

24 April 2024

Retirement, Advice and Investment Division
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**VIC and
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Dear Sir/Madam

Amendments to the transfer balance credit provisions for successor fund transfers

Cbus welcomes the proposed amendments that will seek to ensure defined benefit members are not unintentionally and negatively impacted as a result of a merger or successor fund transfer.

About Cbus

Cbus has the proud history of being one of Australia's first industry super funds, created in 1984 to assist in giving members a decent standard of living in retirement. Now in our fortieth year, Cbus has more than 910,000 members, managing over \$85 billion of their money (as of 30 June 2023). In May 2023, Cbus Super successfully completed its merger with EISS Super, welcoming 17,000 new members into Cbus. The merger followed extensive due diligence and planning, to deliver benefits for both Cbus Super and former EISS Super members – including a number of members receiving lifetime pensions.

Cbus supports the proposed amendments

Cbus strongly supports the proposed amendments and urges the Government to implement the amendments without delay.

The proposed amendments address a known legislative flaw that results in inequitable treatment of members that receive a lifetime pension and are subject to a successor fund transfer (SFT). In the case of transferring former EISS members, this legislative flaw has meant that upon transferring to Cbus, some members have breached their transfer balance cap due through no fault of their own or Cbus. As a result, these members may have unfairly been required to pay an excess transfer balance tax and/or commute the excess amounts out of retirement phase (and lose the concessional tax treatment).

Clarification required on administration of retrospectivity and re-reporting of data should be minimised

We are encouraged that the proposed amendments would retrospectively apply to 1 July 2017 and that members could be able to transfer these funds back into retirement phase however request further clarification on how the ATO will administer retrospective

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application of the amendments for members that have already taken action to address the transfer balance excess. These members may have been required to pay an excess transfer balance tax and/or commute amounts from retirement phase and have since had to unnecessarily pay earnings tax on these funds.

It is imperative that any future communication from the ATO is clear on who is eligible and what this means for members that have been impacted.

We also support the submission of our peak body The Association of Superannuation Funds (ASFA) and reiterate their recommendations for ATO to engage with industry to ensure data is only required to be reported where it is genuinely needed by the ATO for tax administration purposes – particularly given only the ATO has a full view of a members transfer balance account.