRA/ATO can provide written notice to super fund trustee if regulator considers fund has less than 5 members	No
252G	Outstanding annual returns and amounts	Any outstanding returns must be provided on the approved form	Yes
254	Information to be given to Regulator	Regulator may issue written notice to super fund trustee to provide specified information within specified time	Yes
255	Regulator may require production of books	Regulator may demand, via written notice, books produced are put into writing	No
257	Investigation of financial position of superannuation entity	Regulator can demand via written notice investigate a specific financial aspect of the fund	No
259	APRA may veto appointment of investigator or investigators	APRA must be told name of investigators in writing; APRA can reject nomination and must be told of new investigators in writing; APRA can reject in writing	No
260	Deadline for receipt of report	Person appointed by APRA to investigate fund must provide report by specified date or later date which APRA details on written notice	No
263	Investigations of superannuation entities, approved SMSF auditors and the conduct of certain audits	If trustee forms view that trustee has contravened SIS Act and regs and other legislation or fund has unsatisfactory financial position or trustee hasn't given effect to AFCA determination then regulator can issue written notice saying it intends to investigate fund. Similar rules apply to SMSF Auditor or how an SMSF auditor is conducting an audit engagement	No
264	Power of Regulator to obtain information or freeze assets	Regulator can give to person written notice demanding specified information or reports be handed over by date on notice.	No
265	Inspectors	Regulator can give to person, including an investment manager or other person who has possession or custody a fund assets, written notice demanding that fund assets cannot be acquired or disposed of until notice is revoked or specified time period or particular event has occurred.	No
269	Inspector may require production of books	Regulator can appoint staff to be inspectors	No
270	Powers of inspector to require assistance from, and examine, current and former relevant persons and other persons	Must send written notice to relevant individual	No
288	Legal professional privilege	About production of documents in writing; lawyer can refuse but must send written notice to regulator	No
293	Objection to admission of statements made at examination	Party to a dispute must issue written notice that they intend to apply to admit evidence statements or evidence from examinations. The other party can object by issuing a counter written notice	No
298A	Authorisation of members of staff	Regulator can appoint staff	No
299P	Method of quoting TFN	Must be completed on approved form	Yes
299U	Forms etc. may require tax file number	An approved form or a written notice by trustees may require notice to provide TFN	Yes
299Z	Transitional provisions	Concerning super surcharge - redundant provision	N/A
323	Relief from civil liability for contravention of certain provisions	Defendant can issue written notice identifying other people; notice must be provided at least 7 days before proceedings commence	No
328	Regulator's powers of exemption—modifiable provisions	Regulator may exempt, in writing, specified people or groups from compliance of modifiable provisions	No
332	Regulator's powers of modification—modifiable provisions	Regulator may modify, in writing, specified SIS Act provisions	No
335	Variation and revocation of exemptions and modifications	Regulator can vary or revoke modified provisions in writing	No
336	Notice of exemptions and modifications	Regulator may vary or revoke, in writing, specified people or groups from compliance of modifiable provisions	No
387	Election to transfer accrued default amounts into My Super product	applies pre July 2017 - redundant provision	No
342	Pre-1 July 88 funding credits and debits	Pre July '88 funding credits and debits - redundant provision?	Yes
344	Review of certain decisions	Person effected by reviewable decision can request on written notice that regulator reconsider decision. Regulator must provide written notice detailing its decision to vary, revoke to retain original decision.	No
345	Statements to accompany notification of decisions	Written notice detailing reviewable decision must also provide details on appeal rights. The same applies after review of reviewable decision.	No
347A	The Regulator may collect statistical information	Regulator can issue written notice to super fund trustees declaring the fund to be a participant	No

APPENDIX 2 - Appendix 2 - SIS Act and Regs - in writing and approved forms

SIS Regs	"In writing"		Must use approved form
		PST operator nominates in writing that they want trust to be treated as PST; APRA may extend time to supply information; trust must inform APRA if trust ceases to be PST	
1.04	Prescribed matters		Yes
1.05	Meaning of annuity	Sub-reg (7) permits bonus payments if notified in writing each year	No
1.08	Restriction on factors for converting pensions	Regulator can approve use of other conversion factors in writing	No
2.03	Duties and responsibilities arising under Part (2)	Must be in writing (and must be clear and effective manner)	No
		Trustee must give copies of requested fund documents in writing inc fund audited accounts, fund info given to members and Corps Regs disclosure requirements	No
2.33	Specific requirements		No
3.09	Dissolution of policy committees	If committee is dissolved at least 5 remaining fund members can request in writing replacement committee be established	No
3.10	Commission and brokerage	Amounts of commission or brokerage must be stated in writing	No
		Super funds unique identifier is ABN unless ATO agree to another number in writing	No
3B.01	Data & Payment Standards		No
		Non-public offer super fund that is also not SMSF must have agreement in writing from APRA for management and control	No
4.08A	Operating standard - member representation		No
6.17A	Binding Death Benefit Nominations	Must be in writing	No
6.19A	Compassionate Grounds early release	Regulator must determine in writing eligibility	No
6.19B	Compassionate Grounds coronavirus	Regulator must determine in writing eligibility	No
		Member may request, in writing, that they transfer or rollover whole or part of benefit in a fund	Yes
6.33	Request for rollover or transfer of withdrawal benefit		Yes
6.33C	Trustee may request information if not provided	In order to pay a benefit	Yes
		Trustee can ask member for proof of identity information on approved form	Yes
6.33D	Validation of member's details by transferring fund		Yes
6.34	Rollover or transfer of withdrawal benefit	Transferring fund must provide details to transferee fund	Yes
6.35	When a trustee may refuse to roll over or transfer an amount	If trustee refuses to rollover then must tell member in writing	No
		APRA must tell trustee in writing if it has suspended or varied trustee obligation to pay benefits	No
6.36	Suspension or variation of obligation to roll over or transfer amounts by APRA	APRA must tell trustee in writing if it agrees to suspension or variation to trustee obligation to pay benefits	No
6.37	Suspension or variation of obligation to roll over or transfer amounts by APRA - trustee application	Information must be provided to ATO	Yes
6A.02	Request to rollover or transfer withdrawal benefit	Notice must be in writing	No
7A.03	Trustee to give payment split notice	Declared date is the date actuary declares a db fund to be insolvent	No
9.06	Interpretation (for funding and solvency of db funds)	APRA can demand, in writing, that a fund obtain another funding and solvency certificate	No
9.09	Funding and solvency certificates—operating standard		No
		If an actuary determines that a fund is insolvent then it must tell the trustee in writing	No
9.16	Non-compliance with solvency requirement—technical insolvency		No
9.19	Technical insolvency programs—procedure	Actuary can approved payments from fund in writing	No
		Actuary can suggest alternative course of action instead of winding fund up. Fund trustee must then forward copy of recommendations and request that APRA approves scheme. APRA must tell trustee decision in writing.	No
9.24	Alternative programs approved by the auditor	For SMSFs - ATO can demand in writing that fund obtain an actuarial certificate if it considers this is in the prudential interests of the fund of best interests of members or beneficiaries	No
9.29	Actuarial investigation standard		No
		Trustee must not add to min g'teed member benefits unless actuary has agreed in writing and amount added is in accordance with scheme approved by fund actuary in writing. If fund technically insolvent then trustee cannot approve any payment unless approved in writing by actuary.	No
9.39	Technical insolvency program for accumulation funds—procedure	Actuary can propose alternative to wind-up of fund in writing and if trustee wishes to accept recommendation then it must inform Regulator within 21 days. Regulator can approve recommendation in writing	No
9.44	Alternative programs approved by the Regulator for accumulation funds	Trustee must given notice to member in writing about attribution or trf to another super fund. Member can elect out in writing.	No
9.46	Notification—accrued default amount attributed to MySuper product	Member who has made election under Sec 295AA of SISA must be given written statement about fund.	No
9.46A	Notification—periodic statements	Trustee certifies in writing that some insurance benefits cannot be obtained for reasonable cost or on an opt-in basis	No
9.49	Opt-out insurance for MySuper members cannot be obtained at reasonable cost		No
11.07AA	Operating standard—disclosure of certain information (self managed superannuation funds)	Trustee must tell ATO of change of status within required time	Yes
11.07A	Operating standard—disclosure on change of status	Within 28 days SMSF trustee must tell ATO in writing of change of fund status	No
11.08	Operating standard—disclosure of successor fund transfer	Trustee on non-SMSF must give APRA written statement that member's benefit will be transferred out of fund without member's consent	No
		Concerns pre-July 1988 funding credits and debits. Value A is total value of accrued benefits. If actuarial certificate was not completed before July '88 then trustee must submit actuarial report in writing	No
12.05	Value A of accrued benefits		No
		Concerns pre-July 1988 funding credits and debits. In special circumstances actuary may make submission to APRA about various assumptions	No
12.06	Value B of accrued benefits	Concerns pre-July 1988 funding credits and debits. APRA must provide notice in writing to trustee which specifies a date.	No
12.08	Date before which applications to be made	Concerns pre-July 1988 funding credits and debits. Trustee must give notice to APRA by specific date - before April 1995. Redundant provision? APRA may extend time in writing	No
12.11	When and how APRA to be notified of prescribed events	Concerns pre-July 1988 funding credits and debits. Trustee may apply in writing to APRA to trf pre_July '88 funding credits to another fund. APRA must tell trustee of decision in writing	No
12.12	Transfer of PJFCs—trustees of transferor funds	Concerns pre-July 1988 funding credits and debits. Trustee may agree in writing to APRA to trf pre_July '88 funding credits to another fund. APRA must tell trustee of decision in writing	No
12.13	Transfer of PJFCs—trustees of transferee funds		No
13.15A	Charges in relation to certain derivatives contracts	Demands evidence for some contracts to be evidenced by "in writing"	No
13.16	Accrued benefits—restriction on alteration	Standard restriction on alteration doesn't apply if Regulator agrees in writing to a trustee proposal	No
13.25	Reconsideration of certain decisions	If person not happy with reviewable decision they may apply to regulator for review. Application must be in writing	No
Schedule 1B	Pension valuation factors	Regulator can approve different annual pension indexation figure in writing	No
Schedule 1	Conditions of Release - Part 1	Rule 103A - former temporary resident can request release of benefit in writing	No
Schedule 1	Conditions of Release - Part 1	Rule 107 - Compassionate grounds approved release by ATO in writing	No
Schedule 1	Conditions of Release - Part 1	Rule 107A - Compassionate grounds approved release by ATO in writing (about Coronavirus)	No
Schedule 1	Conditions of Release - Part 2	Rule 204 - former temporary resident can request release of benefit in writing	No
Schedule 1	Conditions of Release - Part 2	Rule 207 - Compassionate grounds approved release by ATO in writing	No
Schedule 1	Conditions of Release - Part 2	Rule 207AA - Compassionate grounds approved release by ATO in writing (about Coronavirus)	No
Schedule 1	Conditions of Release - Part 2	Prescribed form of advertisement of scheme for winding-up or dissolution	No
Schedule 3		Form for APRA to use when compulsorily winding up a super fund	No

APPENDIX 2 - Appendix 2 - SIS Act and Regs - in writing and approved forms

SIS Regs

Written record

280

Record of examination

Inspector must ensure a written record of statements made at examination

281

Giving copies of record to other persons

The lawyer of a person a person subject to an examination can obtain a written record of an examination

290

Statements made at an examination: proceedings against examinee

If a written record of an examination of a person is signed by the person under subsection 280(2) or authenticated in any other prescribed manner, the record is, in a proceeding, *prima facie* evidence of the statements it records.

APPENDIX 2 - Appendix 2 - SIS Act and Regs - in writing and approved forms

SIS Regs	Written record
9A.04	Continuing professional development requirements
13.18AA	SMSFs - investment in collectables and personal use assets
13.22	Statements made at an examination—manner of authentication

SMSF auditor must keep written record of CPD for at least 3 years

Trustee commits an offence if it does not prepare written record or does not keep such a written record for at least 10 years about holding an investment strategy about a collectible or personal use asset and a decision about the items storage

Written record of a SISA 290(7) examination must be provided and must be endorsed by a third party