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## Exiting legacy pensions - opportunities and considerations

By Mansi Desai, Technical Services Manager

### What's the change?

On 7 December 2024, new regulations came into effect, allowing individuals to exit non-commutable legacy pensions within a 5-year amnesty period. The full balance of the pension (including reserves) can either be commuted in cash, rolled back to accumulation phase or used to start a new income stream. Prior to the introduction to these regulations, these pensions could only be commuted under very limited circumstances. Furthermore, where a lifetime or life expectancy income stream is commuted, any reserves supporting that income stream will not count towards either the concessional or non-concessional contributions caps and other reserve allocations will now count towards their non-concessional contributions cap instead of their concessional contributions cap.

### Which legacy pensions are covered?

- Complying lifetime pensions covered under SISR 1.06(2)
- Life expectancy pensions covered under SISR 1.06(7)
- Market-linked pensions covered under SISR 1.06(8)

### Does commuting these pensions impact my client's Transfer Balance Cap (TBC)?

For TBC purposes, capped defined benefit income streams (CDBIS) including Lifetime pensions, Life expectancy pensions commenced before 1 July 2017 and term allocated pensions commenced before 1 July 2017 have a [special value](#) for the TBC credit amount. CDBIS credits which exceed the TBC do not cause excess TBC issues, however additional tax is applicable if total CDBIS payments exceeds the defined benefit income cap threshold (\$118,750 in 2024-25). With the new regulations allowing commutation, these excess issues can be avoided.

The debit amount on commutation depends on the type of pension commuted. For lifetime pensions, the debit value will generally be equal to the credit value on 1 July 2017. For life expectancy and term allocated pensions commenced before 1 July 2017, the debit value will be calculated using a [special debit formula](#). For term allocated pensions commenced on or after 1 July 2017, the debit value will be equal to the account balance at the time of the commutation.

## What happens to my client's social security exemptions upon commutation?

Some of these legacy pensions have a 50% or a 100% social security assets test exemption, depending on the type of pension and when it commenced. Previously, if these pensions were commuted, the commutation could result in a retrospective loss of their asset test exemption and could incur a five-year clawback of social security entitlements.

However, to align with these new regulations, a debt waiver instrument was issued to allow the Secretary of the Department of Social Services to wave any debts arising from the commutation of these legacy pensions. However, it should be noted that the debt waiver instrument was introduced in the last week of March and has a disallowance period of 15 sitting days of both the House of Representatives and the Senate. With the recent election and the pause in the disallowance period, care should be taken when considering commutations before the disallowance period has ended.

Although the debt waiver instrument removes any debt raised from the loss of the assets test exemption for the last five years, the commutation can impact the social security entitlement going forward. For example, a client commutes \$500,000 from a 100% assets-test exempt life expectancy pension and those monies are now sitting in a bank account. Those monies will now be an assessable asset subject to deeming for social security purposes.

Considerations can be given to reinvesting commuted legacy pensions in products having concessional assets test treatment like a lifetime annuity that can help cushion the impact of any loss of social security entitlements. The assets test assessment of Challenger Lifetime Annuity is 60% of the purchase price until age 85 (or until age 84 for lifetime income streams commenced from 1 July 2019 to 31 December 2024), subject to a minimum of 5 years, and then 30% of the purchase price thereafter.

## Can my client commute a legacy product with Challenger?

Yes - legacy products with Challenger including [Challenger Retirement Fund](#), [Guaranteed Lifetime Pension Plan](#), [Guaranteed Income Pension Plan](#), [Term Allocated Pension](#), [Guaranteed Annuity](#), [Guaranteed Income Plan](#) and [Income Choice](#) can be commuted if the withdrawal occurs within 5 years beginning on 7 December 2024 and the entire benefit is withdrawn. Please contact Challenger's Investor Services team on 13 35 66 for more information.

## Contact details



Visit  
[challenger.com.au](https://challenger.com.au)



Email  
[challengertech@challenger.com.au](mailto:challengertech@challenger.com.au)



Call Challenger Tech team  
**1800 176 486**  
(during Sydney business hours)

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