

SEPTEMBER 2015

MEMBERS' CATEGORIES –SPECIAL RULES

Members are placed on joining the fund in a category, which in most circumstances is “as designated by the employer”. The member must then remain in this category throughout his/her membership of the fund unless the designation of that member is altered by the employer at any given time. The employer must have changed the job title/job description for this member which may then result in moving the member to a different category. Under no circumstances may a member choose to migrate from one category to another unless the special rules allow for this option.

Where an employer changes the category of any member, the employer must ensure that no other members in the category that the member has been removed from hold the same job title/job description as the member whom has been moved. This is extremely important where a member has been moved to a lower contributing category which may also offer lower risk benefits as to what the member previously enjoyed. Not only will SARS have an issue with this but the member or the members' dependents/beneficiaries may also hold the employer liable for the reduction in benefits at claim stage, this could be at retirement or death of the member.

For a fund to obtain approval from SARS, one of the requirements is that where there is more than one category in the rules/special rules that the employees are correctly designated to a category and employees who hold the same job title/position are in the same category. If an audit was to be conducted by SARS and SARS discovered that employees of the same ilk were not participating in the same category, SARS can retract the approval retrospectively, which would cancel all tax deductibility previously allowed on contributions. This would have severe consequences for the employer and the umbrella fund as a whole.

To summarise, where the employer has changed the job title/job description of an employee which necessitates moving the employee to a different category as per the special rules, this is in order.

In this event the employer must notify the Board of Trustees in writing when a member's category has been changed and cite the reason (s) as to why this change has occurred. Further it is imperative that the member also receives a written notification confirming the change in his/her category and the reason (s) as to why this change was effected by the employer. The members' letter of appointment should also be checked and amended if a change in category affects the contribution/benefit structure of the members' fund and related risk benefits. This is extremely important if the change in category reduces the contribution(s) towards retirement savings and/or the risk benefit (s) the member was entitled to prior to the category change.



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However, when a member/employee approaches the employer and requests to move into a different category, this is not in order where the special rules do not allow such an action.

If in doubt, please consult your accredited FAIS consultant to the fund and/or your Client Relationship Manager, before you affect a transfer of a member to a different category.

Kind Regards

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Legal & Technical