



Self-insured financial requirements

Explanatory Note

August 2025

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Aim

To advise Self-Insured employers and interested parties of the finalised changes to the Schedule 3 Financial Requirements, inclusive of additional explanatory details of those changes. In addition to this, to summarise some of the feedback provided by interested parties during the further consultation period, and detail the reasons for inclusion/ non-inclusion of the feedback into the final changes.

Background

Schedule 3 of the *Return to Work Regulations 2015* sets requirements for self-insured employers, including the need for a self-insured employer to provide ReturnToWorkSA with:

- an audited copy of financial statements,
- an actuarial report on its outstanding claim liabilities (OCL),
- a guarantee from a financial institution; and
- evidence of an Excess of Loss Insurance (EOLI) policy.

In September 2023, ReturnToWorkSA commenced an initial consultation on potential options for change to the Schedule 3 Financial Requirements. A range of feedback was provided from self-insured employers and interested parties. Upon request, the consultation period was extended to ensure further time to gather all views.

In October 2024, a further discussion paper was developed considering the feedback received, and a second consultation period commenced. Upon further request, this second consultation period was also extended to ensure further time to gather all views.

Following the completion of this further consultation phase, ReturnToWorkSA has considered the feedback and some additional changes to the Schedule 3 Financial Requirements were made. The final recommended changes were presented back to the Board of the Return to Work Corporation and were endorsed.

This Explanatory Note details the changes and commences the implementation process. Please ensure that relevant staff within your organisation are made aware of, and action, these changes. This would include the relevant staff within Finance/ Accounting, and the staff that arrange the Excess of Loss insurance.

Included as attachments are tracked change copies of the guidelines to highlight amendments associated with the final recommended changes.

Please note that all changes to the Schedule 3 Financial Requirements must be considered as a 'package' as changing one element has a flow on impact to the others. The primary goal for the requirements is the protection of the Compensation Fund but this must be balanced by ensuring fair contribution from self-insurers.

Element 1 - Self-Insured Insolvency Contribution Aggregate (SIICA)

Feedback and Response

Excess Balance

Consultation feedback proposed using any 'excess' balance of the SIICA for several alternative uses, including:

- Reduce the 1.5 scaling factor for Financial Guarantees
- Invest into training and capability for self-insured employers
- Return funds to self-insured employers

An excess balance has not yet been identified for the SIICA, advice from the scheme actuary is that the current balance is sufficient at this point of time. Given the number of changes recommended across the Schedule 3 Financial Requirements, and the fact that collection of the SIICA has been paused, it is not recommended to actively use the SIICA funds at this stage.

As detailed in the 'Finalised Changes' above, an annual assessment of the adequacy of the SIICA balance will be undertaken by the scheme actuary. Should an excess balance be identified, this issue will be revisited. It must be noted that any potential usage of the SIICA in the future would require Board approval, and legislative change.

SIICA Balance within the Compensation Fund

Feedback was received questioning as to whether SIICA balance sits appropriately within the Compensation Fund, or whether it should be held separately in a distinct fund.

Legal advice previously received stated that the current structure (SIICA Balance sitting within the Compensation Fund) is not only allowable, but that the SIICA cannot be held separately from the Compensation Fund. This legal advice was recently reviewed and confirmed to still be accurate. Please note that the SIICA balance (and investment returns) is accounted for separately *within* the Compensation Fund.

Finalised Changes

Change 1

Board SIICA Determination September 2024 pauses the requirement for collection of the additional 1% from self-insured employers, effective 1 September 2024.

Change 2

Board SIICA Determination September 2024 reverts to applying investment income to the SIICA balance annually, rather than the Reserve Bank of Australia (RBA) cash rate.

Change 3

Internal ReturnToWorkSA processes updated to include assessment of the SIICA balance adequacy during the annual Self Insurance Fee process.

Element 2 – Excess of Loss Insurance (EOLI)

Feedback and Response

ReturnToWorkSA as beneficiary on EOLI policies

Consultation feedback was that whilst there was not a high level of concern regarding ReturnToWorkSA being added as a beneficiary on self-insurer Excess of Loss policies, there was clarification sought as to when and how ReturnToWorkSA could make a claim on the policies.

The wording in the Code of Conduct has therefore been updated to ensure that this is clear. The updated wording in Point 1.8 (d) is as follows:

In the event the *Self-insured employer* ceases to be registered as a *Self-insured employer* and all or part of its liabilities are undertaken by *ReturnToWorkSA*, *ReturnToWorkSA* will claim the benefits for such liabilities otherwise payable to the former *Self-insured employer* in accordance with the terms and conditions of its EOLI policy, which notes the respective rights and interests of *ReturnToWorkSA* as a joint reinsured party.

This means that ReturnToWorkSA can only make a claim on a policy if the self-insured employer ceases to be registered as such. This would generally mean that the employer has either entered bankruptcy, has ceased employing altogether in South Australia (and is not entering run-off), or is returning to the registered scheme. ReturnToWorkSA would only make a claim on an EOLI policy for liabilities that lie with the registered scheme.

Wording of EOLI policies

Consultation feedback was that provision of the EOLI policy (rather than just the Certificate of Currency) was not a problem to provide.

Important Notes:

- For compliance with the conditions of self-insurance - it is incumbent on self-insured employers to ensure that EOLI policies satisfy the requirements outlined in Point 1.8 of the Code of Conduct. Please review the wording of your policies with the insurance provider to ensure that this is the case.
- Net liability for the purposes of the Financial Guarantee calculation can only be used when the relevant claim/s in question are covered by an EOLI policy for which ReturnToWorkSA is a beneficiary.
- Self-insured employers may choose to enquire with their insurance provider as to whether ReturnToWorkSA can be added as a beneficiary for relevant historical EOLI policies. This is a matter for self-insured employers and their insurance providers to discuss.

Change 4

Code of Conduct for self-insured employers updated to mandate ReturnToWorkSA as a beneficiary on EOLI policies.

Change 5

Code of Conduct for self-insured employers updated to require the provision of the EOLI policy (rather than just the Certificate of Currency) from self-insured employers, annually.

Element 3– Financial Guarantee (FG)

Feedback and Response

Scaling Factor

Consultation feedback included queries regarding the level of the ‘scaling factor’ required for the purposes of the Financial Guarantee (currently 150%).

This matter was closely examined with the scheme actuary and determined as appropriate. It is important to note that the scaling level is consistent with that in place across other Australian jurisdictions. It is required to ensure coverage for the unknown (legislative change, unexpected claim behaviour change etc), not an issue of under-estimation by Actuaries.

As detailed in Element 2, net valuation of outstanding claim liabilities will be allowed for the purposes of calculation of the Financial Guarantee where the EOLI policy includes ReturnToWorkSA as a beneficiary.

Important Note:

There is a slight wording change in the Standard Bank Guarantee Format template and the Standard Insurance Bond Format template. Please ensure that the updated version is used moving forward.

Change 6

Financial Guarantee guidelines updated to only allow ‘net’ valuation for claims where the EOLI policy is provided and confirms ReturnToWorkSA as a beneficiary.

Change 7

Slight wording change in the Standard Bank Guarantee Format template and the Standard Insurance Bond Format template.

Element 4 – Liability Transfer Payments (LTP)

Feedback and Response

'Net' Valuation of Liability

Consultation feedback included support for the use of 'net' valuation for the purposes of calculating the Liability Transfer Payment. However, it was questioned as to whether EOLI policies needed to confirm ReturnToWorkSA as a beneficiary for all injury years.

The change to 'Net' liability (and associated mandatory listing of ReturnToWorkSA as a beneficiary on EOLI policies) will require ongoing administrative activity to monitor and seek recovery against an EOLI policy. This is especially important for the LTP process, given the higher likelihood of claims against an EOLI policy compared to calling in a Financial Guarantee due to insolvency. A framework for regular engagement with EOLI providers and/or claim agents may also need to be put in place to monitor 'at risk' claims.

Because of the above, whilst the proposed change is reasonable, we are seeking further feedback on the change. Before any changes are implemented, ReturnToWorkSA will also need to ensure appropriate reporting and monitoring is in place. The 'transition' issue for retrospective policies raised in Discussion 3, will also need to be considered for LTP process. Therefore, this change will not proceed at this stage. But will be considered in future.

Net Premium Position

Consultation feedback was also received that applying the Net Premium Position (NPP) cap for acquisitions by existing self-insurers lacks fairness as they cannot influence past performance and are compelled to take the liability by s129(5)(c) of the Act.

Removal of the NPP cap could potentially result in payments to an employer exceeding what the employer has paid in premiums. ReturnToWorkSA will not proceed with making additional liability payments for an employer that has already had a negative impact on the Compensation Fund. Self-insured employers should be aware of the liability transfer requirements when determining whether to acquire a new entity and shortfalls in liability should be considered with all other liabilities.

Scaling Factor

Consultation feedback was received which questioned the scaling factor used for LTP calculations (currently 150%) when exiting self-insurance (including sale of an entity).

Our review found the LTP scaling factor of 150% for cessation of registration, is necessary and appropriate given that there is a one-off assessment of liability. The current loading is also intended to deal with the risk of several sources of uncertainty, including unanticipated legislation/ case law changes (e.g Summerfield), claim behaviour changes, such as serious injury lodgement, lump sum and noise induced hearing loss claims. To be clear, this is not an issue with actuarial valuations under-estimating future claim behaviour. It is related to the difficulty of accurately assessing future liabilities due to outside variables. For Serious Injury claims, these are low frequency, but potentially very high cost, so can be the key difference in whether the LTP is sufficient.

Our review with the scheme actuary indicated that the current scaling factor is appropriate and will remain. As our reporting continues to develop and improve, we will monitor this ongoing to review appropriateness.

Change 8 - Recommendation

Further investigation and review to be undertaken regarding 'net' valuation for Liability Transfer Payment calculations on cessation of self-insurance for claims only where the EOLI policy is provided that confirms ReturnToWorkSA as a beneficiary.

Element 5– *Changes to Guidelines and Code of Conduct*

Summary

As part of the review and consideration of the feedback, several changes to the Guideline for Self-insured Employer Actuary Reports and Financial Guarantees (Actuary Guideline), and Code of Conduct for Self-Insured Employers (Code of Conduct) were implemented. This includes changes to implement the changes detailed in this Explanatory Note, as well as updating the provision of information requirements in actuarial valuation reports. The actuarial changes will not change the basis of calculations for financial guarantees but will provide more clarity in terms of the information provided.

Appendices A to E provide copies of the above-mentioned guides with the full range of the changes outlined in this Explanatory Note (please note Appendix D provides an extract of the Code of Conduct, which contains all the changes). An outline of the changes (in addition to those detailed in this Explanatory Note) are listed below:

- Update references to superseded actuarial standards from PS 300 to PS 302
- Standardise the format of the presentation of Financial Guarantee information in Actuarial Valuation reports
- Information to be provided in Actuarial Valuation reports outlining the changes in performance from the previous year, to provide a simplified summary of any differences (and reasons for this) in performance compared with what was predicted
- Provision of some calculations which will act as an indicator as to whether the Financial Guarantee provision is likely to be sufficient
- Requirement to advise in Actuarial Valuation reports where there is a discrepancy between the employer ledger and the online claim system, and detail how this discrepancy was accounted for
- Provision of a prescribed data file associated with the calculations in the Actuarial Valuation report, along with the report itself, to ReturnToWorkSA when a valuation is completed
- Some clarification on the requirements for reporting on the costs of Early Intervention programs
- A minor change to the wording in the standard Financial Guarantee template, to clarify the purpose of the Guarantee.

Feedback and Response

Early Intervention Program

Consultation feedback was provided seeking clarification as which party carries the obligation to obtain the required information. Clarification was also sought regarding what type of information should be provided in actuarial valuation reports regarding Early Intervention Programs.

The wording in Point 20 of the Actuarial Guideline has been amended to make clear that both the employer and actuary has an obligation to obtain information on Early Intervention Programs. See the updated wording below:

The employer has an obligation to advise the actuary, and the actuary must enquire, and the report must state, whether the employer operates any program, whether it is recorded and described or is simply a practice, whereby any service or benefit is offered and/or provided without a claim for compensation having been or needing to be lodged, or else provided by the employer in such a way that costs are not recorded in the available claims data. The actuary must state in the report whether the injuries associated with the payments under this program would have had a material impact on the valuation result, if all injuries, and all costs, whether or not explicitly identified as non-work related injuries, had brought about a claim.

Regarding the types of services that should be included or not, please note the following:

- The cost of internal work rehabilitation programs that may not be recorded under the workers compensation system – should be included
- Treatment provided by an Employee Assistance Program – should NOT be included
- On-site physiotherapy provided to staff members – should be included

In the actuarial valuation report, if relevant, the total costs of Early Intervention Programs may be broken down by type, e.g:

- \$X – annual cost of on-site physiotherapy available to staff
- \$Y – annual cost of internal work rehabilitation program

In regards to the requirement that the “actuary must state in the report whether the injuries associated with the payments under this program would have had a material impact on the valuation result, if all injuries, and all costs, whether or not explicitly identified as non-work related injuries, had brought about a claim” – the intention is that the actuary should estimate potential costs for all active participants included in an early intervention program, even if the injury is currently identified as non-work-related.

The reporting requirements for Early Intervention Programs are always on a reasonable basis. If information is unable to be identified (e.g. on-site physiotherapist where treatment numbers are not recorded), this should just be identified in the actuarial valuation report.

Next Steps

The changes to the Code of Conduct and the Actuarial Guideline have been approved by the Board. Self-Insured Employers will be able to comply with these updated documents from **1st September 2025**. The current versions of these documents will cease to be in effect from **1st January 2026**. This means that there will be a transition period of three months from **1st September 2025 to 31st December 2025** where the updated versions of the documents can be used by Self-Insured Employers but will not be enforced by ReturnToWorkSA should an employer wish to continue using the current documents.

An online forum via Teams will be arranged by ReturnToWorkSA prior to the commencement of the transition period. There will be further communication in this regard in future. This forum will provide stakeholders with the opportunity to hear the changes in further detail and ask any relevant questions. You will have the opportunity to register your interest to log-in to this forum in future correspondence.

Should you wish to discuss anything outlined in this Explanatory Note, please also contact the Self-Insured Services team at selfinsured@rtwsa.com.

APPENDIX A:

Updated Guideline for Self-insured Employer Actuary Reports and Financial Guarantees

Including Tracked Changes

APPENDIX B:

Updated Guideline for Self-insured Employer Actuary Reports and Financial Guarantees

Without Tracked Changes

APPENDIX C:

Updated changes to the Code of conduct for self-insured employers

Extract of the Code which includes Tracked Changes

APPENDIX D:

Updated changes to the Code of conduct for self-insured employers

Extract of the Code without Tracked Changes

APPENDIX E:

Actuarial Valuation Appendices Template

Excel Data File



The following free information support services are available:

If you are deaf or have a hearing or speech impairment you can call ReturnToWorkSA on **13 18 55** through the National Relay Service (NRS) **www.relayservice.gov.au**.

For languages other than English call the Interpreting and Translating Centre on **1800 280 203** and ask for an interpreter to call ReturnToWorkSA on **13 18 55**.

For braille, audio or e-text of the information in this brochure call **13 18 55**.

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