

**THE TRANSFER BALANCE  
CAP 2 YEARS ON**

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#NC2020

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Yvonne is the Head of Technical at Australian Unity which she joined in late 2018. Prior to this role she spent over 11 years in the highly regarded technical team, FirstTech, at Colonial First State. In her role Yvonne works closely with adviser by providing technical expertise and industry insights on legislative and regulatory related issues. She's a regular presenter at professional development days and conferences; and contributes technical articles in industry magazines.

Yvonne holds a Masters of Taxation from Sydney University, an Advanced Diploma of Financial Services and degrees in both Actuarial Studies and Applied Finance.

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**Agenda**

- TBAR reporting rules, practical and common issues
- What to report
- Common errors with TBAR reporting
- Dealing with excess transfer balance matters

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## TBAR reporting



### Events that SMSFs need to report

- Details of retirement phase income streams in existence just before 1 July 2017
- New retirement phase income stream (account based pension, market linked income stream)
- Death benefit income stream (when a death benefit income stream is reversionary, the start date will be the date on which the member died)
- Lump sum commutation on or after 1 July 2017
- Limited recourse borrowing arrangement (LRBA) payments if entered into on or after 1 July 2017 (as well as re-financed pre-2017 LRBA) and the payment results in an increase in the value of the assets that support the member's pension in retirement phase
- Compliance with a commutation authority
- Member has made a personal injury (structured settlement) contributions on or after 1 July 2017

Only lodge a TBAR if required to do so!

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## TBAR reporting



### What SMSFs don't need to report

- Any pension payments made on or after 1 July 2017
- Investment earnings and losses
- When an income stream ceases because the interest has been exhausted
- Death of a member
  - TBA ends upon death
  - No debit event to report for deceased's TBAR
  - If death benefit paid as a pension TBAR for death benefit recipient
- Lump sum commutation from accumulation phase
- Commencement of a transition to retirement income stream
- A member's total superannuation balance from 30 June 2018

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## TBAR reporting



### TBAR events that must be reported by the member (not the SMSF)

Members must report the following events to the ATO using the 'Transfer balance event notification' (TBEN) form (NAT 74919)

Events	Timing of the event	Reporting amount
Family law payment split Only one spouse lodges the TBEN for a payment split	Later of when the payment split occurs and the day the individual first starts to have a TBA	Member spouse – amount paid Non-member spouse – total value of the member spouse's pension less a debit amount equal to the member spouse's retained amount.
Income stream loses value due to fraud or dishonesty	When the loss is suffered by the fund	Amount of reduction due to loss suffered
Income stream loses value due to a "claw-back" of contributions under the Bankruptcy Act.	At the time the payment is paid to the trustee in bankruptcy	Amount paid to the trustee in bankruptcy
Structured settlement contributions made before 1 July 2017	1 July 2017	Contribution amount

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## TBAR reporting frequency



For most TBC events the reporting is either annually or quarterly

**Annually** – when the SMSF annual return is due for the financial year in which the event happened

- Where all members of the SMSF have a TSB of less than \$1 million as at 30 June immediately before the year where the first retirement phase income stream was commenced.

**Quarterly** - 28 days after the end of the quarter in which the event happened

- Where any member of an SMSF has a TSB of \$1 million or more on 30 June of the year immediately before when the first retirement phase income stream was commenced.

 Once a SMSF's reporting is established cannot switch between quarterly and annual reporting.

? Who's TBS is relevant when a new member joins the Fund during the year?

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## TBAR reporting frequency



SMSF must report earlier under these circumstances...

Transfer balance account (TBA) event	TBAR due date
A voluntary member commutes an income stream in response to an excess transfer balance (ETB) determination	Within 10 business days after the end of the month in which the commutation occurs
A response to a commutation authority	Within 60 days of the date the commutation was issued.



**What happens if SMSFs report late?**

- Late lodgement penalties may apply
- The member may need to commute more and pay more ETB tax
- ATO may issue an incorrect ETB determination
- Risk of having the assets removed from retirement phase twice
- Inaccurate information on MyGov and ATO's portal

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## TBAR reporting Tips



Reporting rollovers sooner to avoid potential ETB determination

- Mismatch in the timing of reporting obligations between APRA funds and SMSFs:
  - APRA funds are required to lodge report via MATS within 10 business days of the day a new retirement phase pension is commenced,
  - SMSF are required to report TBC events on the next TBAR due date after the commutation (i.e. quarter or annually)
- Where the ATO receives a TBAR reporting the credit information from the APRA fund **before** it receives the debit information from the SMSF, a member's TBA will be **artificially inflated**.
- **In the event of rollover, SMSFs should report commutation debits at the time of the rollover**

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## TBAR reporting tips and tricks



### Transition to retirement income streams

- Transition to retirement income streams are generally NOT a 'retirement phase pension'.
- However a TRIS is considered to be in retirement phase where the recipient:
  - Is receiving the TRIS as a reversionary beneficiary; or
  - Has reached age 65; or
  - Has notified the trustee of the fact that they have met the retirement, terminal medical condition or permanently incapacity condition of release

**TIP** Make sure TBAR report is lodged within the due date

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## TBAR reporting tips and tricks



### Failing to meet the minimum pension standards

When a pension ceases to be in retirement phase it gives rise to a debit in the member's TBA. The pension ceases to be in retirement phase (for TBA purposes) on 30 June of that income year.

#### Case study:

- Charles commenced an ABP on 1 July 2018 for a commencement amount of \$1.6 million.
- Charles' SMSF didn't pay him the total minimum annual pension amount for the 2019 income year.
- As at 30 June 2019, the value of the ABP had reduced to \$1.2 million (mainly due to market movement).
- What is the impact on Charles' TBA?

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## TBAR reporting tips and tricks



### Failing to meet the minimum pension standards

#### Impact on TBA:

Date	Event	Credit	Debit	TBA
1 July 2018	ABP commencement	\$1,600,000		\$1,600,000 (Cr)
30 June 2019	ABP ceases being in retirement phase		\$1,200,000	\$400,000 (Cr)

- The SMSF is required to lodge an online TBAR by 28 July 2019.

#### Other tax implications:

- Deemed to have rolled back to accumulation phase effective 1 July 2018.
- SMSF is not entitled to the pension earnings exemption with respect to earnings on assets supporting the ABP in the 2019 FY
- Payments received are deemed to be lump sum benefit payments as opposed to pension payments.

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## TBAR reporting tips

### Death benefit income stream



- A TBA Credit arises in the dependent beneficiary's transfer balance account. Death is the TBAR event.
- Report to ATO death benefit income stream same way as any other new pensions

	Reversionary death benefit pension	Non-reversionary death benefit pension
TBAR effective date (Q17 on paper TBAR)	Date of death of the member	Date of commencement
TBA credit time	12 months after date of death	Date of commencement
Value	On the date of death	On the date of commencement
ATO online service reporting event category	Reversionary income stream	Superannuation income stream

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## Death benefit income stream

### Case study



Charles passed away on 2 June 2019. At time of death, Member A's entire interest in the fund consists of an ABP of \$1,100,000. There's a reversionary beneficiary nomination in favour of Camilla who's Charles' spouse. Camilla also has an ABP of \$700,000 in the SMSF which is also her only superannuation interest.

The SMSF is required to report the reversionary death benefit for Camilla by 28 July 2019.

Camilla's TBC will be credited \$1,100,000 on 2 June 2020.

Member Account  
Member Information

Transfer balance

Most transactions are reported to us by your super provider. There are some events you need to report to us, including any case of age from the fund or dependency, beneficiary payments and beneficiary payment gifts. You also need to report personal injury super contributions made prior to 1 July 2017. To report these to us, use the 'Transfer balance account event' tool.

Effective date	Received date	Description	Amount	Balance
2006030	28/07/2019	Reversionary income stream	\$1,100,000 CR	
14/08/2018	13/09/2018	Member commutation	\$20,000 CR / \$80,000	
01/07/2017	02/02/2018	Superannuation income stream	\$620,000 CR / \$620,000	

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## Reversionary death benefit income stream

### Case study continued



#### Rolling part of Camilla's existing ABP to accumulation

Prior to receiving the reversionary death benefit pension, Camilla's TBA is \$600,000 in credit. To avoid excess TBC on 2 June 2020, Camilla should roll \$100,000 back to accumulation phase on 1 June 2020.

#### When and how should the SMSF report the partial commutation of Camilla's existing ABP?



Should complete and lodge an online TBAR on the day of the commutation – 1 June 2020  
While TBAR reporting is not required until 28 July 2020, if the SMSF trustee waits until 28 July 2020 to report the commutation, ATO may incorrectly issue an ETB determination.

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## Poll



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## TBAR reporting tip

### Legislative anomaly still exists with market linked income stream



- Proceed with caution when commuting and rolling over market linked income stream
- Unintended consequences associated with current law for determining the debit value upon commutation of a MLIS or life-expectancy income stream.
- A new market-linked pension is not a capped defined benefit income stream, debit value of nil.
- ATO's compliance approach

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## How to lodge and amend TBAR report



There are different ways to lodge TBAR reports

Lodgement method	SMSF trustee or administrator	Tax Agent
Online form	Yes	Yes
Bulk data exchange	Yes	Yes
Spreadsheet version	No	Yes
Paper report	Yes	Yes

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## Common errors with TBAR reporting



- Incorrect ABN or TFN for the fund or the member
- Incorrect values
- Missing information
- Reporting on an SMSF member's TBAR events affecting pensions held by other funds.
- Reporting that a commutation has been made in response to a commutation authority before ATO has issued a commutation authority.

Source: ATO webinar – Transfer balance cap and TBAR reporting

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## How to correct reporting errors



To correct an error in TBAR reporting you:

- Must cancel the original report and then lodge a separate report with the correct information
  - Tick "Yes" to the question: "Is this a cancellation of a previous report?"
  - All the information in the cancellation TBAR must exactly match the information previously provided on the TBAR you want to cancel.
- Must send the cancellation report first. Once cancelled, the cancelled events will no longer be display online

What **not** to do...

- Do not lodge a second TBAR just reporting the correct value of the income stream
- Tick "cancelling" and include the correct value rather than cancelling the previous one
- Report the client has fully commuted a pension, rather than cancelling the incorrect information

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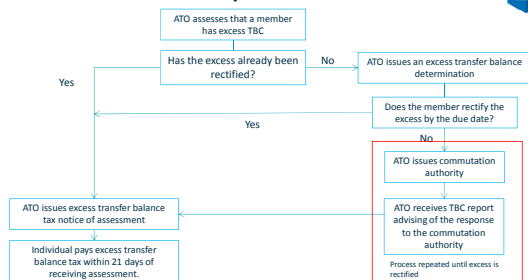
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## Excess transfer balance cap




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## Receiving an ETB determination



- Individuals have 60 days to act
- Options:
  - Confirm details contained within the ETB determination, investigate any discrepancy
  - Commute the excess amount from an income stream
  - Seek an extension of time to respond
  - Send an election to the ATO advising which income stream to commute. ATO will then send a commutation authority to that fund
- ETB determination states the amount that must be commuted (include a notional earnings amount calculated by the ATO) and the due date
- ETB earnings will be automatically credited to the member's TBA at the time the ETB determination is issued. ETB earnings accrued after the ETB determination is issued are not credited to the TBA

TIP

Should always aim to voluntarily commute the excess amount, no need to wait for the ATO

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## Dealing with a commutation authority



- Commutation must be reported by the fund in a TBAR within 60 days after commutation authority was issued to the fund
- Commutations made in response to a commutation authority is under different "reporting event" category – "Commutation authority – commuted in full" or "commutation authority – commuted in part"
- The fund can choose not to comply with the commutation authority because the member is deceased or because it relates to a CDBIS – must still lodge a TBAR by the due date
  - No 'value' or 'effective date'
  - Use 'reporting event' category – 'Commutation authority – deceased' or 'Commutation authority – defined benefit'
- If a SMSF doesn't commute the amount by the due date the income stream will stop being in the retirement phase. Administrative penalty may apply.

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