



FIDUCIAN

21 August 2006

The Committee Secretary
Parliamentary Joint Committee on
Corporations and Financial Services
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600



Dear Sir,

Inquiry into Structure of Superannuation Industry

We are pleased to provide this submission to the Committee for its consideration:

1. Uniform Capital Requirements for Trustees:

Capital requirement pressure appears to come from large institutions under the guise that a company with high capital backing can provide a higher level of service and integrity. Unfortunately the recent enforceable undertaking on AMP and previously on ING/RetireInvest, do not support this presumption. Indeed, the pressure to lift capital requirements may well be a reaction to the competition that large institutions could be facing from smaller more efficient service providers.

The risk to superannuation members whose assets are supervised by Trustees comes from poor administration processes and systems. A large number of superannuation funds have already outsourced administration functions to administration companies and as well, many other obligations have been farmed out to consultants. Custodial activities, which provide safekeeping to members' assets, are a point of critical risk and this activity is provided by statutory trustee and custodial companies with greater than \$5 million in equity and/or liquid assets. There is also substantial supervision by APRA.

In our view, there should be no imposition of greater capital requirements or any uniform capital requirement on superannuation trustees offering public offer funds. It will prevent new entrants and reduce competition into the hands of a few providers. A monopoly in any area of business is ultimately disadvantageous to the community. Further, most public offer funds have assets running into billions of dollars. No level of capital offered by an issuer or trustee of a superannuation fund can satisfy a large-scale fraud or mismanagement. Careful supervision and support by APRA, as well as proven systems and custodial activities are the only means by which members can get protection.

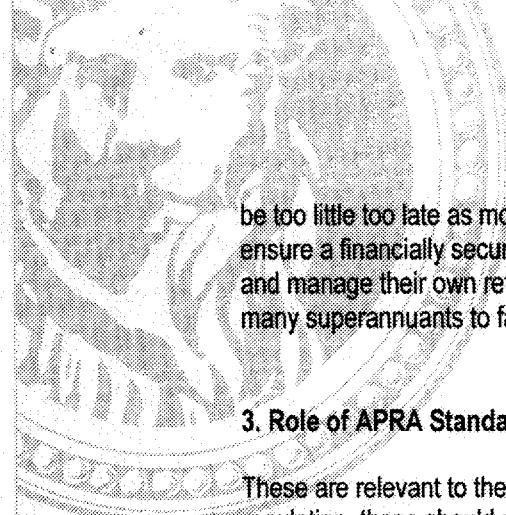
2. Should all trustees be public companies:

It should not matter whether a trustee is a public company or not. What is important is the service it can deliver.

The risks from public offer fund trustees could largely be overcome following the rationalizing and licensing of superannuation funds by APRA. The question remains on what controls can be exerted on Self Managed Super Fund (SMSF) trustees, who pretty much live in an environment of their own. The Government has allowed the public to establish and operate such funds and is only of late, indirectly trying to set some hurdles that impinge a sense of responsibility on SMSF trustees. However, this could

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be too little too late as most persons who operate such funds have little or no investment education to ensure a financially secure retirement for family or other members. By allowing the public to decide on and manage their own retirement investment savings, the Government may have unknowingly assisted many superannuants to fail in their goal to be self-funded.

3. Role of APRA Standards:

These are relevant to the industry. While it is necessary to set some form of standards for operation and regulation, these should not be established because all industry participants are to be treated with suspicion. Standards should be set to assist fund providers to deliver a satisfactory level of service and APRA should encourage dialogue rather than fearful avoidance of contact with them. It is human nature to stay away from a watchdog that constantly bares its teeth and threatens its associates. We have always found APRA to be supportive in the past and to have a cooperative approach. We recommend that the Joint Committee recommend such an approach that guides administrators and trustees to provide compliant services. Further, we recommend that any standards that are imposed, be done in a manner that they do not restrict the growth and development of business.

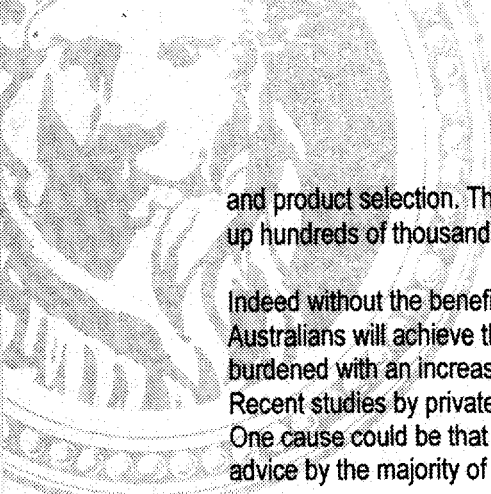
4. The role of advice in superannuation:

We believe that the provision of advice is critical to ensuring a disciplined approach to saving for retirement. Superannuation and retirement planning involves far more than simply looking at fees. Professional retirement planning advice to a client will involve consideration of issues such as the client's retirement goals, the breadth and depth of investments based upon their risk profile, salary sacrifice strategies and determining adequate levels of risk insurance. Superannuation advice will also include guidance on nomination of dependants and binding death benefit nominations. To impart an appropriate advice, it may be necessary to review assets and liabilities outside the superannuation system, security of employment, personal and family relationships, security of employment, cash flow analyses, budgeting, risk planning, estate planning as well as an assessment of the client's aspirations for physical assets and life-style. So, good financial advice does not start and end with simply advising on superannuation, but all this comes at a cost.

Unfortunately, there has been an unnecessary amount of time spent by Government and media on the matter of fees. We have over 10,000 clients and have interviewed a large number of them to enquire whether they are satisfied with our advice and support. The results have been staggeringly in our favor. It shows a lack of understanding by Government and media of the work a financial planner does. Indeed, one gets the unfortunate impression that Government recommends that all financial planning advice should be free and that only the cheapest product should be recommended, irrespective of whether it is suitable to the client.

In addition, we are concerned at the regulatory obstacles confronting the provision of affordable, high quality professional advice on superannuation. The ability for financial planners to provide advice in the area of superannuation has been rendered extremely difficult since the introduction of the FSRA reforms and Super Choice. The FSRA reforms have imposed a costly and detailed level of regulatory compliance on financial planners advising clients on superannuation and this has been further compounded by ASIC's ongoing denigration of advice and APRA's non recognition of independent planning advice in their Circular II.D.1.on super switching.

Even superannuation Product Disclosure Statements are prescribed to display a "Warning" that a lower fee can result in a higher saving. We believe that it is derogatory to have to present fees with a "Warning" sign akin to a cigarette packet that has connotations of death. As a consequence, investors could probably divert their funds to a product that could be 0.1% or 0.2% cheaper, but not realized that they could have earned 3% to 5% more on their assets through careful financial planning, risk profiling



and product selection. They might have saved \$10,00 to \$15,000 on their fees over a lifetime, but ended up hundreds of thousands of dollars worse off.

Indeed without the benefit of ongoing professional advice it is unlikely that a large percentage of Australians will achieve their retirement goals at a time when the Federal government is going to be burdened with an increasingly aging population and continuing demands on the Age Pension system. Recent studies by private sector institutions have shown that Australians are not ready for retirement. One cause could be that the Government and media are frightening the public away from good quality advice by the majority of the industry.

We would urge the Committee to recommend the reduction of overly complex regulation in order to promote the provision of appropriate scalable advice on superannuation to all sectors of the community.

5. The meaning of member investment choice:

We believe it should be sufficient, but not all encompassing choice to allow tailoring of a savings plan over an investors investment life cycle. Most superannuation members are unaware of the nature and behaviour of financial products and markets. They are largely driven by greed and fear. There is a phenomenal amount of information on the Internet, but little knowledge. Young investors may be investing in defensive assets or default funds, when they should be explained the risks and rewards of investing in growth assets.

More and more choice of investment options could mean more trading by investors. Recent studies in the U.S. have revealed that persons (these are reasonably high net worth, who supposedly know about investment markets) who have traded investment frequently have not even earned half the returns from the share market over a number of years.

6. Responsibility of a trustee in a Member Choice Situation:

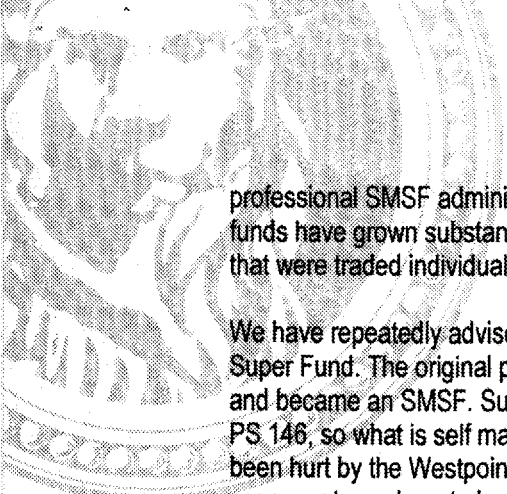
A Trustee has an onerous responsibility towards ethical conduct and action. However, it is difficult for a trustee to offer suitable products when confronted by a barrage of adverse comments on its ability to charge appropriate fees. The focus should be removed from fees to a trustee's ability to offer accurate administration with timely reporting and investment choices that span from defensive to high growth. Diversification across investment management styles and securities should be paramount.

In addition, we are concerned that while the media and regulators are promoting the "choice" phenomenon, trustees might become saddled with any claims that may be made by members who might have made their own choices.

Unfortunately, while public offer funds have been asked to impose restrictions on exposure to "perceived risky investments", there is no such demand on the trustee of a Self Managed Super Fund. It is Self Managed Super Funds that are more the likely to deliver sub standard benefits to their members and unless the Government takes steps in this direction, it will clearly be held responsible for any poor outcomes that may ensue.

7. Growth of Self Managed Super Funds:

There has been a large reported growth in SMSF's. The bulk of the growth came about during the 1999 to 2003 period when financial markets were delivering poor results and share markets were extremely volatile. Disgruntled individuals believed they could do it better than investment professionals and fund managers. Pushed ahead by accountants who derive fees for administration of such funds and



professional SMSF administration companies as the panacea for control of ones retirement future these funds have grown substantially. Much of the money was invested in cash, direct property and shares that were traded individually with the help of a stock broker.

We have repeatedly advised the Tax Office and the FPA to force a change of the name Self Managed Super Fund. The original product was called a Do It Yourself Fund until it became a little more complex and became an SMSF. Such funds cannot even be advised upon by advisers who have qualified with a PS 146, so what is self managed about them. It is our belief, that a large number of persons who have been hurt by the Westpoint scandal would have been operating their own SMSF's and now looking for a scapegoat on whom to lay the blame for their decisions.

Self Managed Super Funds appear to give the perception of being cheaper and allowing control and this is touted as the key reason for their growth by administration companies and accountants. In reality there is very little control and generally a high level of risk in the choice of investments for which investors have little information or research or even the time to research. A family that is part of a SMSF may therefore suffer, because one member, without investment education or experience, naively believed himself/herself to be an investment expert .

8. Demise of Defined Benefit Funds: No Comment

9. Cost of Compliance:

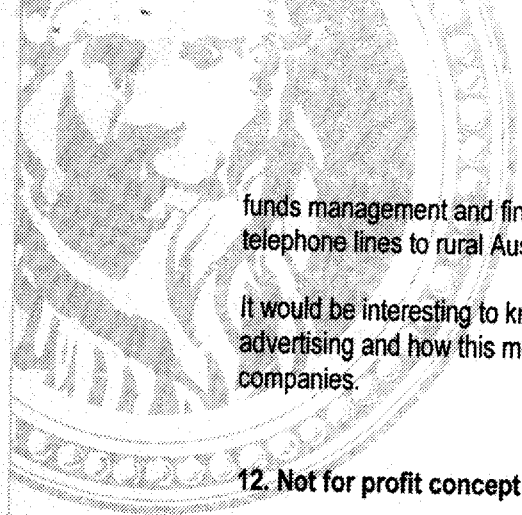
The cost of compliance is becoming prohibitive. The only ones who are winning are the legal practitioners. Some 30% to 40% of our time is spent on compliance reviews, training, supervision and controlling. All this is quite unproductive and expensive as lawyers and compliance specialists have to be employed by businesses for this purpose. Excessive documentation, supporting materials, explanations that have no importance to investors are now paramount. The actual strategy that benefits investors and how it will lead them to financial independence is being hidden under a mountain of paper that is required to be provided for compliance purposes. The Regulators and media have unwittingly painted the entire industry with the same tarnished brush because of a few unreliable and unethical participants who breach the system from time to time. Action is needed by Government to free the industry from the burden of compliance.

10. Funding arrangements for prudential regulation:

When the funding program began, the industry was advised by the Regulators that it would be a scaled fee and capped at an upper limit. The limits have been raised and not only that, there are new "uncapped fees" now being introduced. Why do honest industry participants have to bear the brunt of fraudulent players. The private sector pays for such levies from its own corpus of resources, but there is talk that "not for profit" funds and industry funds are paying such levies out of the assets of a super fund and not the reported fees they charge. Each party should be asked to self regulate and those who willfully defraud their members should be liable. The number of super funds with licenses has fallen substantially and we expect that so should supervision costs by the same percentage.

11. Promotional advertising as a cost to the fund:

Industry funds are known to be charging their funds for advertising. Much of this is done during prime time viewing and is costing their members millions of dollars that could well be credited to member accounts. As well, we are of the opinion that the salaries and expenses of not for profit funds and industry funds are being paid by members. We cannot understand what benefit industry groups and unions can gain by participating in the financial services industry. Even Telstra for example is in the



funds management and financial planning game. Should they not be focusing their energies to providing telephone lines to rural Australia.

It would be interesting to know how many millions of dollars have been spent by industry funds on advertising and how this money would have benefited their members instead of the television companies.

12. Not for profit concept:

There is no such thing in our view. All operational costs are paid by members and it is not yet proven that such superannuation funds are operated efficiently. Staff, office rents, salaries and bonuses are all paid out of the assets of such funds, which also levy the usual administration and investment fees. They should all be put on a level playing field with the private sector and run as businesses.

13. Benchmarking Australia:

We would not be interested if it were to add additional cost burdens on members and operators of superannuation funds.

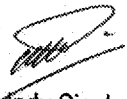
We have done our own investigation of financial planning practices in the US and the UK. Australia would score much higher than these countries.

14. Compensation for theft and fraud:

Trustees should be carefully reviewed at the time of licensing. As stated earlier, we would not like to be penalized because another trustee committed a fraud or was negligent.

We trust we have given you sufficient material for evaluation of the industry structure.

Yours sincerely



Indy Singh
Managing Director