



# SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993

## PART 25 - MONITORING AND INVESTIGATION

[View history note](#)

[Hide history note](#)

### Division 4 - Investigations by Regulator

[View history note](#)

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## SECTION 263 INVESTIGATIONS OF SUPERANNUATION ENTITIES, APPROVED SMSF AUDITORS AND THE CONDUCT OF CERTAIN AUDITS

### 263(1) [Regulator's notice]

If it appears to the Regulator that:

(a) a contravention of this Act, the regulations, the prudential standards or the *Financial Sector (Collection of Data) Act 2001* may have occurred or be occurring in relation to a superannuation entity; or

(b) the financial position of a superannuation entity may be unsatisfactory; or

(c) the trustee, or the trustees, of a regulated superannuation fund or an approved deposit fund have refused or failed to give effect to a determination of the Superannuation Complaints Tribunal under section 37 of the *Superannuation (Resolution of Complaints) Act 1993*;

the Regulator may, by written notice to a trustee of the entity, tell the trustee that the Regulator proposes to conduct an investigation of the whole or a part of the affairs of the entity.

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### 263(1A)

If it appears to the Regulator that a contravention of this Act or the regulations may have occurred or be occurring in relation to an approved SMSF auditor, the Regulator may, by written notice to the auditor, tell the auditor that the Regulator proposes to conduct an investigation of the whole or a part of the affairs of the auditor.

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### 263(1B)

If it appears to the Regulator that a contravention of this Act or the regulations may have occurred or be occurring in relation to the conduct of an audit of a self managed superannuation fund, the Regulator may, by written notice to a person who conducted, or who is conducting, the audit, tell the person that the Regulator proposes to conduct an investigation of the whole or a part of the conduct of the audit.

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## 263(2)

The following provisions of this Division apply:

- (a) in relation to a superannuation entity if a notice is given under subsection (1) to a trustee of the entity;
- (b) in relation to an approved SMSF auditor if a notice is given under subsection (1A) to the auditor;
- (c) in relation to a person who conducted, or who is conducting, an audit of a self managed superannuation fund, if a notice is given under subsection (1B) to the person.

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[- Hide history note](#)

## 263(3)

To avoid doubt, this section applies to a superannuation entity, in the same way as this section applies to any other superannuation entity, if either of the following apply:

- (a) the superannuation entity is wound up, dissolved or terminated;
- (b) the trustee of the superannuation entity is or becomes:
  - (i) if the trustee is a body corporate - an externally-administered body corporate (within the meaning of the *Corporations Act 2001*); or
  - (ii) if the trustee is an individual - insolvent under administration.

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