Senate Select Committee on Superannuation and Financial Services

Main Inquiry
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Inquiry into superannuation and financial services

Please find attached NRMA's submission to the Senate Select Committee's inquiry into:

a) prudential supervision and consumer protection for superannuation, banking and financial services;

b) the opportunities and constraints for Australia to become a centre for the provision of global financial services; and

c) enforcement of the Superannuation Guarantee Charge.

If the Committee would like to discuss in more detail any of the issues that are raised in our submission, please do not hesitate to contact me on (02) 9292 8299.

Yours sincerely

Ardele Blignault

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NRMA SUBMISSION TO SENATE SELECT COMMITTEE ON SUPERANNUATION AND FINANCIAL SERVICES

Executive Summary

- Any changes to the broader consumer protection regulatory environment for financial services should be consistent with the provisions of the final FSR Bill.
- ASIC and the Federal Government should work with the financial services industry to encourage the development of standards for comparing fees and benefits for financial services products, particularly for investment and retirement products.
- The ATO should be able to administer "unclaimed money" (for retirement accounts) along with "lost members" and make a concerted effort to track down the member via the Tax File Number system.
- Where the ATO cannot find the member/executor for unclaimed funds, the funds should be used to help offset lost employee superannuation entitlements.
- The Federal Government should take into consideration the impacts on the international competitiveness of Australia's financial services sector when developing legislation and regulations.
- As far as possible, there should be consistency in the diverse range of policies that impact on the financial services sector.
- The ATO should improve the level of information and assistance that is given to employees or ex-employees who pursue their entitlements through the Tax Office.
- NRMA suggests that legislation should require employers to meet Superannuation Guarantee Charge (SGC) obligations at least quarterly.
- The PAYG system could be used to report on the quarterly (or monthly for large businesses) SGC obligations, and fines imposed

through this reporting channel if SGC commitments are not met at least at the required frequency.

Background

The NRMA Group incorporates Australia's largest motoring organisation, and the largest car and home insurer. NRMA Ltd has 1.87 million members of its road service operations, while NRMA Insurance Ltd has more than 3 million insurance and financial services customers. The insurance company currently has a total of 6.3 million insurance policies on issue.

The NRMA Group's mission is to be the organisation that people turn to for help with their motoring, home and financial services needs. A key platform of NRMA's strategy is to further expand its already strong presence in the financial services sector. Consequently, we are extremely interested in issues relating to the development and regulation of the sector. As an organisation that is based on developing a relationship of trust with our customers we are also particularly interested in issues relating to consumer protection.

It is against the above background that NRMA welcomes the opportunity to provide comments to the Senate Committee on Superannuation and Financial Services. The following comments relate to the Committee's inquiry into:

a) prudential supervision and consumer protection for superannuation, banking and financial services;
b) the opportunities and constraints for Australia to become a centre for the provision of global financial services; and
c) enforcement of the Superannuation Guarantee Charge.

1. Consumer Protection Issues

1.1 The Financial Services Reform Bill (FSR Bill)

Any consideration of consumer protection for superannuation and other financial services would be incomplete without an assessment of the impact of the proposed FSR Bill. Draft provisions of this Bill were released in February 2000, and NRMA is currently in the process of preparing detailed comments on the draft Bill. A copy of NRMA's comments on the Bill will be provided to the Committee once they have been finalised.

The broad thrust of the FSR Bill is to provide a uniform and consistent regulatory framework across all types of financial products and financial services providers. In particular, the proposed Bill will create a single licensing regime for all providers of financial services, and consistent and comparable disclosure requirements for financial services licensees and products. As well as improving consumer protection, the FSR Bill is also intended to assist business through reducing administrative and compliance costs.

NRMA supports the underlying philosophy of the FSR Bill. Ensuring an adequate level of consumer protection will help to promote greater consumer confidence in the financial services sector, and this will have flow-on benefits to the industry as consumers become more prepared to increase their savings and invest in a wider range of financial products. Financial services providers and their customers should also benefit from any reduction in compliance costs.

While we support the philosophy behind the FSR Bill, we do have some concerns, especially about its application to low-risk financial products such as general insurance and deposit accounts. These types of financial products are low-risk and relatively well understood by consumers, and existing licensing and disclosure procedures already provide a high level of protection for consumers of these products.

Introducing a 'one size fits all' approach to the regulation of all financial products, regardless of the risk level associated with each product, will effectively result in too onerous a level of regulation being applied to some financial products. This will ultimately be to the detriment of consumers, because costs will increase and there will be no offsetting improvement in consumer protection. Our main concerns with the Bill, which will be addressed in detail in our submission, are:

- The 'advice' definitions included in the FSR Bill will potentially capture the straightforward exchange of information between customer and employee that typically occurs for general insurance and deposit account transactions - this in turn will trigger the various disclosure and other requirements of the Bill;
- Many of the potential disclosure requirements are quite new for the general insurance industry and, in our view, inappropriate given the already high level of disclosure and consumer protection that exists in this industry. The additional requirements are likely to be costly to businesses and their customers and, moreover, may

deter people from even purchasing general insurance. This would increase the already high level of non-insurance that exists in the community.

- There is some uncertainty about how the financial services provider licensing requirements will apply to conglomerates and group companies. This is an important issue given the commercial reality that exists whereby many financial services providers consist of an overall holding company with a number of subsidiary companies within the group. To avoid unnecessary costs, NRMA supports a flexible approach being adopted on this issue.

Recommendation:
Any changes to the broader consumer protection regulatory environment for financial services should be consistent with the provisions of the final FSR Bill.

1.2 Consumer Protection for Superannuation

There is a great deal of confusion among consumers when it comes to superannuation, in part because of its complexity and the ever changing rules. Complexity and confusion serves to restrict the market for such products by dissuading investors from taking an active interest in their super, or to make further contributions over and above the Superannuation Guarantee Charge minimum.

As noted above, the introduction of the FSR Bill will go some way toward introducing consistency in disclosure and protection for retail investors. However, a new format for customer information brochures will not be the total solution to providing investors with the tools necessary to make informed decisions. Investors will still be confused by the terms and rules attached to super. For example, there is widespread confusion and lack of understanding in the community over much of the industry's terminology. For example, there is confusion over terminology such as:
- Reasonable Benefit Limits (RBLs);
- preserved and unpreserved components; and
- defined benefits vs. accumulation funds.

Similarly, there is also confusion over the rules covering:
- capital gains treatment in superannuation;
- the numerous tax treatments;
- roles of trustees;

- nomination of beneficiaries; and
- product options at retirement.

Also, whilst there are many product variations that can be beneficial to the consumer in terms of choosing combinations of products that suit their needs, this can also cause even greater confusion. This highlights the need for an improved level of information to be provided to the consumer.

One of the most important aspects for a consumer is the comparison of cost versus benefits, and the industry would go a long way to addressing the plethora of confusing areas if a standard for comparing fees and benefits were to be agreed. Presently it is virtually impossible to compare the complex array of fees and benefits from one fund to another. Consumers need to be able to do this if informed decisions are to be made.

Several attempts have been made at standardising fee comparisons in the past, but none have received wide support. The Industry and Consumer Associations in conjunction with ASIC need to address this situation, which currently sees investors unable to compare like with like and not know the differences in the real price or benefits from one fund to another. This situation has unfortunately been accepted rather than questioned.

Lending institutions have a similar situation, but in a less sophisticated product i.e. home loans. The Australian Consumers Association is currently pushing to have a standard along the lines of the *Average Annualised Percentage Rate* (the AAPR) disclosed so that a cost comparison can easily be done by consumers. Only some lending institutions are presently taking an advocacy stand and adopting the AAPR.

Other very important areas for consideration under "consumer protection" issues, are "lost members" and "unclaimed money". A trustee must remit the member's balance to either the ATO or the State Government respectively when certain conditions are met and the member is deemed to be "lost", or the money is deemed to be "unclaimed".

Unfortunately, little effort is made by these bodies to reunite the funds with their rightful owners. Even more unfortunately, these funds should not be treated as a windfall for the ATO and State Governments who are in a better position than the trustee to identify and contact the member concerned, but little is done in addition to maintaining a register of accounts.

The ATO should be able to administer both "unclaimed money" (for retirement accounts) along with "lost members" and make a concerted effort to track down the member via the Tax File Number system. If the member (or executor) cannot be found by the ATO, then the unclaimed funds could be used to help offset lost employee superannuation entitlements.

Recommendations:

1. ***ASIC and the Federal Government should work with the financial services industry to encourage the development of standards for comparing fees and benefits for financial services products, particularly for investment and retirement products.***

2. ***The ATO should be able to administer "unclaimed money" (for retirement accounts) along with "lost members" and make a concerted effort to track down the member via the Tax File Number system.***

3. ***Where the ATO cannot find the member/executor for unclaimed funds, the funds should be used to help offset lost employee superannuation entitlements.***

2. Opportunities and constraints for Australia to become a centre for the provision of global financial services

NRMA notes that a key platform of the Federal Government's policy in the financial services area is to implement policies that promote Australia as a global centre for the provision of financial services. In regard to this issue we offer the following comments:

- As a general comment it is important that the impact on Australia's international competitiveness is taken into account in developing policies for the financial services industries. This is particularly important given the diverse range of policies that could potentially impact on the industry, including the FSR Bill, the GST, business taxation, e-commerce policies, privacy policies, and superannuation policies.
- As noted above in our comments on the FSR Bill, there is a risk of over-regulating some financial services industries. This would add to costs for business and consumers, and reduce the attractiveness of Australia as a financial centre. Australia will only be able to compete internationally if Australian business is not burdened by unnecessary regulation.

- Introducing or amending legislation that affects the financial services industry also needs to be considered in the context of the current round of international trade negotiations. The local regulatory environment will be an important factor in influencing the decision of overseas companies to set up in the Australian market. Therefore, it is important that the regulatory environment facing business is not too onerous, while still ensuring that regulation provides adequate consumer protection.
- The issue of international competitiveness will become even more important as the trend towards globalisation of financial services markets continues. For example, the expansion of the Internet as a sales and distribution channel may create incentives for consumers to purchase financial services over the Internet from less regulated markets than Australia. Such a trend would result in Australian businesses losing market share to countries with a less heavily regulated financial services industry.

Recommendations:

1. The Federal Government should take into consideration the impacts on the international competitiveness of Australia's financial services sector when developing legislation and regulations.

2. As far as possible, there should be consistency in the divergent range of policies that impact on the financial services sector.

3. Enforcement of the Superannuation Guarantee Charge

As witnessed of late through the media, employee entitlements can be difficult to recover where an employer becomes bankrupt. Specifically, superannuation entitlements are often not provided for where companies are in financial hardship.

Unfortunately, there are often few warning signs that might flag a problem with the employer's ability to meet employees' entitlements, and by the time anything is known about the state of financial distress, it is quite often too late. Commonly, when employees are terminated in these situations they learn that their superannuation entitlements have not been paid, and there is little prospect of receiving full payments for accrued leave (annual and long service), bonuses and so on.

Recently, the ATO was audited for its part in administering payment of the superannuation guarantee and whilst it was given the "all clear" so far as its processes were concerned, there is much that can be improved from an employee's point of view. For example, where employees or ex-employees pursue their entitlements through the Tax Office, they are often given little information or assistance with their case.

NRMA suggests that legislation should require employers to meet Superannuation Guarantee Charge (SGC) obligations at least quarterly. This would help to reduce the risks associated with employers not being able to meet large superannuation cash payments that have accrued to the employees' benefit but haven't been paid by the employer. Businesses who do not properly budget for a large cash outflow that a once or twice a year payment requires can get into difficulty in trying to meet the commitment.

Holding back the payment of benefits is to the employees' detriment. The less frequent the payments, the more disadvantaged the employee is with regard to lost earnings on contributions that would otherwise be earning income for their superannuation account. Having contributions made regularly also smooths the volatility that can be experienced with irregular lump sum contributions. Regular contributions also helps to remove the risk of employee's insurance lapsing. It should be noted that most responsible employers pay SGC entitlements on a monthly basis.

What is required is a combination of an educative approach to both employers and employees, coupled with legislative changes to ensure that SGC payments are made at least quarterly. The PAYG system could be used to report on the quarterly (or monthly for large businesses) SGC obligations, and fines imposed through this reporting channel if SGC commitments are not met at least at the required frequency.

Legislating for SGC payments to be made at least quarterly (or monthly for large reporting businesses), will go at least some way to protecting the interests of employee superannuation entitlements, and using the PAYG system for compliance monitoring would be an inexpensive way for the ATO to administer the process.

Recommendations:

1. ***The ATO should improve the level of information and assistance that is given to employees or ex-employees who pursue their entitlements through the Tax Office.***

2. ***NRMA suggests that legislation should require employers to meet Superannuation Guarantee Charge (SGC) obligations at least quarterly.***

3. ***The PAYG system could be used to report on the quarterly (or monthly for large businesses) SGC obligations, and fines imposed through this reporting channel if SGC commitments are not met at least at the required frequency.***

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