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UPDATE

# Bulk transfers: The basics for approved Jersey occupational pension schemes

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It is not unusual for a business to operate several occupational pension schemes, especially where it has been involved in mergers with other businesses over a long period of time. In order to achieve efficiencies of administration and cost, it can sometimes be useful to merge schemes and to achieve that by means of a bulk transfer of funds (and, in effect, benefits) from one scheme to another.

Article 131CH of the Income Tax (Jersey) Law 1961 (the **1961 Law**) imposes a number of requirements on the trustees of Jersey occupational pension schemes approved under Article 131 of the 1961 Law wishing to undertake a bulk transfer of all or part of their pension scheme's fund to another approved Jersey occupational pension scheme (the **bulk transfer requirements**).

This briefing looks at the framework for undertaking such transfers.

## Who is required to comply with the bulk transfer requirements?

Article 131CH of the 1961 Law applies to the 'scheme managers' of '*approved Jersey occupational pension schemes*' (meaning a pension arrangement approved under Article 131 of the 1961 Law). The 'scheme managers' of trust-based pension schemes are the trustees.

## When are the bulk transfer provisions triggered?

The requirements of Article 131CH come into effect when the trustee of an approved Jersey occupational pension scheme wishes to transfer all or part of their scheme's 'fund' to another approved Jersey occupational pension scheme.

The 'fund' of a pension means the aggregate of the fund values of all the members and dependants in the scheme from which the transfer is to be made.

A scheme approved under Article 131A of the 1961 Law is not an approved Jersey occupational pension scheme for these purposes and, as such, is not subject to the bulk transfer requirements.

## What are the requirements for bulk transfers?

Prior to a bulk transfer taking place, the trustees of the transferring arrangement must:

(a) provide requisite notice to the Jersey tax authority, the Jersey Comptroller of Revenue (the **Comptroller**), of the transfer; and

(b) receive the prior written consent of the Comptroller to the transfer.

## What information must be included in the notice to the Comptroller?

The notice must contain the following information:

(a) the date of the proposed transfer;

(b) the name of the scheme from which the transfer is proposed to be made;

(c) the name of the scheme to which the transfer is proposed to be made;

(d) the name of each member of the scheme whose fund value is proposed to be transferred (an 'included member');

(e) the name of each member of the scheme (if any) who is not an included member;

(f) relation to each included member:

   (i) the amount to be transferred, and whether that amount represents the whole or part (and if so, what part) of that member's fund value, and

   (ii) whether benefits have commenced from the scheme from which the transfer is to be made.

### What else needs to be in place for a bulk transfer to go ahead?

In order to implement a bulk transfer, the terms of the transferring scheme would need first to include a power to permit such action to be taken. It is not sufficient for trustees to rely on the 1961 Law alone.

Whilst some transfer out provisions may be wide enough to permit bulk transfers, it is often helpful to amend scheme rules to provide a new provision which is bespoke to the circumstances of the relevant transfer.

Mourant Ozannes would be happy to assist trustees in the review of their existing scheme provisions regarding large scale transfers and advise on all related documentation to the undertaking of a bulk transfer exercise.

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