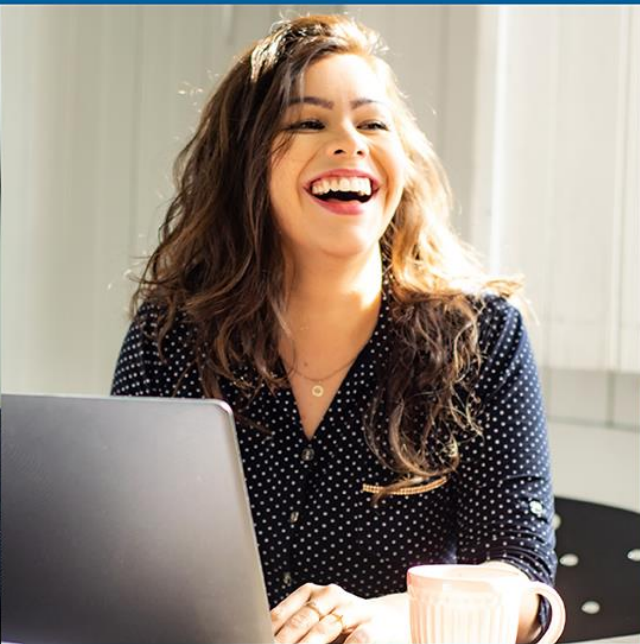


Financial **Services** Council.

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WORKPLACE SAVINGS TRAINING

Breakfast Webinar

Restricted Schemes

EXEMPTION RELIEF AND ESCT ISSUES

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13 April 2021

EXEMPTION RELIEF

'RIGHT SIZING' RESTRICTED SCHEMES COMPLIANCE OBLIGATIONS (1)

Issues raised August 2018 – FMA response May 2019:

Merit work and possible exemption/law change	More information sought	To be referred to MBIE
<ol style="list-style-type: none">1) DB scheme – fund updates - relief for smaller (closed) schemes2) Quarterly reports – make reporting event driven only (with annual certification)3) DB schemes – allow benefits-based annual confirmation information4) LITs – moving to single annual reporting obligation	<ol style="list-style-type: none">1) Address inability for scheme to meet publicly available standard where no scheme website – affects:<ul style="list-style-type: none">• fund updates• PDS (open scheme)2) Facilitate more cost-effective options to transfer small DB scheme into master trust (<i>and now DB scheme mergers</i>)	<ol style="list-style-type: none">1) Move to 4 month deadline for annual confirmation information2) Clarify appropriate FSP Register categories for trustees (including corporate trustee acting as custodian)3) Clarify no custodian levy for trustee/sole purpose nominee

EXEMPTION RELIEF

'RIGHT SIZING' RESTRICTED SCHEMES COMPLIANCE OBLIGATIONS (2)

- More information provided to FMA by FSC February 2020 to inform its priorities:
 - DB schemes would save **\$3,000 to \$5,000 per annum** per affected scheme if Fund Update obligation relieved – reduced compliance burden and no material negative impact
 - Key statistical information in Annual Report anyway
 - Schemes would save up to **\$1,500 per quarter** if relieved of nil Quarterly Reporting obligation – tight 10 working day deadline also major headache
 - prescribing benefits-based annual confirmation instead of transactions-based confirmation information requirements for DB schemes – will address **obvious omission** from FMCR

CONSULTATION PAPER MARCH 2021

INITIAL RELIEF PROPOSALS

1) **fund updates:** no requirement for *defined benefit* scheme to prepare fund updates simply because some members:

- have not yet qualified for pensionable service and salary-based retirement benefits (i.e. remain eligible only for a benefit based on own contributions plus scheme investment earnings, and/or
- have ‘voluntary accounts’ (or similar) impacted by investment earnings

2) **quarterly reporting:**

- deleting requirement for quarterly (usually nil!) reporting about limit breaks and related party transactions
- moving to *event driven* reporting (i.e. filing quarterly report only if scheme has something to report) and *annual* certifications

3) **confirmation information** for defined benefit schemes:

- addressing (misaligned!) requirement for details of opening and closing “balances” and contribution credits
- prescribing *benefits-based* reporting requirements that are actually fit for purpose

PROPOSED SUBMISSIONS

YOUR INPUT SOUGHT (1)

- **Fund update** relief – key points:
 - fund update requirement is **over-regulation** – especially as relevant schemes in practice disclose net returns in annual reports anyway and members have no investment choice
 - exemption wording needs to prescribe that defined benefit scheme is subject to fund update requirement only if a **true hybrid scheme** with cash accumulation section
 - proposed **exemption condition** – annual report to include net return and investment strategy outline – acceptable if:
 - required net return information is actuals for most recent year only
 - as to scheme’s investment mix, target mix suffices (i.e. pie graph or table)

PROPOSED SUBMISSIONS

YOUR INPUT SOUGHT (2)

- **Quarterly reporting** relief – key points:
 - ‘nil’ quarterly reports exemption ***strongly supported***
 - quarterly reporting deadline (if affirmative reporting requirement triggered) should be extended from 10 to ***20 working days*** for limit break reports - takes typically 10 (or almost 10) working days for trustee boards just to receive fund managers’ investment reports
 - for consistency (and as reports routinely combined) reporting deadline for ***related party transactions*** report (if affirmative reporting requirement triggered) should be extended to 20 working days

PROPOSED SUBMISSIONS

YOUR INPUT SOUGHT (2)

- **Annual confirmation information** for DB schemes – key points:
 - exemption or a law change a **logical necessity** – information mandated by regulation 70B is simply irrelevant
 - moving to **benefits based** reporting supported
 - ‘example’ forms comprised in Consultation paper each do more than should be compulsory (as member service)
 - defined benefit schemes should be **required** to show in confirmation information only:
 - **projected retirement benefit** entitlements at age 65 (or another scheme-standard qualifying age such as 60)
 - **current leaving service benefit** entitlements;
in each case based on current salary for scheme purposes
 - no in principle reason for life benefit plans in master trusts not to have similar relief available

DEFINED BENEFIT SCHEMES

39% ESCT (1)

- To date 33% ESCT on pensioner, deficit and expenses funding
- Increased to **39%** effective 1 April 2021 – punitive and a surprise:
 - mandatory when funding benefit liabilities in respect of ‘past employees’ – i.e. **pensioners**
 - additionally **deficit** and **expenses** funding in effect unallocated hence 39%
- Significant (in gross terms close to 10%) sponsor cost increase
- Strong submissions to Inland Revenue seeking roll-back:
 - ESCT intended to impact individuals with super-inclusive packages over **\$216,000** pa
 - average employee member salary across 33 survey schemes **\$96,863**
 - available data on pensioners’ salary immediately pre-retirement shows average **\$109,472**
 - pensioner liabilities **71%** and climbing and majority of schemes in **deficit**
 - aggregate annual net-of-tax employer contributions circa **\$30 million**
 - biggest DB schemes sector **heavy industry** (then clergy and financial services)

DEFINED BENEFIT SCHEMES

39% ESCT (2)

- Constructive ongoing engagement
- No quarrel with characterisation of issue as creating:
negative impacts and unfairness ... which significantly increases the cost to employers of maintaining defined benefit schemes, risks becoming a major impediment to employers appropriately funding schemes and indeed may cause immediate cash-flow issues in some cases
- Guarded optimism we can sustain our case as to:
 - gross over-taxation
 - appropriateness of roll-back
- We will keep you informed

REVIEW OF DRS RULES

DISCUSSION PAPER

- MBIE has identified inconsistencies in BOS, IFSO, FSCL and FDRS rules
- Discussion Paper sets out some proposals regarding:
 - financial caps for bringing a complaint
 - limits on compensation which can be awarded
 - timing of membership (and its impact on jurisdiction), and
 - applicable time periods which impact when and how scheme can hear complaint
- Submissions close 6 May