

Chapter Four

Disclosure and Education

Introduction

4.1 This chapter examines:

- a) Financial disclosure standards in Australia, with particular reference to the *Financial Services Reform Act 2001* (FSR Act), product disclosure statements and regulation 6.34(3) of the Superannuation Industry (Supervision) Amendment Regulations 2003; and
- b) Financial education standards in Australia.

Financial disclosure standards in Australia

Financial Services Reform Act 2001

4.2 In its September 2002 consultation paper, Treasury noted that portability must be accompanied by an appropriate product disclosure and consumer protection regime. Treasury acknowledged that members must be able to make informed decisions and compare alternative superannuation products.

4.3 Disclosure requirements for superannuation funds are now provided under the Corporations Act, as amended by the FSR Act, which commenced on 11 March 2002 (subject to certain transitional arrangements). The disclosure obligations include a requirement that fund trustees provide members with certain information after each reporting period (usually 12 months). That includes amongst other things:

- a) The amount of the member's withdrawal benefit at the start of the reporting period, the amount of the member's withdrawal benefit at the end of the reporting period, the method by which that amount was worked out, and the proportion of that benefit that must be preserved;
- b) The amount payable on the member's death and details of any disability benefits;
- c) A description of the fund's investment strategy and investment objectives;
- d) A statement of fund assets and information on the fund's rate of net earnings; and

- e) Information relating to the fees, charges, expenses and administrative or other operational costs of the fund and the amount of fees and charges deducted by the fund from any account held in respect of the member.¹

4.4 The issue of disclosure and the FSR Act was raised by a number of parties in their written submissions. For example, Mercer suggested that with the FSR Act disclosure requirements only coming into force in March 2004, more time needs to be allowed to gauge the effectiveness of that legislation before the introduction of portability.² This was reiterated by MTAA Super,³ SOS⁴ and the ACA. The ACA stated:

Much has been made of the capacity of the Financial Services Reform Act 2001 to lift standards in the financial services industry, by requiring enhanced training and qualification, better disclosure and improved consumer protection processes. However, many of these reforms are still untested, and while ACA hopes they will live up to the overall promise of the legislation to promote ‘informed and confident decision-making’ by Australian consumers, evaluation of the efficacy of these measures must be undertaken before the introduction of further sweeping changes, such as superannuation choice or portability.⁵

4.5 The Committee notes that similar concerns were also expressed in hearings by Mr Ward from Mercer⁶ and Mr Shallue from IAA.⁷

4.6 In response to these concerns, IFSA argued in its written submission that the FSR Act reforms will achieve effective disclosure, reinforcing in turn consumer sovereignty.⁸ This was reiterated by Mr Gilbert from IFSA in evidence on 31 July 2003:

We have just passed perhaps the most impressive and far-reaching disclosure regime ... and we should have faith in that regime.⁹

1 Commonwealth Treasury, *Portability of Superannuation Benefits*, pp. 18-19.

2 *Submission 17*, Mercer, pp. 2-3.

3 *Submission 6*, MTAA Super, p. 5.

4 *Submission 19*, SOS, p. 2.

5 *Submission 32*, ACA, p. 3.

6 *Committee Hansard*, 1 August 2003, p. 26.

7 *Committee Hansard*, 1 August 2003, p. 39.

8 *Submission 21*, IFSA, pp. 1-2.

9 *Committee Hansard*, 31 July 2003, p. 31.

4.7 Similarly, Mr Hristodoulidis from the FPA argued in evidence on 31 July 2003 that the FSR Act provides the world's best consumer protection, and that it should be given an 'opportunity to bite'.¹⁰

Product Disclosure Statements

4.8 In its written submission, IFF recommended that in addition to the FSR Act reforms, portability needs to be accompanied by a number of other member safeguards. For example:

- a) fee disclosure should be in dollar terms as well as in formulaic terms, and should include a 'whole of working life' figure; and
- b) the assumed account balance should reflect the long-term savings nature of superannuation and should be based on a substantial sum, eg \$100,000.

4.9 AIST also argued in its written submission that portability should be accompanied by greater consumer protection, including requiring all fees and charges of the relevant funds to be set out in dollar terms in writing.¹¹ This was reiterated by Ms Ryan from AIST in the hearing on 31 July 2003:

We believe that the cost of moving your money around, with exit fees in particular, needs to be very well disclosed in very accessible terms so that members know when they join a fund exactly how much it will cost them should they wish to move money out of that fund. That is not the case as we speak.¹²

4.10 Given these concerns, the Committee notes that on 5 August 2003, the Australian Securities and Investments Commission (ASIC) released its new good practice model for fee disclosure in the Product Disclosure Statements of investment products. The development of this model followed the release in September 2002 of Professor Ramsay's report *Disclosure of Fees and Charges in Managed Funds*, which was commissioned by ASIC.

4.11 The new model is designed to give investors access to clear, concise and comprehensive information about the fees they will pay for an investment product. The model aims to address issues identified in Professor Ramsay's report as requiring attention, including:

- The use of common terms;
- Standardised descriptions;

10 *Committee Hansard*, 31 July 2003, p. 61.

11 *Submission 11*, AIST, p. 2.

12 *Committee Hansard*, 31 July 2003, p. 19.

- Disclosure of the purpose of particular fees;
- Improved disclosure of adviser remuneration; and
- Transparency of fees.¹³

4.12 The Committee notes, however, concerns expressed by ASFA and others that fees can still be shown either in percentage or dollar terms, and in pre-tax or after-tax form. In addition, disclosure of so-called ‘soft-dollar perks’ remains difficult.

4.13 The Committee also notes a report in the *Australian Financial Review* dated 6 August 2003 in which Professor Ramsay indicated that the new fee disclosure model still leaves two issues outstanding for further development down the track:

- a) The disclosure of fees and charges in superannuation fund member statements (as opposed to prospectuses or product disclosure statements); and
- b) The impact that fees and charges will have on the future returns of a fund, based on appropriate and clear disclosure of assumptions.¹⁴

4.14 In its written submission, the ACA acknowledged that the recently-released ASIC fee template is a good first step in the disclosure of fees and charges, but that much more needs to be done before consumers could reasonably be expected to understand fees and charges across different products, and exercise portability and choice to their advantage.¹⁵

Regulation 6.34(2) disclosure

4.15 The Committee notes that in the gazetted Superannuation Industry (Supervision) Amendment Regulations 2003, the Government included regulation 6.34(3) which states:

Before a trustee or a regulated superannuation fund or an approved deposit fund rolls over or transfers the amount, the trustee must be satisfied that the member:

- a) is aware that the member may ask the trustee for information that the member reasonably requires for the purpose of understanding any benefit entitlements that the member may have, including
 - i) information about any fees or charges that may apply to the proposed roll over/transfer; and

13 ASIC Media Release, ‘ASIC Releases Fee Disclosure Model’, 5 August 2003.

14 Australian Financial Review, ‘More needs to be done: Ramsay’, 6 August 2003, p. 45.

15 *Submission 32*, ACA, p. 3.

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- ii) information about the effect of the proposed roll over/transfer on any benefit entitlements the member may have; and
 - b) does not require such information.

4.16 In evidence to the Committee on 1 August 2003, Ms Rubinstein from the ACTU argued that this new regulation does not go any way towards the kind of disclosure and information required.¹⁶

4.17 In addition, Ms Galbraith from Superpartners expressed concern that it is unclear how this mechanism is meant to work, and that it may potentially become a ‘rubber stamp exercise’.¹⁷ This concern was also expressed by Mr Ward from Mercer:

We have not had long to analyse those—and I have not had a chance to discuss it with my colleagues—but I find it very unclear what those requirements impose on trustees. I think those rules would certainly need to be clarified.¹⁸

4.18 The Committee also notes the evidence of Mr Shallue from IAA on 1 August 2003. Mr Shallue raised concern whether there is sufficient protection for trustees and employers against the possibility that a member makes a poor investment decision, and later tries to sue the employer or trustee for allowing them to make that poor decision. In particular, Mr Shallue argued that regulation 6.34(2) is very much open to interpretation.¹⁹ This concern was also raised by Ms Kelleher from CPA Australia.²⁰

Financial education standards in Australia

4.19 In addition to concerns in relation to financial disclosure standards, various parties to the inquiry submitted that individual employees in Australia lack the financial education necessary to make informed decisions about portability of superannuation.

4.20 In its written submission, CPA Australia highlighted that information from CPA’s membership indicates that the level of superannuation awareness and understanding amongst CPA clients is in the extremely poor to poor categories. CPA attributed this largely to the complexity of Australia’s superannuation system and the perception that the superannuation rules and regulations are subject to continual change. Accordingly, CPA argued that portability, with or without choice, will only be

16 *Committee Hansard*, 1 August 2003, p. 47.

17 *Committee Hansard*, 1 August 2003, p. 14.

18 *Committee Hansard*, 1 August 2003, p. 27.

19 *Committee Hansard*, 1 August 2003, p. 43.

20 *Committee Hansard*, 1 August 2003, p. 52.

effective if it is supported by a comprehensive government funded education program.²¹

4.21 Similarly, in its written submission, AAS noted ongoing concerns that there is a general lack of financial literacy in the community, particularly in relation to superannuation. AAS suggested that this problem is exacerbated by the large number of young superannuation fund members who see superannuation only as an issue for many years in the future.²² Similar positions were expressed by Cbus²³ and ASFA in their written submissions.²⁴

4.22 In addition, concerns regarding the financial literacy of Australians, especially as regards superannuation, were also raised in hearings. For example, Mr Watson from MTAA Super stated:

... I do not subscribe to the view that we can throw a lot of money at the tax office and have an informed education campaign which in six or 12 months will improve that. The education campaign that has to occur in terms of superannuation and retirement savings is generational – it is going to take that long – but we have to start somewhere. ... I think it needs to be in the curriculum in schools, it needs to be taught in universities, it needs to be taught in the workplace, it needs to be done by funds and it needs to be done by government.²⁵

4.23 Similar concerns were expressed by Mr Silk from IFF²⁶ and Ms Galbraith from Superpartners.²⁷ Ms Galbraith also highlighted the findings of the recent ANZ financial literacy survey²⁸ which found that while investment fundamentals are well understood, with 85 per cent of people knowing that high returns equal high risk, nevertheless investors are potentially susceptible to misleading claims, with 47 per cent indicating that they would invest for ‘well above market rates and no risk’. Furthermore, the ANZ survey found that of those surveyed:

- 55 per cent had little understanding of fees;
- Only 54 per cent understood that superannuation had concessional tax treatment;
- Only 25 per cent really understood compound interest;

21 *Submission 13*, CPA, p. 1.

22 *Submission 18*, AAS, p. 5.

23 *Submission 16*, Cbus, p. 3

24 *Submission 2*, ASFA, pp. 3-4.

25 *Committee Hansard*, 31 July 2003, p. 11.

26 *Committee Hansard*, 1 August 2003, p. 2.

27 *Committee Hansard*, 1 August 2003, p. 17.

28 See ANZ Media Release, ‘ANZ Releases Australia’s First Financial Literacy Survey’, 2 May 2003.

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- 32 per cent thought that a bank account was a suitable investment for retirement; and
 - Only 19 per cent could name a single disadvantage of having a managed fund, such as a decline in value of the fund.²⁹

4.24 The Committee notes that in its written submission, the FPA indicated that it is a strong advocate of Government, regulators and the industry continuing to educate consumers about superannuation. It noted that it produces a publication ‘Don’t Kiss your Money Goodbye’ in conjunction with ASIC, and proposed the development of a new publication, ‘Don’t Kiss your Super Money Goodbye’.³⁰

An education campaign

4.25 In its September 2002 consultation paper, Treasury indicated that it would conduct an education campaign prior to the commencement of portability. The campaign would be designed to meet the information needs of both fund trustees and fund members.³¹

4.26 The need for an education campaign on portability was raised by various parties to the inquiry. For example, the ACA argued that more funding needs to be allocated to superannuation education.³² The AIG restated its position on education from its August 2002 submission on choice:

... there is an important need for the provision of a comprehensive and effective education campaign by the Federal Government, together with greater transparency, simplicity and consistency in prospectus material and issues such as fees and investment performance (both historical and projected). Irrespective of how portability and choice of fund are ultimately structured, the fundamental requirement for informed choice of fund selection (original and transfer via portability) remains.³³

4.27 Similarly, in its written submission, SOS argued that the draft regulations should prescribe how education measures will be delivered and paid for. SOS also suggested that all funds be provided with Government assistance to educate their members, based on a flat dollar per head amount.³⁴

4.28 The Committee notes that there is no prescription of how education measures will be delivered and paid for in the gazetted regulations.

29 *Committee Hansard*, 1 August 2003, p. 14.

30 *Submission 24*, FPA, p. 3.

31 Commonwealth Treasury, *Portability of Superannuation Benefits*, p. 21.

32 *Submission 32*, ACA, p. 3.

33 *Submission 5*, AIG, p. 2.

34 *Submission 19*, SOS, p. 2.

4.29 The Committee notes that similar matters were raised in hearings. Ms Kelleher from CPA Australia argued in the hearing on 1 August 2003 that portability and choice should be implemented only after there has been an adequate member education program undertaken by Government.³⁵

4.30 The Committee also notes that in the hearing on 31 July 2003, Capt. Woods from SOS specifically raised whether the Government should be prepared to assist funds in providing education assistance to their members by providing them with financial assistance.³⁶

4.31 In the hearing on 13 August 2003, the Committee raised the delivery of an education campaign on portability, and whether the \$28.7 million allocated by the Government over four years in the 2002-2003 Budget applied specifically to choice, or to both choice and portability.

4.32 In reply, Treasury indicated in its response to questions on notice dated 18 August 2003 that the education campaign would target both choice of fund and portability. An extract from the 2002/03 Budget Paper No 2 states:

The Government has allocated \$28.7 million for the Australian Taxation Office to administer choice of superannuation and undertake an extensive community education campaign to inform employees and employers of their rights and obligations in relation to choice of superannuation; and inform superannuation funds and their members about portability of existing superannuation balances. The Government will give employees the choice to determine the superannuation fund into which their Superannuation Guarantee contributions are paid, and allow members of accumulation funds to move existing benefits to their fund of choice.

These policies will increase competition, efficiency and performance within the superannuation industry and benefit members through lower fees and charges and increased returns.

This measure will involve expenditure of \$12.7 million in 2002-03, \$10.3 million in 2003-04, \$3.4 million in 2004-05 and \$2.3 million in 2005-06 which is being fully absorbed within the existing resourcing of the ATO.³⁷

35 *Committee Hansard*, 1 August 2003, p. 51.

36 *Committee Hansard*, 31 July 2003, p. 67.

37 Cited in Treasury, Response to Questions on Notice, 18 August 2003, p. 3.