

29 January 2002

Ms Ruth Smith
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Financial Markets Division
The Treasury
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By Email

Dear Ms Smith

FSR Regulations

Thank you for the opportunity to discuss the second tranche of the regulations on Tuesday, 22 January 2002.

There are several submissions which I wish to make. These reflect the comments made on Tuesday:

1. I am concerned that the combination of the proposed regulation 7.1.08A, in so far as it includes "personal advice" together with the very broad definition of "personal advice" in the Act, will have a detrimental effect on members of employer sponsored funds. This is so because the only information which the members receive about the fund and their options is contained in what will now be Product Disclosure Statements. While I appreciate the desire that persons providing financial advice be licensed, the very broad definition of "personal advice" may lead to the conclusion that members are deprived of information they need in order to ascertain whether they should seek appropriate advice. Typically, those members are not discretionary investors but rather persons in respect of whom employers are required to make contributions.

FSR was passed on the basis that non-public offer corporate superannuation funds are not required to be licensed if they provide information rather than investment advice

I am also conscious of the need to ensure that "real" personal advice as opposed to "deemed" personal advice should be provided by licensed persons and that there is a concern about an abuse here.

What I think is needed is a recognition that information of a very general type which is provided to employer sponsored members, and which is expressed not to be personal advice should be permitted. It should also be noted that there is no intention here to gather funds under management but rather to simply provide general information which would not be considered personal advice but for the extended definition in the Act.

2. I note it was agreed that regulation 7.1.08A(3) would be amended to include documents issued by non public offer superannuation funds.

In this regard, I think it is important that the regulations specifically recognise the reality of the current employer sponsored superannuation arrangements which are not publicly offered and amendment is welcomed to clarify this differentiated position.

3. **Confirmation of contributions**

The relevant regulations are extremely complex and almost incomprehensible. My submission is that the regulations should specify in clear and unambiguous terms that employer sponsored superannuation arrangements are exempt from giving confirmation in respect of "regular" contributions.

At present, members already receive equivalent information through annual statements showing contributions received, a pay slip which indicates that contributions have been paid. Further, members have access to an enquiry system which enables them to enquire as to their accounts.

While I appreciate the regulations do recognise some of these issues, unless a general exemption is granted along the lines suggested, it would prove administratively difficult and costly to determine whether confirmations are required or not under the draft regulations.

In the case of corporate superannuation funds, the question is not to confirm that contributions have been received but rather to advise members when they have not been received.

This is another example of rules appropriate to managed investments being applied inappropriately to the employer sponsored superannuation environment.

The need to provide such information is not only redundant and inappropriate, but the cost of such provision is prohibitive and would reduce members' benefits. For example, the direct cost of contacting a member is estimated between \$1.00 to \$1.50 per contact and where a fund has say, 500,000 active members, the cost of confirming receipt of contributions would be upwards of \$10m per year.

It is submitted that this proposal is inappropriate, unwarranted and detrimental to members' best interests.

It is submitted that members of corporate superannuation funds neither want nor need to receive confirmation of receipt of regular contributions and that the regulations should make it clear that non public offer funds are not required to confirm the receipt of regular contributions (i.e. contributions received from the employer sponsor under an arrangement with the Trustee (responsible entity)). The exemption should also extend to regular voluntary contributions made by members.

Please do not hesitate to contact me if you wish to discuss the position made further.

Yours sincerely

Mark N. Cerché
Chairman
Corporate Super Association