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FINANCIAL SERVICES

Treasury Circular No 18/2010 – Client Communiqué

This Communiqué has been prepared to highlight some important aspects of Treasury Circular No. 18/2010 (‘the Circular’) with regards to Defined Benefit (‘DB’) Schemes sponsored by State Corporations. The Circular required sponsors of such schemes to undergo a conversion exercise to convert the scheme to one operating on a Defined Contribution (‘DC’) basis. In addition, Treasury detailed specific parameters to which all schemes of State Corporations are to adhere to.

We are pleased to advise that we had requested and have subsequently received clarification from Treasury on specific aspects of the Circular. We set out below some of the key information received from Treasury and their implications for Sponsors and Trustees who are currently undertaking a conversion exercise in compliance with the Circular.

Treasury’s Requirements

Based on the feedback received from Treasury, we understand that all DB Schemes that fall under the Circular are to be *closed* to new entrants and to future accrual of benefits for existing members no later than 30 June 2011. The exception is for those members who are within 5 years of retirement age, who **may** be allowed to continue to accrue benefits under the DB Scheme until their retirement date – the Scheme Sponsor and Trustees will have the discretion in determining whether to exercise this option.

The Sponsor should have established a DC Scheme that is operational by the closure date to allow members to continue accruing pension benefits without interruption. The new DC Scheme must be designed within the specific parameters outlined in the Circular and as summarised in the table below:

DC Scheme Provision	Treasury Parameters
Pensionable Emoluments (PE)	Basic salary, excluding all allowances
Employee Contribution Rate	A minimum rate of 5% of PE
Sponsor Contribution Rate	Cannot exceed 2 times the Employee Contribution, subject to a maximum of 20% of PE
Death in Service Benefit	Cannot exceed 3 times PE. Benefit must be insured
Disability Benefit	Cannot exceed 3 times PE. Benefit must be insured
Retirement Age	Normal Retirement Age 60[1] and early retirement from no earlier than age 50
Commutation	Maximum 1/3 at retirement using actuarial determined rates
Administration Expenses	Paid from the Scheme, except for death in service benefits[2]

Notes:
1 Certain exceptions apply, for example for academic and scientific staff at universities
2 The employer may meet the set up costs for a new scheme in its first year of operations

Trustees must also decide whether to determine transfer values in respect of the accrued (past service) benefits in the DB Scheme and offer members the choice to accept the transfer value as part of their DC fund credit, thereby converting their accrued DB benefits to a DC benefit, or whether to retain the accrued benefits under the DB Scheme (thereby collecting two separate benefits upon retirement or earlier exit). In all likelihood, this conversion stage should be pursued in order to accelerate the winding down of the DB Scheme, but will primarily be driven by the funding level of the DB Scheme. The Sponsor and Trustees should note that this stage can be completed after 30 June 2011.

Treasury has also confirmed that all amendments to Scheme rules must be compliant with the RBA Act and Regulations. The implications of this are:

- There can be no reduction in accrued benefits. Therefore amendments to the DB Scheme provisions that are considered 'negative' can only be applied on a prospective basis (i.e. to future service earned after the date of amendment). Therefore, unless the DB Scheme is remaining open to future accruals for members within 5 years of retirement, Treasury has confirmed that the DB Scheme can be closed without any changes to the benefit provisions.
- We do hasten to add that Treasury has advised that changes to the commutation factors are not deemed to be a reduction in accrued benefits even when applied to accrued benefits. We understand this to mean that the Sponsor and Trustees must amend the commutation factors to actuarial factors in cases where they are currently not actuarially determined.
- In relation to converting accrued DB benefits to a DC fund credit, this is to be done at the option of the member and thus it cannot be made mandatory for members to convert accrued benefits (Although this requirement is not specifically in the RBA Regulations, we understand this to be accepted RBA practice regarding conversions).

Next Steps

We would be pleased to advise the Sponsor and Trustees of affected DB Schemes in the conversion process and have the required skills and expertise to provide professional advice and services regarding Scheme closure and conversion. We would urge Sponsors and Trustees to act with speed in implementing the Circular as the 30 June 2011 deadline is fast approaching.

For those who have already closed the DB Scheme prior to 30 June 2011 and already have an operational DC Scheme, you will need to ensure that the provisions of the DC Scheme are within the parameters described by Treasury and as summarised in the table in the section above. The Trust Deed and Rules and any required amendments should be provided to Treasury for their approval prior to submission to the RBA.

For further information, please contact the Actuary or Consultant with whom you already deal or our offices using the contact details below.

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