

Self-select retirement schemes – information for scheme managers

Some retirement schemes allow investors to choose their own investments from a list of options. This information sheet explains how these schemes are regulated under the Financial Markets Conduct Act 2013 (FMC Act) and what exemptions and waivers may be available.

What are self-select retirement schemes?

Self-select retirement schemes are different from standard retirement schemes. Standard schemes offer funds or investment options (such as multi-fund or lifecycle options) that are pre-selected by the scheme manager. For self-select schemes, the manager provides a list of possible investments such as shares, term deposits and managed funds, and the investor (usually with the help of a financial adviser) selects the investments that will make up their individual portfolio.

A self-select retirement scheme will be a managed investment scheme (MIS) under the FMC Act if it satisfies the following criteria:

- its purpose or effect is to enable investors to contribute money to the scheme as consideration to acquire interests in it
- the interests are rights to participate in or receive financial benefits produced principally by the efforts of another person under the scheme
- investors have no day-to-day control over the operation of the scheme (whether or not they have the right to be consulted or to give directions).

Most self-select retirement schemes are likely to be a MIS, and interests in the schemes are considered 'managed investment products'. This is because:

- investors receive an interest in the scheme in return for their contributions. This is in contrast to investments made through a custodial or administration platform, where the investor invests directly in underlying investments
- financial benefits under these schemes are produced principally by the efforts of the scheme manager. Although investors select investments for their portfolios, the list of approved investment options is chosen by the manager. The manager also maintains the scheme infrastructure that allows investors to invest and provides access to certain tax or other advantages (eg KiwiSaver tax credits)
- investors in these schemes are largely passive, with the manager handling day-to-day operations.

Regulatory requirements and possible exemptions and waivers

A MIS must be registered and have a compliant governing document. It must have a licensed manager and an independent licensed supervisor. Scheme property must be held by the supervisor or an independent custodian. When a regulated offer

is made, the scheme must disclose information about the offer and the scheme in a product disclosure statement (PDS) and on the Disclose Register. Ongoing disclosures are required.

Self-select retirement schemes may find it difficult to comply with some standard MIS obligations due to the structure of the scheme. Each individual investment option offered under the scheme (there may be hundreds or even thousands) is regarded as a separate 'fund' for the purposes of disclosure. Some fees and levies are charged on a 'per fund' basis. Compliance with standard obligations may result in unhelpful and costly disclosures, and excessive fees and levies.

Individual exemptions may be available, on application, for a self-select retirement scheme to tailor standard MIS requirements to its circumstances. A partial waiver may also be available in respect of the levies payable.

Relief may be available from obligations such as:

- including certain information about each investment option or 'fund' in the PDS
- fund update requirements
- disclosing fund-related information on the Disclose Register
- having a statement of investment policy and objectives
- paying certain fees and levies on a 'per fund' basis.

Before an exemption is granted, we will need to be satisfied it will be consistent with the policy of the FMC Act and meet the statutory exemptions test. Exemptions take into account the costs of compliance, and the outcomes for investors and the market more generally. Alternative requirements are likely to apply as conditions if an exemption is granted. For example, alternative disclosures may be required to ensure investors receive useful information to help them make decisions about their investments and the scheme. Statutory requirements also apply in relation to levy waivers.

You can look at existing exemptions and waivers to find out what sort of relief may be available and the conditions that are likely to apply. Some exemptions and waivers previously granted for self-select retirement schemes are:

- [Financial Markets Conduct \(i-Select Superannuation Scheme\) Exemption Notice 2016](#)
- [Financial Markets Conduct \(Craig's Investment Partners Self-Select Schemes\) Exemption Notice 2016](#)
- [Financial Markets Conduct \(Portfolio Superannuation Scheme\) Exemption Notice 2016](#)
- [Craig's Investment Partners Self-Select Schemes - waiver of part of the FMA levy – Oct 2016](#)
- [i-Select Superannuation Scheme - waiver of part of the FMA levy – Nov 2016](#)
- [Portfolio Superannuation Fund - waiver of part of the FMA levy – Nov 2016](#)

Next steps

If you are setting up a self-select retirement scheme, we encourage you to contact us to discuss your particular circumstances, whether the scheme could qualify for relief, and the terms and conditions on which any relief is likely to be granted. You can email us at exemptions@fma.govt.nz for more information or to apply for an exemption and waiver. Information on how to apply for an exemption can be found [here](#). You can find information on how to apply for a partial levy waiver [here](#).