

# Super factsheet

## Choice of Superannuation Fund

### Choice of Superannuation Funds

All eligible employees have the right to choose which superannuation fund their employer contributions are paid into.

### Providing a *Standard Choice* form

If you have new employees who are eligible for a choice of superannuation fund, you must provide them with a *Standard Choice* form within 28 days from when they start work with you. For existing eligible employees, you only have to provide a *Standard Choice* form in certain circumstances.

### Acting on your employee's choice

Once an eligible employee makes a valid choice of superannuation fund and it's accepted by you the employer, you have 2 months to get ready to pay contributions into that fund. After this time, any superannuation contributions paid for that employee must be to their chosen fund.

### The information your employee needs to provide you when choosing a fund

When choosing a fund, you should request that your employee provide you with information such as: the full name and contact details of the fund; the employee's account name of the fund; the method you can use to pay the superannuation contributions; a written statement, provided by or on behalf of the trustee of the fund, that the fund is a regulated fund and can accept your contributions. Your employee should be able to get this and other relevant information from the superannuation fund.

### Do you have to accept an employee's Choice of Superannuation fund?

All eligible employees must be given the option to choose their own superannuation fund. And in most circumstances, you will need to make superannuation contributions to the fund nominated by the employee.

The ATO indicates that you may be able to reject an employee's choice in the following circumstances:

#### 1. **Insufficient information**

If an employee's written notice does not contain all the required information, you don't have to accept it.

#### 2. **Employee has made a choice within the last 12 months**

You do not have to accept an employee's request to choose a new fund if you have accepted such a request from the employee within the past 12 months.

#### 3. **The employee's chosen fund doesn't comply**

The fund nominated must be an eligible choice fund at the time choice is made. To be eligible, the fund must be a complying fund or scheme or an RSA.

#### 4. **You are unable to make contributions to that fund**

Some superannuation funds require the employer to become a 'participating employer' before the employer can pay contributions to them. Being a 'participating employer' may involve paying contributions more regularly (such as monthly instead of quarterly).

The employee can then choose this fund if you agree to become a 'participating employer' of that particular superannuation fund. However, you do not have to agree.

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## What happens if you reject an employee's choice?

If you reject an employee's chosen fund because the fund requires you to become a 'participating employer' or you are unable to make contributions to the fund for another reason, you need to advise your employee. You need to continue making contributions by the quarterly cut-off date to the default superannuation fund nominated in Part A of the existing Standard choice form.

## Record keeping

You must keep records that:

- show you have offered choice of superannuation fund to your eligible employees and provided them with a *Standard Choice* form
- show that you have acted on your employees' choice of superannuation fund, and
- contain information about your employer fund.

Your choice of superannuation fund records must be in English and be kept for five years. If your records are not in a written form (for example, in an electronic medium such as magnetic tape or computer disk), they must be in a form which is readily accessible and easily converted into written English.

## Penalties for failing to comply

If you don't meet your choice of superannuation fund obligations, you may be liable for the choice shortfall. The choice shortfall is part of the superannuation guarantee charge.<sup>85</sup>

The choice shortfall applies where you have paid superannuation guarantee contributions to a complying fund for your employee but not to the fund chosen by them. The choice shortfall is roughly 25% of the contributions that are paid to the wrong fund.

A choice shortfall may also apply if you have not given your employees a Standard choice form in the required timeframe.

The choice liability is limited to \$500 for a notice period per employee. For example, if the choice shortfall for an employee for a quarter would otherwise be \$1,000, the actual shortfall can be no more than \$500.

The Tax Office transfers this amount to your employee's superannuation fund or retirement savings account.

To avoid the choice shortfall it is essential you pay sufficient superannuation contributions to the chosen fund or, where no chosen fund exists, to the fund you identified on the *Standard Choice* form

For further information, please visit [www.ato.gov.au/super/](http://www.ato.gov.au/super/) and [www.superchoice.gov.au/employers/](http://www.superchoice.gov.au/employers/)

Information Source: Choice of superannuation fund – guide for employers. July 2006