Workplace Savings NZ
Te māngai penapena ā-mahi

Financial Markets Conduct Act (and Proposed Regulations)

Summary Report to Members on:

- **Some Key Submission Outcomes**
- **Some Important Points to Note**

September 2013

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1) Introduction (and timeline)

- The FMCA is now law.
- A two-year compliance transition period for new disclosure, governance and licensing requirements will commence on 1 December 2014.
- This report highlights some key submission outcomes and points to note.

The Financial Markets Conduct Act 2011 (*FMCA*) received the Royal Assent and became law on 13 September 2013.

A few provisions take effect immediately and are noted in this report. Most will take effect on either 1 April 2014 or 1 December 2014.

From 1 December 2014 there will be a 2-year transition period (until 30 November 2016) during which a superannuation or KiwiSaver scheme:

- can continue preparing and using an investment statement and (if required) a prospectus; and
- will retain all existing authorisations and approvals.

Schemes must comply with new disclosure, governance and licensing requirements by the end of that 2-year transition period.

Next month, the Ministry of Business, Innovation and Employment (*MBIE*) will release exposure drafts of the proposed Financial Markets Conduct Regulations (*FMCR*) and begin consulting on:

- new licensing frameworks; and
- other key operational changes.

MBIE also intends to "workshop" the new disclosure requirements in the legislation and seek industry feedback on template offer documents.

The FMCA and FMCR will bring once in a generation root and branch reform. They will replace, for example, both the Superannuation Schemes Act 1989 and much of the KiwiSaver Act 2006.

Workplace Savings and others made numerous detailed submissions on the proposed legislation. These were met with active engagement and some significant improvements – but challenges remain.

This report highlights some key submission outcomes and a selection of the most significant pending changes. We hope that it is useful in assisting our members' understanding and are happy to address any questions.

2) "Big picture" changes

- The investment statement will be replaced by a product disclosure statement.
- The prospectus will be replaced with entries on an Offers Register (also required for formerly prospectus-exempt schemes).
- KiwiSaver-consistent governance change requirements will be imposed on non-restricted superannuation schemes (and manager licensing requirements will apply to all non-restricted schemes).
- Restricted schemes will require one independent licensed trustee (or trustee director).

Key disclosure requirements
Before the end of the 2-year transition period, if a scheme remains open to new members:

- its investment statement must be replaced with a product disclosure statement (*PDS*) – see Part 4 of this Report; and
- its prospectus (if any) must be replaced with entries on the Register of Offers of Financial Products (*Offers Register*).

The Offers Register requirements will apply to any scheme that remains open to new members but was formerly prospectus-exempt. We will seek to ensure that formerly prospectus-exempt schemes need only meet more basic Offer Register requirements.

Key governance changes
Before the end of the 2-year transition period:

- non-restricted superannuation schemes must adopt governance changes, whereby managers become issuers, consistent with those that were required for KiwiSaver Schemes under the KiwiSaver Amendment Act 2011; and
- all non-restricted superannuation and KiwiSaver schemes will need a licensed manager and a licensed supervisory trustee (who must be independent of each other).

Responsibilities
Managers will be legally responsible for offering and issuing interests in and managing schemes. They will be required to act in members' best interests and exercise the care, diligence and skill (if professional managers) that prudent persons engaged in that profession would exercise in the same circumstances.

Supervisory trustees will be legally responsible for supervising managers' compliance and holding scheme property. They will not be able to delegate the performance of any of their core functions (other than to contract custody to a third party which is independent of the manager).

Managers will be required to provide regular reports and information to supervisory trustees.

Restricted schemes
Those changes to the governance requirements for non-restricted schemes will not apply to restricted schemes (i.e. employer-based and other restricted-offer superannuation and KiwiSaver schemes).

We expect the test for restricted status to materially mirror the test in the KiwiSaver Act.

However:

- all restricted schemes will be required to have at least one independent trustee or trustee director (a requirement already applying to restricted KiwiSaver schemes); and
- that independent trustee or director will need to be licensed.

A restricted scheme was to have required an external custodian. The FMCA will now enable its assets to be held either by the trustee (if a corporate) or by a nominee company with only the scheme's trustees as directors.

This facility for individual trustees simply to incorporate, or establish a nominee company, to hold scheme assets responds to our own and others' submissions that compulsory external custodianship is inappropriate in cost benefit terms.

Licences
The licences required for managers and supervisory trustees (and for the independent trustees of restricted schemes) will be known as Market Services Licences. These will necessitate compliance with fit and proper person and other eligibility criteria, to be prescribed in the FMCR.

Registration
All schemes will need to be registered on the Register of Managed Investment Schemes. This will replace other registers such as the KiwiSaver Schemes Register and the Complying Funds Register.

Trust deeds
Trust deeds will need to contain adequate prescriptions in areas such as valuation and pricing and restrictions on exonerating and indemnifying managers and trustees.

Generally speaking, trust deed amendments will need supervisory trustee or (for restricted schemes) FMA consent, which can only be given if the amendment is approved by members or the supervisory trustee or FMA is satisfied it will not materially adversely affect members.

Members' approval (where required) must take the form of:

- for defined benefit, workplace savings or superannuation schemes consents written consents form all adversely affected beneficiaries; or
- for other schemes, a special resolution (requiring a 75% yes vote from among those who are or may be adversely affected, are entitled to vote and actually vote).

Other exceptions will apply. For example a manager will be able to amend a trust deed with FMA consent if the FMA is satisfied the amendment is necessary for legislative compliance.

SIPOs and breach reports
Every scheme will now need (unless specifically exempted) to lodge its formal Statement of Investment Policy and Objectives with the Registrar and to report certain breaches of their Statement of Investment Policy and Objectives.

SMSS recognition

The FMCA and FMCR will provide for Australia-like statutory recognition of single-person self-managed superannuation schemes (*SMSS*) which meet certain core FMA reporting and other requirements. An SMSS must be a defined contribution scheme and certain key provisions will be implied into its trust deed.

3) KiwiSaver schemes – amendments with immediate effect

- Several KiwiSaver-specific legislative amendments have taken immediate effect because they are considered remedial or corrective.
- These relate to first home withdrawals, certain transfer situations and the possible consequences of terminating a default provider's appointment.

First home withdrawals – conveyancing practitioners
Amendments to rule 8(7) of the KiwiSaver Scheme Rules address what had become a something of a "hot button" issue for KiwiSaver scheme providers by:

- allowing a first home withdrawal amount to be paid to a conveyancing practitioner as defined in section 6 of the Lawyers and Conveyancers Act 2006 (*Conveyancing Practitioner*); and
- allowing a Conveyancing Practitioner to give the necessary undertakings.

Rule 8(7) had only allowed first home withdrawal amounts to be paid to, and related undertakings to be given by, solicitors and not Conveyancing Practitioners.

We understand that (as an understandable exercise in pragmatism) a number of KiwiSaver scheme providers were already ignoring that restriction as Conveyancing Practitioners' obligations to operate trust accounts, keep trust account records and hold public indemnity insurance are analogous to those applying to solicitors.

Non-consensual transfers
The FMCA adds a new power to prescribe regulations enabling non-consensual transfers between schemes (other than pursuant to formal FMA approval under section 119G(2) of the KiwiSaver Act 2006).

Such regulations might usefully (for example) allow small legacy groups of "no address" members who demonstrably cannot be notified of an FMA-approval-based transfer proposal also to be transferred to the proposed replacement scheme.

Transfer from complying superannuation fund
A corrective amendment to rule 4 of the KiwiSaver Scheme Rules clarifies that when a member transfers to KiwiSaver from a complying superannuation fund, the minimum 5-year membership period for the purposes of calculating their KiwiSaver end payment date commences when the member first became a locked-in member of the complying fund.

Termination of default KiwiSaver scheme status
The FMCA prescribes a new power to make regulations under which, following any termination of a default KiwiSaver scheme provider's appointment, default members can be reallocated and transferred to another default KiwiSaver scheme in accordance with prescribed methodology, terms and procedures.

Such an outcome would appear to be merited only in situations where the provider's appointment is terminated for "cause" such as breach of an appointment condition.

4) New disclosure regime

- PDS requirements will balance prescription with flexibility (no 'one size fits all' approach).
- Retail issuers will be permitted to give new members a single scheme-focussed PDS accompanied by the most recent periodic disclosure statement for each investment fund within the scheme.
- As the FMCR are developed, we will be working to ensure appropriate recognition of workplace schemes and consideration of possible 'streamlining' initiatives such as prescribed (perhaps centralised) wording to describe the KiwiSaver permitted withdrawals rules given that those are hard-coded within legislation – this would also potentially allow a PDS to remain unchanged when these rules change.

Overview
Offers of KiwiSaver and superannuation scheme membership will require a PDS – this will replace the investment statement requirement.

A PDS will need to be lodged with the Registrar of Financial Service Providers.

It will be possible to amend a PDS using a supplement (this is not possible for an investment statement) but where there are prescriptive content and length restrictions this may not be practicable in some cases.

A PDS will not have an expiry date. However, issuers will be required to give regular confirmation (perhaps every 12 months) to the Registrar that it remains current.

Issuers will be required to lodge other "material information" (analogous to certain of the prospectus requirements) on the Offers Register.

The current quarterly and annual disclosure statement requirements imposed on all non-restricted KiwiSaver schemes under the KiwiSaver (Periodic Disclosure) Regulations 2013 will also be extended to non-restricted superannuation schemes.

PDS disclosures – key themes
Several key themes emerge from recent Cabinet Papers.

Prescription balanced with flexibility
There is recognition that different products will require different approaches.

No 'one size fits all' approach
There will be highly prescribed format, content and length requirements for KiwiSaver schemes and other schemes where product comparability is considered paramount, but principles-driven tailoring (with flexibility around length and content) will be permitted elsewhere.

Templates
Like the KiwiSaver (Periodic Disclosure) Regulations 2013), the regulations will include templates developed with industry input (these will also be tested with end users).

Pragmatic blend of scheme and fund disclosures
To minimise overlap and address the challenge of providing both scheme and fund-level disclosures, non-restricted scheme issuers (to whom the periodic disclosure requirements apply) will be permitted to provide new members with both:

- a mainly whole-of-scheme focussed PDS containing relatively enduring disclosures; and
- the most recent periodic disclosure statement for each investment fund within the scheme (containing information such as performance data, actual and benchmark asset allocations and top 10 asset holdings).

The last of these key themes is particularly significant, given that many KiwiSaver and superannuation schemes offer a wide range of (and the ability to combine) investment options. Most new members choose their preferred scheme first and then a fund within it, making it logical to supply a single (scheme-level) PDS supported by periodic disclosure statements which give complementary fund-specific information.

The practical effect of this will be that a new member, on joining a scheme, will receive a PDS (prefaced with a short 'key information statement') and an accompanying short disclosure statement for each investment fund.

Regulations – some key focus areas for Workplace Savings

Workplace Savings will continue working to ensure that the special nature of workplace savings schemes (including defined benefit schemes that remain open to new members) is adequately recognised for PDS prescription purposes.

For KiwiSaver schemes, we will be working to ensure that the drafters of the FMCR give adequate consideration (in the interests of simplicity and consistency) to such possible initiatives as:

- prescribed short-form wording to describe the permitted withdrawals provisions in the KiwiSaver Scheme Rules (as these are entirely hard-coded legislative requirements which apply identically to all schemes, and are not 'product' features); and
- making supporting information available on either the FMA or the Inland Revenue website (with a hyperlink or reference to that information in the PDS or incorporated within a register entry).

5) Permitted scheme categories

- There will now be four core categories of retirement savings scheme - a KiwiSaver scheme, a 'workplace savings' scheme, a 'legacy' scheme and a superannuation scheme. The last of these will be a considerably narrower 'sole purpose' category.
- Every existing superannuation scheme will remain registered as a superannuation scheme under the FMCA until either registering as another type of schemes or the end of its transition period.
- An existing superannuation scheme will be able to register in more than one category.
- A legacy scheme is a closed scheme. It can continue with the same withdrawal rules as currently.
- A workplace savings scheme will remain able to provide leaving service benefits and allow withdrawals for other (incidental or secondary) purposes such as financial hardship, death or disability, or under early partial withdrawal criteria.
- The superannuation scheme category is not intended to cater for most existing schemes. It is designed as a category for which there may be regulatory or overseas pension transfer recognition benefits.

Overview
The Financial Markets Conduct Bill had initially proposed:

- a generalised requirement that to continue operating as a superannuation scheme a scheme must have as its sole (not merely its principal) purpose the provision of retirement benefits (allowing no other purposes not 'merely incidental' to providing retirement benefits); and
- that offers of superannuation scheme membership be limited to persons meeting New Zealand citizenship or similar criteria.

Thanks to submissions, the FMCA will now:

- allow an employment-related (or similar – e.g. industry or church clergy) superannuation scheme to register as a *'workplace savings'* scheme and continue allowing both existing and new members to receive leaving service benefits;
- allow an existing scheme which is closed to new members to continue as a *'legacy'* scheme with exactly the same withdrawal rules as currently; and
- no longer require new members to meet any 'New Zealand criteria'.

Scheme types
There will now be four core categories of retirement savings scheme:

- a *KiwiSaver* scheme;
- a *workplace savings* scheme;
- a *legacy* scheme; and
- a *superannuation* scheme.

Only the last of these categories of scheme must now meet the 'sole purpose' test. That category is not intended to cater for most existing schemes. Instead it is designed as a category for which there may be regulatory or overseas pension transfer recognition benefits.

An existing superannuation scheme will be able to register in more than one category. For example:

- to register (and be treated as) a 'legacy' scheme with respect to all membership sections that are closed to new members; and
- to register as a 'workplace savings' scheme only with respect to any membership section that is open to new members.

A registration application under one or more of the above four categories must be accompanied by a certificate from the FMA confirming that it is satisfied the scheme meets the relevant requirements.

Workplace savings schemes
A workplace savings scheme (which can be either existing or newly established and either stand-alone or multi-employer) may have dual purposes:

- providing retirement benefits; and
- paying leaving service benefits on ceasing employment with a specified employer or in a specified industry.

It can also allow withdrawals for other (incidental or secondary) purposes such as financial hardship, death or disability, or under early partial withdrawal criteria.

A workplace savings scheme will be permitted to admit as members any of the following 'eligible individuals':

- employees or directors of the sponsoring employer or entity specified in the trust deed;
- individuals who provide 'personal services' (other than as employees) principally to the relevant sponsoring employer or entity specified in the trust deed - the policy intent being to cover clergy and others in employment-like positions; and
- individuals employed or engaged in the relevant industry.

A workplace savings scheme may also allow investment-only membership by other retirement schemes.

A workplace savings scheme can allow a member to continue as a member after leaving employment.

It appears that a multi-employer scheme will be able to register as a workplace savings scheme with respect to its group (i.e. employment-related) section but that any retail section which does not qualify as a 'superannuation scheme' (see below) must be registered as a standard managed investment scheme.

Portability is required. Every workplace savings scheme must allow transfers to other workplace savings, KiwiSaver or superannuation schemes (or corresponding overseas schemes) this may require trust deed amendments in some cases (unless implied provisions are prescribed).

One potential problem with the workplace savings scheme category concerns the 'eligible individual' definition in section 116(2) of the FMCA. Unlike the prescribed registration requirements for a restricted scheme in section 117, this does not allow offers of membership to persons who are either immediate family members of, or wholly or partly financially dependent on, eligible individuals.

This is despite it having been the apparent policy intent for such persons to remain eligible for membership.

Workplace Savings will be working to ensure that the 'workplace savings' scheme and 'restricted' scheme criteria can be harmonised in that regard if possible.

'Superannuation scheme' category

Managed investment schemes registered as 'superannuation schemes' will be required to comply with 'Superannuation Scheme Rules' set out in the FMCR. These will be analogous to the KiwiSaver Scheme Rules and will set boundaries between:

- the retirement age at which superannuation benefits may be paid; and
- when providers can make earlier benefit payments.

Cabinet has stated that the Superannuation Scheme Rules should allow more flexibility than the KiwiSaver Schemes Rules. For example, savings will be accessible in full after New Zealand Superannuation age but, to add flexibility, early retirement withdrawals are likely also to be permissible after a member reaches age 60 and has retired (by analogy with Australia).

It is also intended that trust deeds be permitted to allow partial withdrawals by employees who decrease their working hours after age 55 and need to supplement their income. Those withdrawal amounts would be capped to ensure that the member's full balance is not withdrawn before New Zealand Superannuation age.

Otherwise, the intention is that the rules on early withdrawals (death, serious illness and significant financial hardship) will match those for KiwiSaver schemes, with two exceptions:

- first home withdrawals - officials are of the view that allowing these withdrawals is not justified where there are no automatic enrolments; and
- permanent emigration - officials believe these types of withdrawals should be dealt with by requiring schemes to permit funds to be transferred to overseas superannuation schemes at any time (where allowed by those overseas schemes).

The Superannuation Scheme Rules will also require portability – allowing transfers at any time to other superannuation or KiwiSaver schemes to enable members to change providers within New Zealand.

The 'superannuation scheme' category (with its sole retirement purpose test) is designed to allow for a separate category of scheme that is capable of automatic special-purpose recognition under both New Zealand and overseas policies that otherwise may not recognise all New Zealand retirement savings schemes for all purposes (or may distinguish between scheme types).

An existing scheme could seek to register an existing closed section as a 'legacy' scheme and set up a new section to be registered as a 'superannuation scheme'.

A current example is the United Kingdom treatment of New Zealand superannuation schemes for the purposes of the Qualifying Recognised Overseas Pension Schemes (*QROPS*) regulations. HM Revenue and Customs imposes additional requirements (including a '70 per cent as an income for life' rule, interpreted as requiring phased draw-downs over a minimum of 10 years) before it will register a New Zealand superannuation scheme as a QROPS, but grants automatic QROPS recognition to all registered KiwiSaver schemes in view of the lock-in restrictions in the KiwiSaver Scheme Rules.

6) 'In-house asset' holdings by restricted schemes

- The 5% restriction on an 'in-house' (i.e. related party) investment by a restricted scheme remains.
- A 3 year grandfathering period will apply.
- Our own and others' submissions on the proposed restrictions have produced significant compliance relief.

Overview
The FMCA will prohibit a restricted scheme from investing more than 5% (by value) of its assets in any 'in-house' asset, meaning a scheme asset which is:

- a loan to or an investment in; or
- subject to a lease or lease arrangement with;

a related party of the scheme or a scheme member (or an associate of either of them).

A 'related party' includes the scheme's trustee, any administration or investment manager and (in a stand-alone employer scheme) an employer contributor. It also includes a person or entity:

- who was a related party in the previous 6 months; or
- who believes (or has reasonable grounds to believe) that they are likely to become a related party in the next 12 months.

Relaxed restrictions
When testing compliance with the 5% limit, in-house assets will not now be aggregated. In other words, in-house assets relating to persons who are not associated with each other will count separately, such that there is no breach if *each* such investment is below 5%.

The 5% restriction will initially apply only to new investments made after the date when the prohibition takes effect.

Affected schemes will then have 3 years from that date - likely until 30 November 2017 - to ensure that no single in-house asset exceeds 5% of scheme assets.

Employer contributors will be treated as related parties only in the case of specified employer-based schemes identified on the register (i.e. those schemes where employers are involved more than merely as contributors). The related party investment restrictions are expressly not intended to catch employers contributing to master trust schemes – only those closely involved in the running of schemes.

There is also no longer any prohibition on financial assistance to scheme participants.

In-house assets also exclude investments in other registered schemes (or prescribed overseas schemes) and in bank-issued category 2 products and debt securities.

In recognition of the likely need for more compliance relief in some cases (e.g. for state sector schemes investing in government-issued bonds) there is now a power to prescribe by regulation additional circumstances in which the 5% restriction does not apply. We understand that (for example) regulations will likely exempt NZ government bonds from the in-house assets restrictions.

The changes made to the Second Reading version of the Bill (and in a later SOP) address several of our most significant concerns with the in-house assets restrictions – and schemes will also be permitted from next year to seek specific exemption relief if required.

Other points to note
The acquisition of any new investment above the 5% threshold will be a breach even if the 5% threshold has already been exceeded. This restriction will apply from 1 December 2014.

The permissibility of an investment under the related party provisions will not affect the usual application of the trustees' general duties (for example, the duty to exercise the appropriate standard of care with respect to investments) and certification requirements.

A scheme's 'in-house assets ratio' must be calculated in accordance with FMA-notified frameworks and methodologies. We will look to ensure that the 5% limit can be expressed in benchmark (not actual) asset allocation terms so as to avoid inadvertent breaches.

7) Independent trustee requirement for restricted schemes

- Restricted schemes will need to have at least one licensed independent trustee or, if they have a sole corporate trustee, at least one director who is a licensed independent trustee.
- It is proposed that under the FMCR, independent trustees will owe 'whistleblowing' obligations requiring them to report serious problems to the FMA.

Overview
The FMCA will require every restricted scheme to have at least:

- one licensed independent trustee; or
- if it has a sole corporate trustee, at least one director who is a licensed independent trustee;

We are anticipating relatively light licensing criteria. The policy intent is that the independent trustee is a fit and proper person who can demonstrate a degree of investment management (and presumably governance) skill and experience and can be expected to comply with his or her market services licensee obligations.

The FMA can require licensees to hold adequate liability insurance.

Testing independence
The definition of *independent* in this context corresponds in key respects to the existing *independent trustee* test in the KiwiSaver Act 2006 but with some subtle points of difference. Under section 131(3), *independent* means a person that:

(a) is not a related body corporate of any other trustee of the scheme; and

(b) is not an employer that provides access to the scheme for its employees, or an administration or investment manager of the scheme (or a related body corporate of any of them); and

(c) is not a director of, shareholder in, or employee of any person referred to in (a) or (b); and

(d) is not currently a scheme member; and

(e) is not a representative in any capacity of an organisation (such as a trade union) that represents the interests of 1 or more scheme members; and

(f) is not a representative in any capacity of an organisation that represents the interests of 1 or more employer contributors to the scheme; and

(g) is not a corporate trustee if none of its directors are independent under this definition.

It appears there will be no need to amend appointment or nomination provisions in trust deeds. So long as the duly appointed trustee is independent in terms of the above definition, there will be no prohibition on him or her being appointed by (for example) the principal employer or the other trustees.

Whistleblowing duties
Officials propose that under the FMCR, independent trustees will owe 'whistleblowing' obligations requiring them to report to the FMA if they have reasonable grounds to believe that there is a serious problem in the relevant scheme. Examples are where

trustees are likely to breach their obligations in a material respect or the scheme is likely to become insolvent.

These would be similar to the obligations placed on auditors, investment managers, administration managers, custodians and actuaries by section 183 of the FMCA.

To protect the disclosure by the independent trustee, it will also be an implied term of the scheme's trust deed that:

- the independent trustee's appointment may not be terminated by reason of such a disclosure; and
- no person who is subject to the trust deed can take (or assist the taking of) a civil or disciplinary proceeding against the independent trustee by reason of the disclosure.

8) Miscellaneous

- Partial benefit payments will now be expressly permitted before lodging final wind-up accounts.
- When schemes are being converted to comply with FMCA requirements, the FMCA will allow other amendments to be made at the same time.
- The *insolvent* definition for a defined benefit scheme remains troublingly wide and may need amendment.
- It would appear that a workplace savings scheme with 'superannuation scheme' or similar in its name will need in due course to change its name.

Wind-up payments – three cheers for common sense!
Workplace Savings had submitted that the FMA should be able to consent, should circumstances warrant, to the payment of partial wind-up benefit payments before the lodgement of final scheme wind-up accounts with the FMA.

The FMCA goes one better – the supervisor or trustees of a scheme may, as of right, make a partial distribution of the assets of the scheme at any time before a copy of the wind-up accounts is sent to the FMA (unless prohibited by the governing document). See section 197(1)(ba).

Conversion to separate governing documents
During last year's KiwiSaver governance changes exercise, the process of de-coupling various umbrella trusts (comprising both superannuation and KiwiSaver schemes) was materially complicated by the restriction in section 64 of the KiwiSaver amendment Act 2011 to the effect that the amendments converting umbrella trusts to separate trusts:

- could make *only* the amendments necessary or desirable to ensure compliance with the new KiwiSaver governance requirements; and
- could not include other amendments.

In response to resulting submissions, the provisions in the FMCA providing for FMA approval (notwithstanding any amending restrictions that might otherwise apply) of whatever deed amendments that are necessary or desirable in order to comply with the applicable FMCA requirements will *also* allow *other* amendments that comply with existing amendment restrictions.

This is another common-sense improvement that should materially simplify the scheme changes process in many cases.

Defined benefit schemes – *insolvent* definition
The FMCA continues treating as insolvency (and accordingly as a 'serious problem' triggering reporting requirements) a circumstance where a scheme's vested benefits solvency ratio falls below 100%, however slightly.

The wording used in the *insolvent* definitional also remains unhelpfully broad in that it can be construed as including potential *future* vested benefit liabilities and not just those relating to past service at any point in time.

This is despite submissions recommending clarification and pointing out concerns.

We hope that the relevant provision is interpreted (and applied) pragmatically in practice.

Use of 'superannuation scheme' in workplace savings scheme name
If a scheme becomes a workplace savings scheme (and is thereby taken outside the *superannuation scheme* definition) there would appear to be a resulting need to remove 'superannuation scheme' (or a variant) from the scheme name.

MBIE policy papers state that the term 'superannuation scheme' is intended to be reserved for schemes that are locked in until retirement or have been carried over as legacy schemes.