



**POLICY ON**

**AMENDING THE CONTRIBUTION LIMITS IN THE  
CONSTITUTIVE DOCUMENTS OF APPROVED  
SUPERANNUATION FUNDS**

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**June 2015**



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**ISSUE:** Amending the Contribution Limits in the Constitutive Documents of Approved Superannuation Funds

**POLICY NO:** A001

**PUBLISHED:** First Issued - June 2015 Last Revised - N/A

**LEGISLATIVE:** The Pensions (Superannuation Funds and Retirement Schemes) Act, 2004 (the “Act”)

**REFERENCES:** Section: 13, 35

Pensions (Superannuation Funds and Retirement Schemes) (Validation and Amendment) Act, 2013 (the “Validation Act”)

The Income Tax Act (“ITA”)

Section 2, 13

**RELATED DOCUMENTS:** Registration of an Amendment – PR-GUID-14/03-0032

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## 1.0 Background

- 1.1 In 2013, the contribution limits for sponsor and member contributions as stated in Section 13(2)(e) and 13(2)(g) of the Act were amended, by way of the Validation Act, to harmonize the specified limits with those limits stated in the ITA. More specifically, the words *ten per cent of that/the member’s annual salary or wages*, wherever they appear in Section 13 of the Act, have been replaced with the words *such amount as may be prescribed by the Income Tax Act*. In addition, Section 13(2)(c) of the Act was amended to reflect that the sponsor of a superannuation fund “is an annual contributor to that fund who shall make such contributions as may be prescribed by the Income Tax Act”.

1.2 Section 13(1) (i) of the ITA stipulates:

“...Provided further that from and after the first March 2005-

- (A) an employee's contribution in any year of assessment shall not exceed 10% of his annual remuneration; and
- (B) an employer's contribution in any year of assessment as respects an employee shall not exceed 10% of that employee's annual remuneration,

so, however, that where the employer contributes less than 10% of an employee's annual remuneration, the employee may contribute the difference between the employer's actual contribution and the maximum contribution payable by the employer;”

## **2.0 Purpose**

2.1 The purpose of this policy is to provide clarity to trustees and their agents on the treatment of a proposed amendment to the contribution limits specified in the constitutive documents of an approved superannuation fund.

## **3.0 Application of this Policy**

3.1 This policy applies to a superannuation fund that has been approved and registered by the Financial Services Commission (“FSC”) in circumstances where an amendment is being proposed to change the contribution limits stipulated in the Constitutive Documents so as to harmonize its provisions with the limits permitted under the ITA.

## **4.0 Statutory and Regulatory Requirement**

4.1 In keeping with the policy requirements of the FSC, a proposed amendment to the Constitutive Documents of a superannuation fund to achieve consistency with the limits under the ITA is deemed an ordinary amendment made to comply with the provisions of the Act and regulations thereunder and **does not** require the approval of the members.

4.2 Such an amendment is however required to satisfy all other statutory and regulatory requirements as specified by Section 35 of the Act and outlined in the bulletin “Registration of an Amendment” posted on the FSC’s website.

4.3 The trustees of such a superannuation fund are required, within 7 days of the approval of the proposed amendment by the FSC and its issuance of the notice of amendment specified in Regulation 21 of the Pensions (Superannuation Funds and Retirement Schemes) (Governance) Regulations, to notify the members of the superannuation fund of the changes made.