

ASIC CLASS ORDER [CO 12/1687]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Superannuation Industry (Supervision) Act 1993

The Australian Securities and Investments Commission (**ASIC**) makes ASIC Class Order [CO 12/1687] under subsection 128Q(1) of the *Superannuation Industry (Supervision) Act 1993* (the **Act**).

Subsection 128Q(1) provides that ASIC may, by legislative instrument, determine competency standards to be complied with by all approved SMSF auditors.

1. Background

On 16 December 2010, the then Assistant Treasurer and Minister for Financial Services and Superannuation (**Minister**) announced the Stronger Super reforms in response to the review into the governance, efficiency, structure and operation of Australia's superannuation system, the Super System Review.

The *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012* implemented, via changes to the Act, the Stronger Super reforms relating to auditors of self-managed superannuation funds (**SMSFs**). The reforms included a registration regime for auditors of SMSFs, with ASIC as the registration body. Under the Act, auditors of SMSFs must be registered with ASIC from 1 July 2013 to be able to sign-off on SMSF auditor's reports. A registered auditor of SMSFs is referred to in the Act as an 'approved SMSF auditor'.

ASIC is also responsible under the Act for setting competency standards. The Australian Taxation Office has powers under the Act to monitor approved SMSF auditor's compliance with relevant standards and to refer matters of non-compliance to ASIC. ASIC has powers under the Act to take administrative action in relation to approved SMSF auditors who have not met their on-going obligations in accordance with the Act.

Approved SMSF auditors must, in accordance with subparagraph 128F(c)(i) of the Act, comply with the competency standards set by ASIC under subsection 128Q(1) of the Act.

2. Purpose of the class order

Class Order [CO 12/1687] sets out the competency standards determined by ASIC to be complied with by all approved SMSF auditors under subparagraph 128F(c)(i) of the Act.

Class Order [CO 12/1687] specifies competencies that an approved SMSF auditor is required to have in all of the following areas:

- (a) client acceptance and retention;
- (b) engagement planning;
- (c) controls, evaluation and testing;
- (d) substantive testing;
- (e) forming an opinion;
- (f) documentation.

The competency standards are based on *Competency requirements for auditors of self-managed superannuation funds* dated February 2008, prepared by the Joint Accounting Bodies (i.e. CPA Australia, The Institute of Chartered Accountants in Australia and the Institute of Public Accountants).

3. Operation of the class order

Class Order [CO 12/1687] sets out the competencies, in terms of tasks and knowledge requirements that approved SMSF auditors are required to have. The knowledge requirements include an understanding of certain legislative and other requirements as well as matters specified in relation to the tasks.

The tasks set out in the class order are such that an auditor will generally need to perform them when deciding to undertake or undertaking an audit and assurance engagement in relation to an SMSF. Whether a particular task needs to be performed, including a task not set out in the class order, is a matter that the auditor will need to determine having regard to the circumstances.

The tasks set out in the class order are not intended to be a substitute for an audit or assurance program required by the relevant auditing and assurance standards, nor for the need to understand and apply the requirements of the relevant auditing and assurance standards, ethical standards or the Act.

4. Statement of Compatibility with Human Rights

This statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of *Human Rights (Parliamentary Scrutiny) Act 2011* because it does not engage any of the applicable rights or freedoms.

5. Consultation

To provide input on the design and implementation of the Stronger Super reforms, the Government undertook extensive consultation with industry, employer and consumer groups. The Government announced its decisions on the key design aspects of the Stronger Super reforms in the Minister's Media Release No. 131 of 21 September 2011.

ASIC consulted publically on a draft of the class order via a consultation paper released on 14 November 2012.