

14 January 2022

Dalila Vellotti
Australian Taxation Office

By email - dalila.vellotti@ato.gov.au



Dear Dalila,

Consultation in relation to streamlining transfer balance cap event-based reporting arrangements for self-managed super funds

The Self-managed Independent Superannuation Funds Association (SISFA) is Australia's original SMSF advocate, established in 1998 to represent the interests of trustees and industry to Government and the Regulators. SISFA's mission includes the encouragement of high professional standards through its professional membership and public education initiatives.

Tax and Super Australia (TSA) is a not-for-profit member based organisation that has assisted tax and superannuation professionals for over 100 years. With a subscriber base of approximately 13,000 including 4,000 members, the organisation has evolved to meet the challenges of Australia's modern tax and superannuation system and remains at the forefront of educating and empowering today's tax and superannuation professionals.

Feedback requested by the ATO

SISFA and TSA understand that the ATO is seeking feedback on streamlining the transfer balance cap (TBC) event-based reporting framework ('reporting framework') for all self-managed superannuation funds (SMSFs).

This letter has therefore been prepared to respond to the three consultation questions posed by the ATO.

Preliminary submission – SMSFs should have annual TBAR reporting

SISFA and TSA do not believe that there is a need to move to a compulsory quarterly reporting framework. Rather, we suggest that there should be single set of *annual* reporting deadlines for all SMSFs, which will also assist with streamlining the reporting arrangements.

This would reduce red tape and allow SMSFs to complete all their reporting at once – eg tax return, financial statements and TBAR.

Considering around 93% of SMSFs only have one or two members, moving to a more frequent reporting regime will increase the SMSFs reporting and administrative obligations, remove flexibility and add more red tape for the majority of one to two member funds.

SMSFs that do not have specialist SMSF software to lodge a TBAR with the ATO will find it extremely difficult to keep on top of their TBAR compliance obligations and may cause additional penalties for late lodgement of a TBAR.

This may require SMSF trustees to seek advice from their accountant/tax agent on a more regular basis to help meet their reporting obligations, which will increase the cost of running an SMSF in the long run.

While it is acknowledged, as outlined in the ATO's paper, that this could result in excess transfer balance tax assessments being delayed for some members, that could be alleviated by SMSFs voluntarily lodging TBARS early. In our view, the adverse outcome to a small cohort of members does not outweigh the additional administrative burden to many SMSFs.

Question one

Where a transfer balance event has occurred, would you prefer that the event is to be reported no later than 28 days after the end of the quarter in which the event starting 1 July 2022 or 1 July 2023? Provide reasons for your preference.

For the reasons outlined above, SISFA and TSA believe that all SMSFs should have annual TBAR reporting.

In the alternative, if an annual TBAR reporting is not adopted for all SMSFs, then the current regime should be retained.

Despite our preference for annual reporting, if the quarterly regime is to be introduced, then we believe that SMSFs should be given until 1 July 2023 to report events to the ATO to allow SMSFs to adjust to the more frequent quarterly reporting regime.

Question two

In the future, would you like to see more frequent TBAR reporting for SMSF, to further reduce reporting delays and improve an individual's experiences to better manage their transfer balance cap? If yes, provide details. For example, 28 days after the event occurred or 10 days after the event occurred?

For the reasons outlined above, although SISFA and TSA believe that reporting transfer balance events to the ATO is an important process, our view is that TBAR reporting should remain on an annual (or quarterly – at the most frequent) basis, whilst still providing SMSFs with the option to report events as they occur rather than waiting for the due date.

However, to answer the question, if SMSFs move to a quarterly reporting regime, it would be ideal for the TBC event to keep with current practice and be reported within 28 days after the end of the quarter in which the event occurs.

Question three

Do you have any concerns about streamlining TBAR reporting for SMSF that you would like to raise? If yes, provide details.

One concern that SISFA and TSA would like to raise is the issue of reporting an accurate value for the commencement of a pension, as this value may not be known at the time the TBAR is due.

Although SMSF trustees can use a “reasonable estimate” of the value of the pension for the purpose of lodging the TBAR, this is not practical as:

- Should the value of the pension change significantly, the trustee may need to correct the value initially reported to the ATO, and
- Whilst a reasonable estimate can be used for TBAR purposes, it cannot be used in the preparation of the fund's financial statements or calculation of the fund's exempt current pension income.

As a result, most SMSFs or their accountants may risk a TBAR late lodgement penalty and hold off on lodging the TBAR until the actual commencement value is known.

To make reporting easier for SMSFs, SISFA and TSA suggest the ATO provide more guidance around what a significant change means. This could see SMSFs reporting well supported estimates like APRA regulated funds do, and only adjust the reporting to the ATO if there is a real, material change in the value of a pension.

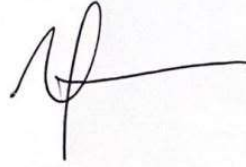
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If you have any questions in relation to this submission, please contact Michael Lorimer on 0418 724 080 or Natasha Panagis on 0423 810 565.

Yours Faithfully,



Michael Lorimer, Managing Director, SISFA



Natasha Panagis, Head of Superannuation, TSA

