Australian Government

Australian Taxation Office

# SMSF Professionals Webinar

# Event based reporting for SMSFs

# November 2017 update

# Overview

- Consultation with industry and frequency of SMSF reporting from 1 July 2018
- What is event based reporting?
- Why do we need event based reporting?
- What are the impacts for SMSFs?
- The reporting framework
- Transitional concession for event based reporting
- What events should be reported?
- Frequency of SMSF reporting – case studies
- Consequences of exceeding the transfer balance cap
- Understanding some possible impacts of deferred reporting
- Case studies

# Event based reporting for SMSFs

## Audience poll:

Are you aware of event based reporting for SMSFs?

A. Yes

B. No

If yes, what is your level of knowledge for event based reporting

A. Basic

B. Moderate

C. Advanced

# Consultation with industry and frequency of SMSF reporting from 1 July 2018

- We have consulted with the SMSF sector in relation to the frequency of reporting by SMSFs for transfer balance cap purposes.

- The consultation period ended 15 September 2017.

# Consultation with industry and frequency of SMSF reporting from 1 July 2018 continued

In light of the feedback we have received, both in response to our position paper and more broadly, the decision was made from 1 July 2018 that:

- SMSFs whose members' total superannuation balances are less than $1 million can choose to report any events that impact their members' transfer balances annually at the same time that they lodge their SMSF annual return.

- SMSFs with members whose total super balances are $1 million or more on 30 June 2017 will report events impacting members' transfer balance account within 28 days after the end of the quarter in which the event occurs.

# What is event based reporting for the transfer balance cap?

## Transfer balance cap

- An individual's transfer balance is the net amount of all of their transfer balance account credits and debits at the end of any particular day.
- For the 2017/18 year the transfer balance cap is $1.6 million.
- The reporting of members' transfer balance cap events is required to track an individual's ***transfer balance account*** across all funds and administer the appropriate consequences if an individual exceeds their transfer balance cap.

## Transfer balance account

- An individual's transfer balance account records transfers in (credits) and transfers out (debits) of their tax-free retirement phase superannuation interests across all funds.
- The net balance of the individual amounts tracked through a person's ***transfer balance account*** at any given time determines whether they have exceeded their transfer balance cap <u>at the end of any given day</u>, and thus whether they are subject to excess transfer balance tax and required to remove the excess from their tax free pension or retirement phase income stream.

# Why do we need event based reporting?

- To administer the transfer balance cap effectively and maintain the integrity of the transfer balance cap requirements.

- Members will be able to track their position in relation to the current $1.6 million transfer balance cap.

- Event based reporting will provide member's with greater visibility of their position in relation to the transfer balance cap, allowing them to act early if they inadvertently exceed their transfer balance cap, thereby minimising any excess transfer balance cap liabilities.

- We also need to be in a position to know when we need to issue an excess transfer balance determination to a member who has exceeded this cap.

# What are the impacts for SMSFs?

- In most cases the move will have minimal impact on most SMSFs
- In many instances members will only have one or two transfer balance cap debits or credits in the life of their fund - e.g. commencement of an income stream and subsequent commutation of an income stream.
- SMSFs with no members in retirement phase will generally have nothing additional to report at all until a retirement income stream is commenced.
- Recent ATO SMSF statistical data estimates that approximately 52% of all SMSFs do not have any members in retirement phase.

# The reporting framework

SMSFs will commence event based reporting on 1 July 2018

- All superannuation providers, including SMSFs, will report transfer balance cap events via the ‘Transfer Balance Account Report’ (TBAR) as an approved form.

- The TBAR will be available to be submitted through three channels:
  - Bulk data exchange
  - An online form, or
  - A paper form.

- Each debit and credit event will need to be reported separately.

*More information about TBAR forms and instructions are available from our website [www.ato.gov.au/tbar](http://www.ato.gov.au/tbar)*

# The reporting framework continued

- Transfer balance event notification form – TBEN

- Transfer balance event notification form may be required to be used by individuals to report specific events to us directly.
  - a family law payment split
  - a debit event from fraud, dishonesty, or bankruptcy
  - a structured settlement contributions made before 1 July 2017.

# Transitional Concession for event based reporting

- TBAR reporting functionality is available now.

- APRA regulated funds will submit TBARs for members no later than 10 business days after 30 November 2017.

- SMSFs have been given a transitional concession so that they are generally not required to commence TBAR reporting until 1 July 2018.

# Frequency of reporting

| | SMSF Transfer Balance Account reporting due date<br><br>Determined at 30 June immediately before each year the first member of the fund starts their first retirement phase income stream in that SMSF | | | |
|---|---|---|---|---|
| Event type | At least one member of the fund has an income stream just before 1 July 2017 AND<br>All members of the SMSF have a total super balance of less than $1 million as at 30 June 2017 | At least one member of the fund has an income stream just before 1 July 2017 AND At least one member of a SMSF has a total super balance of $1 million or more as at 30 June 2017 | A member of a SMSF starts an income stream on or after 1 July 2017 AND as at 30 June in the income year immediately prior to the member starting the income stream, all members of the SMSF have a total super balance of less than $1 million | A member of a SMSF starts an income stream on or after 1 July 2017 AND as at 30 June in the income year immediately prior to the member starting the income stream, at least one member of the SMSF has a total super balance $1 million or more |
| An income stream payable to a member just before 1 July 2017 that continues to be paid to the member on or after 1 July 2017 | On or before 1 July 2018 | On or before 1 July 2018 | N/A | N/A |
| Any other event that is NOT:<br><br>A commutation of an income stream in response to an Excess Transfer Balance (ETB) Determination issued to a member of your fund by the ATO because they have exceeded their transfer balance cap<br><br>OR<br><br>Responding to a Commutation Authority issued to you because a member has exceeded their transfer balance cap. | No later than the due date for lodging your annual return<br><br>(for funds with an agent and no outstanding lodgements, generally 15 May each year) | The later of:<br><br>• 28 October 2018 or<br><br>• 28 days after the end of the quarter in which the event occurred | No later than the due date for lodging your annual return<br><br>(for funds with an agent and no outstanding lodgements, generally 15 May each year) | The later of:<br><br>• 28 October 2018 or<br><br>• 28 days after the end of the quarter in which the event occurred |
| A commutation of an income stream in response to an ETB Determination issued to a member of your fund by the ATO | 10 business days after the end of the month in which the commutation occurs. | | | |
| Commutation Authority- compliance or reasons for non-compliance | Legislated due date (as stated on Authority) ie within 60 days of the date of issue of the Commutation Authority | | | |

# What events should be reported?

The most common events that will need to be reported are:

- a “pre-existing“ pension ie a pension that the member was receiving just before 1 July 2017 that they have continued to receive which satisfies the definition of a retirement phase income stream
- any new retirement phase pension commenced, including death benefit income streams, revisionary pensions and when a TRIS becomes a retirement phase income stream
- lump sum payments made  from a pension account (for example the full or partial commutation of a pension), even if the amounts are retained in the superannuation system as an accumulation phase interest
- structured settlement contributions
- some limited recourse borrowing arrangement loan repayments.

What events should <u>not</u> be reported?

- pension payments paid to the SMSF member
- investment earnings, gains and losses
- when pension ceases because a member dies or the assets supporting the income stream are exhausted.

# Myth

‘SMSFs will have to report fluctuations in pension payments their members receive’

# Myth

‘From 1 July 2018 all SMSFs will have to submit either quarterly or monthly TBAR reports to the ATO’

# Frequency of reporting example – Case Studies

- Bill has a total super balance of $900,000 as at 30 June 2017
- Bill has a pre-existing income stream valued at $900,000 and no other superannuation interests.
- Over time the value of the income stream increases to $1 million and Bill commutes $100,000 from the income stream on 1 July 2019.
- The member needs to report the pre-existing income stream to the ATO via the TBAR on or before 1 July 2018.
- As Bill had a total super balance of less than $1 million on 30 June 2017, the annual obligation applies.
- The commutation that occurred on 1 July 2019 would need to be reported to us via the TBAR no later than the due date for the fund to lodge their SAR for the 2019/20 year, generally 15 May 2021.

# Frequency of reporting example – Case Studies

- Tam and Cho are the only two members of their SMSF. They have no other superannuation interests.
- On 30 June 2017 Tam has a total super balance of $800,000 and Cho has a total super balance of $550,000.
- On 4 February Tam starts an income stream valued at $700,000.
- As no member of the fund had a total super balance of $1million or more as at 30 June 2017 the year before the first fund member commenced a income stream, the annual obligation applies.
- The commencement of Tam’s income stream would need to be reported to us via the TBAR form at the same time the SMSF SAR for the 2017-18 year is due, generally 15 May 2019.

# Frequency of reporting example – Case Studies

- On 30 June 2018 Mary has a total super balance of $1.2 million.
- On 20 September 2018 Mary starts an income stream valued at $1.2m and has no other superannuation interests. Overtime the value of the income stream decreases to $800,000.
- On 3 March 2019 Mary commutes $100,000 from the income stream.
- As Mary had a total super balance of $1 million or more as at 30 June 2018, the quarterly obligation applies.
- The commencement of the income stream would need to be reported to us via the TBAR no later than 28 October 2018 and the commutation by 28 April 2019.

# Frequency of reporting example – Case Studies

- On 30 June 2019, Kate has a total super balance of $600,000 and no other superannuation interests.
- Kate starts an income stream valued at $500,000 million on 1 February 2020.
- The member has not lodged their SMSF Annual Return for 2018/19 year.
- As Kate had a total super balance of less than $1 million on 30 June 2019, the annual obligation applies.
- As the fund’s return for the 18/19 year is outstanding, the due date for the for the fund’s return for the 2019/20 year is 31 October 2020.
- Consequently, the details of the income stream that started on 1 February 2020 will need to be reported to us via the TBAR no later than 31 October 2020.

# Frequency of reporting example – Case Studies

- Gary has a total super balance of $900,000 as at 30 June 2017.
- Gary has two pre-existing income streams valued at $500,000 and $400,000 respectively and no other superannuation interests.
- Gary continues to make contributions and as at 30 June 2018 his total super balance is $1.1 million. On 1 July 2018 he commutes the two income streams and starts a new income stream valued at $1.1 million.
- The trustee needs to report the pre-existing income stream to the ATO on or before 1 July 2018.
- As Gary has a total super balance of less than $1 million as at 30 June 2017, the annual reporting obligation applies.
- Each of the debits that result from commuting the two income streams and the details of the new income stream would need to be reported to us via the TBAR no later than the due date for the fund to lodge its 2018/19 return, generally, 15 May 2020.

# Frequency of reporting example – Case Studies

- Fiona of Seagull SMSF has a total super balance at 30 June 2018 of $500,000 and starts an income stream valued at $500,000 on 1 July 2018.

- Jimmy has a total super balance at 30 June 2018 of $2 million, made up of $500,000 in Seagull SMSF and $1.5 million in AMP super fund. All of Jimmy's interests are in accumulation phase.

- As a member of Seagull SMSF, Jimmy has a total super balance of $1 million or more as at 30 June 2018, the quarterly arrangements apply.

- Seagull SMSF must report the commencement of Fiona's income stream to us via the TBAR no later than 28 October 2018.

# Consequences of exceeding the transfer balance cap

- The ATO will issue a excess transfer balance determination to the member

- Excess transfer balance tax continues to compound daily until the member is no longer in excess

- The The tax rate is 15% in 2017–18. From 1 July 2018 onwards, the tax rate is:
  - 15% the first time you have an excess transfer balance, but
  - increases to 30% if you have an excess transfer balance for a second or subsequent time.

# Understanding some possible impacts of deferred reporting

Deferred reporting of credit and debit events for SMSFs may cause adverse consequences in particular:

- the member may pay more excess transfer balance tax
- we may issue incorrect excess transfer balance determinations, causing additional workflow for funds and members
- the member and their advisors will be less able to rely on the information we will display on line regarding their transfer balance cap

# Frequency of reporting example – Case Studies

- On 30 June 2017 Jeff, a member of Snowflake SMSF has a pre-existing income stream valued at $900,000 which their SMSF reported to us on 30 June 2018.

- On 7 August 2018 Jeff rolls over his interest, now valued at $800,000 to Sunsuper, an APRA fund and starts an income stream with the Sunsuper fund on the same day.

- Unless the trustee of Snowflake SMSF reports the value of the commutation that occurred prior to Jeff rolling over his interest into Sunsuper , the Sunsuper fund will report the credit arising from the new income stream before Snowflake SMSF advises us of the debit.

- The ATO will consider that Jeff has exceeded his transfer balance cap by $100,000 ($900,000 + $800,000 - $1.6 million = $100,000) and issue Jeff with a Determination requiring him to remove the excess capital and the notional earnings from retirement phase.

# Frequency of reporting example – Case Studies

- Alex had a pre-existing income stream valued at $1.64 million just before 1 July 2017.

- As Alex exceeded the transfer balance cap by $100,000 or less on 1 July 2017 due to a pre-existing income stream, the transitional rules apply and Alex commuted $400,000 on 30 October 2017 to avoid having to remove the excess capital, plus notional earnings and pay excess transfer balance tax.

- Alex's fund will need to report the 30 June balance of the pre-existing income stream to us via the TBAR by 1 July 2018.

- As Alex had a total super balance of $1 million or more as at 30 June 2017 the quarterly arrangements apply and the fund need not report the commutation until 28 October 2018.

- If Alex's fund does not report the commutation that was made under the transitional rules at the same time as the "30 June balance" of the pre-existing income stream, the ATO will consider that Alex has exceeded the transfer balance cap and will issue Alex with a Determination.

# When super funds will need to report earlier

- A commutation of an income steam in response to an Excess Transfer Balance Determination issued to a member by the ATO must be reported 10 business days after the end of the month in which the commutation occurs

- Your response to a Commutation Authority must be reported by the legislated due date, ie within 60 days of the date of issue of the Commutation Authority.

# Consequences of not reporting on time

- The TBAR is an approved form and therefore late lodgement penalties will also apply if reported late.

- We will, however, be taking a judicious approach in the 2018/19 year and won’t be seeking to impose late lodgement penalties unnecessarily – rather, we will be focussed on supporting and assisting SMSFs with reporting and moving to the new reporting regime.

# Myth

‘The ATO will penalise SMSFs that don’t report on time, through late lodgment penalties and also by denying exempt current pension income claims’

# Myth

‘Event based reporting will require daily calculations of earnings and members’ account balances’

# Myth

‘An SMSF’s application for CGT relief will be linked with their transfer balance cap reporting’

# Questions?

# Thank you

Thank you for your time today.

To stay up-to-date with the latest updates and information for SMSF professionals and trustees,

please subscribe to SMSF News (QC 19484) at ato.gov.au.