Superannuation Schemes and Workplace Savings Schemes:

Superannuation schemes and Workplace savings schemes (collectively "schemes") have substantially similar characteristics to those described under the Broad Participation Retirement Funds, however key differences lie in the contribution/taxation requirements listed for Broad Participation Funds.

We set out below the Broad Participation Retirement Fund requirements (CRS Section VIII B (5)) that are not fully met alongside characteristics of schemes that are considered to result in these funds presenting a low risk of being used to evade tax.

Where the characteristics of Superannuation schemes and Workplace savings schemes differ these will be set out separately, otherwise references to schemes incorporates both.

Broad Participation Retirement Fund requirements that are not met by Workplace Savings Schemes:	**Substitute characteristics of Superannuation Schemes and Workplace Savings Schemes resulting in a low risk of being used to evade tax.**
Section VIII B (5)(a): Does not have a single beneficiary with a right to more than 5% of the fund's assets	• While schemes do not impose maximum holdings, in practice it is highly unlikely that any single investor would hold assets of greater than 5%. Schemes are collective investment schemes designed to pool together funds from a large number of investors in order to gain financial benefit in the form of greater market access and lower costs to the investor. • For tax efficiency reasons, workplace savings schemes commonly operate as Portfolio Investment Entities (**PIEs**). In order for the funds to retain PIE status, no investor can hold more than 20% of the funds under management.
	We note that, consistent with the requirement in Section VIII B 5(b), schemes are subject to comprehensive regulatory oversight. This is considered an important characteristic in the context of the schemes having a low risk of being used to evade tax. Notably: • Schemes are regulated by the Financial Markets Authority (**FMA**). • The purpose of a scheme must be to provide retirement benefits directly or indirectly to individuals o A workplace savings scheme must also have the purpose of providing benefits to eligible individuals on

<table>
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<li style="list-style:none">
ceasing employment or engagement with 1 or more persons specified in the trust deed or in an industry specified in the trust deed (whether immediately on ceasing that employment or engagement, or subsequently).
As a part of the registration process, a scheme's disclosure documents and investment objectives are reviewed by the FMA to ensure it satisfies the regulatory requirements.
The trustees and managers of schemes are required to be licensed by the FMA. The trustee acts as the front line of regulation, ensuring the scheme meets the requirements of the governing documents as well as the regulatory requirements.
The managers of schemes are subject to the requirements of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.
Schemes are required to report information about investors to IRD in relation to withholding taxes and PIE tax liability (if applicable). Reporting to IRD will increase under the Government's proposed investment income reporting rules.
</td></tr>
<tr><td colspan="2">Please note: The definition of a Broad Participation Retirement Fund under Section VIII B(5)(c) requires the Scheme to satisfy <u>at least one</u> of the characteristics listed in column 1 below. The Scheme is not expected to meet all requirements below.</td></tr>
<tr><td>Column 1:</td><td>Column 2:</td></tr>
<tr><td>The fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan</td><td>The funds are not subject to tax preferences or deferrals due to their status as retirement funds. Under New Zealand's taxation model, contributions and investment income are subject to tax.

While this does not correspond to the characteristic in column 1, arguably this makes it less likely that a scheme would be used to evade tax.</td></tr>
<tr><td>The fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in subparagraphs B(5) through (7) or from retirement and pension accounts described</td><td>
New applications for membership of workplace savings schemes are restricted under the FMCA to one or more of the following:
persons who are employed by a particular employer:
</td></tr>
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in subparagraph C(17)(a)) from the sponsoring employers;	○ persons who are employed by a related body corporate of a particular employer: ○ persons who belong to a particular profession, calling, trade, occupation, or industry: ○ persons who belong to a particular association, society, or other entity with a definable community of interest: ○ persons who are immediate family members of, or wholly or partially financially dependent on, a person in one or more of the classes of persons described above. • Generally employers contribute a fixed percentage of an employee's salary/contributions. The employers' contribution rate varies between employers, and is outlined in the underlying employer scheme's governing document. While this does not correspond to the characteristic in column 1, as a practical matter a number of workplace savings schemes do involve employers making substantial contributions, and often this is above 50%. Membership of superannuation schemes is not restricted in this way, and there is no requirement for employer contributions.
Distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in subparagraphs B(5) through (7) or retirement and pension accounts described in subparagraph C(17)(a)), or penalties apply to distribution or withdrawals made before such specified events;	Superannuation schemes are generally locked in to age 65 subject to limited exceptions for early withdrawal, all of which are set out in legislation (see the Superannuation Scheme Rules and Schedule 12 of the Financial Markets Conduct Regulations 2014). These exceptions include early retirement, transition to retirement, significant financial hardship and serious illness. Where the scheme is a QROPS, funds transferred from a UK Pension Scheme in reliance on the QROPS rules may be withdrawn in accordance with the QROPS withdrawal criteria, which is accessible for retirement from age 55 or earlier only if the ill-health conditions are met.

	Accordingly, superannuation schemes generally have limits on withdrawals and distributions that are similar to the characteristic in column 1. Under the FMCA every workplace savings scheme must meet the following requirement: "Its purposes must be to provide: o retirement benefits directly or indirectly to individuals; and o benefits to eligible individuals on ceasing employment or engagement with 1 or more persons specified in the trust deed or in an industry specified in the trust deed (whether immediately on ceasing that employment or engagement, or subsequently)." • A workplace savings scheme may allow redemptions, withdrawals, and benefits for other purposes (including in the way the trust deed is applied) only if: o they are in accordance with other limited circumstances defined in the trust deed (for example, financial hardship or early partial withdrawal criteria, or insurance benefits to members (including in the event of a death or disability of a member)); and o they are incidental or secondary to the purposes of the scheme. • Vesting provisions often apply to employer contributions, penalising employees for withdrawals made before specified dates. In general terms workplace savings schemes have limits on withdrawals and distributions that are similar to the characteristic in column 1. One material difference is that withdrawals are allowed when the eligible individuals cease employment. While this means a person may be able to access the funds earlier than that contemplated by the Broad Participation Retirement Funds

	characteristics, it does require the individual to leave their employment to achieve this (and by definition requires the individual to have been in employment in the first place). Moreover, while there are a limited number of other circumstances where withdrawals are permitted (e.g. hardship), they need to be ancillary to the key purposes of the scheme. This means they are likely to be in the nature of "one off" circumstances, linked to external factors affecting the individual. Accordingly, in practice, workplace savings schemes do not have an increased risk of being used to evade tax merely because there may be more circumstances in which withdrawals may occur as compared with Broad Participation Retirement Funds.
Contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed USD 50000 annually, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.	• We understand that, in many OECD countries, Governments seek to encourage workers to save for their retirement by offering them the opportunity to defer tax on their pension (retirement savings) until those funds are withdrawn in retirement (sometimes referred to as the Exempt, Exempt, Taxed (**EET**) model for retirement savings taxation whereby contributions are taken from pre-tax earnings and the income of the fund is also tax exempt). • We also understand, in countries that adopt EET taxation for retirement savings, that it is quite common for Governments to restrict (or cap) the level of contribution by individual beneficiaries in order to limit the fiscal cost of the Government's total retirement savings tax incentive. • In New Zealand, because scheme contributions come from tax paid earnings, there is no need for Government to legislate a retirement fund contribution cap, as is the case in EET jurisdictions where this is done to control fiscal cost for the Government. Accordingly, the lack of a retirement fund contribution cap does not increase the risk that schemes will be used to evade tax.