



AUSTRALIAN INSTITUTE of
SUPERANNUATION TRUSTEES

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Andrew Choi, Lawyer
Financial Advisers Team
Australian Securities and Investments Commission
GPO Box 9827
Brisbane QLD 4001

By email to: acesstoAdviceconsultation@asic.gov.au

Dear Andrew,

AIST submission: ASIC CP 332: Promoting access to affordable advice to consumers

In brief: AIST proposes that ASIC further promote existing affordable advice options such as intrafund advice in superannuation, and that they be extended to cover more common advice needs. Proposals to improve use of factual information, consistent disclosure, increased certainty about the nature of advice being provided and back-office efficiency are also made.

Executive summary

AIST is an industry association representing the interests of profit-to-member superannuation funds, many of which offer or provided access to financial advice services. In addition to the points made in this submission, we also support the points made in the submissions of Industry Super Australia and Industry Fund Services.

The key points of this submission are that AIST recommends for ASIC to:

- promote greater use of existing affordable advice and remove obstacles to their use
- issue specific guidance on the provision of pre-retirement factual information
- issue specific guidance on the provision of post-retirement factual information
- offer a private ruling service on the status of new advice offers
- support the deduction of one-off advice fees from superannuation balances
- extend intra-fund advice to a household's retirement adequacy and pension eligibility
- consider improving affordability of personal advice by standardising back-office arrangements
- require advisers to provide and explain disclosure and comparison tools they use to their clients
- (with APRA) review the methodology of product dashboards
- support the extension of dashboards and heatmaps to all products

Introduction

As AIST does not provide financial advice services, and the questions posed by ASIC are largely directed towards financial advisers, this submission addresses the *Questions for other stakeholders* (Table 3: B1Q5). We have done this by responding to the themes identified in the consultation paper.

While AIST shares the widespread concern recorded in the consultation paper that consumers often find it difficult to access good-quality affordable personal advice, we also point to the fee-for-service (and of course, no commission) financial advice model offered by many profit-to-member super funds. This model has been in place for over 25 years and has provided value-for-money personal advice for many tens of thousands of fund members in that time.

While it is also the case that many consumers – including those with unmet advice needs - are reluctant to pay for personal advice, these same profit-to-member funds have pioneered the development and promotion of innovative personal advice models. This includes widespread use of intra-fund advice.

This consultation is focused on the areas within ASIC's powers to address, and therefore also the issue of regulator effectiveness. Of course, any consideration of finding affordable advice within super must also have regard to the many deficiencies identified by the FSRC in relation to culture and incentives, conflicts of interest and role confusion.

While ASIC may regard these issues as being out of scope, it should nonetheless have regard to access solutions that have the effect of addressing these deficiencies.

- **Promote greater use of existing affordable advice solutions and remove obstacles to their use**

Greater use of existing and affordable options by providers not afflicted by these deficiencies will have the benefit of diverting consumers from other conflicted providers.

In common with the Industry Super Australia submission, we call for the removal of obstacles to use of alternatives to comprehensive personal advice. This includes factual information, general advice and intra-fund advice, and should include consideration of strategic advice.

A good starting point would be clearer, unambiguous and dynamic guidance about what constitutes general advice vis a vis personal advice. Despite this being the subject of endless debate, and extensively canvassed in the 2012 RG 244 *Giving information, general advice and scaled advice* and the more recent RG 90 *Example Statement of Advice: Scaled advice for a new client*, differing views about this persist and the issue has seemed intractable.

Recent court decisions have further muddied the water and this needs to be addressed. ASIC should update their guidance about the boundaries between the provision of factual information and

general advice in light of this and continuing ambiguities, and this should also be dynamic: regularly updated and responding to actual developments in the market.

Factual information

The provision of factual information not a financial service does not require the provider to be licensed. While there should be no limitation on the provision of factual information, ASIC should nonetheless be alert to ensure that it not involve conduct that is misleading or deceptive or is likely to mislead or deceive. For example, this could be by giving a client factual information with the implication that the adviser is also making a product recommendation.

- **Issue guidance on the provision of pre-retirement factual information**

While the consultation refers to consumers throughout, consideration should also be given to the specific advice needs of retirees and those approaching retirement.

As a subset of factual information, ASIC should recognise the need for people approaching retirement to obtain information about retirement considerations, including the relationship between superannuation benefits and age pension eligibility, and issue guidance on the provision of pre-retirement factual information.

ASIC should issue guidance to promote the provision of such pre-retirement information by super funds as means of increasing member awareness. Increased awareness and understanding also acts to provide additional consumer protections.

This information can be extensive and provide case studies of retirees in different circumstances, while not providing a financial product recommendation.

- **Issue guidance on the provision of post-retirement factual information**

The financial and personal situation of people in retirement changes over time, and people may be in retirement for over thirty years. Retirees benefit from the provision of updated information about the current and future cost of living, budgeting, changes to age pension entitlements, and drawdown arrangements. Compared to the amount of information about people in the accumulation stage and those approaching retirement, there is less information for people in retirement.

The ASIC should issue guidance to promote the provision of such post-retirement information by super funds as means of increasing member awareness. Increased awareness and understanding also acts to provide additional consumer protections.

General advice

- **Offer a private ruling service on the status of new advice offers**
- **Support the deduction of one-off advice fees from superannuation balances**

The value of general advice to consumers as an affordable and accessible form of advice cannot be overstated. While consumers do not often understand the difference between general and personal advice – and may care even less - this does not reduce the value of general advice in serving the best interests of consumers on a widescale basis.

While the provision of factual information may be perceived as advice by consumers, the risk of general advice being received by consumers as personal advice is even more pronounced. However, the level of uncertainty about the boundary line can stifle the development of new advice offerings.

While increased and ongoing guidance by ASIC can assist, AIST also supports the submission of Industry Fund Services for ASIC to offer a private ruling service to enable financial advisers to consult and seek certainty during the design of new advice offers.

Currently, the cost of general (and personal) advice can be deducted from members superannuation accounts, and - consistent with AIST's submissions to Government – this should be able to continue to be the case for one-off advice. This encourages members who would otherwise be reluctant to obtain advice relevant to their circumstances to seek relevant advice that should improve their financial outcomes. This policy position should also be supported by ASIC.

Intrafund advice

- **Extend intra-fund advice to a household's retirement adequacy and pension eligibility**

Intrafund advice is a cost-effective way for super fund members to obtain advice as a part of their fund membership. The Financial Service Royal Commission found no evidence that intrafund advice had been misused or related to misconduct. On the contrary, intrafund advice provides mass-market advice very widely and successfully.

The value of intrafund advice has not however been fully or consistently utilised. There are two areas where this should be remedied.

First, clarifying the provision of intrafund advice on how the member might best provide for their retirement may provide a model for accessible advice that is not prone to misconduct. Such a model should also reflect that people commonly seek pre-retirement advice as couples/household, and that this (including consideration of a spouse's super) should be allowable within an intra-fund advice topic on retirement and paid for via existing intra-fund advice models.

Second, AIST members report that one of the main advice strategies for members in the accumulation phase leading up to retirement is increasing contributions and managing contributions for a couple's best interests.

Therefore, intra-fund advice should be extended to include a household's retirement adequacy and pension eligibility.

Promoting access to affordable personal advice

- **Consider improving affordability of personal advice by standardising back-office arrangements**

AIST agrees that the cost of comprehensive personal advice is an obstacle to accessing advice for many consumers and that direct steps should be taken to address this.

The collection of data from clients is an expensive part of the process, as is research and paraplanning.

AIST proposes an industry-lead and ASIC-supported *exploration* of the feasibility and possible effectiveness of obtaining greater consistency by market participants co-operating to solve and leverage technology across all providers and data sources. This should include identification of areas of inconsistency and where this results in inefficiencies (eg, different authorisation processes).

ASIC should also consider the use of templated fact finds and Statements of Advice for single-issue advice. This could commence with the establishment of an ASIC-lead industry working party to draft, pilot and phased implementation of such documents over a reasonable period (perhaps two years). Ultimately, this could also involve further standardisation of terms and data standards.

Strategic advice

AIST welcomes ASIC's consideration of strategic advice in the consultation paper. However, any further development of strategic advice should be undertaken with a concomitant commitment to simplifying the provision of advice. While consumers may regard "advice as just advice", the addition of new advice types may result in complexity, additional cost and provider reluctance to innovate for fear of non-compliance.

Digital personal advice

Digital personal advice has the potential to lower costs and increase accessibility. It is a vehicle that will facilitate the development of mass-market personal advice and is increasingly being developed and deployed by profit-to-member super funds.

However, some regulators and inquiries have been attracted to and encouraged the development of new digital advice services delivered by new entrants, without perhaps having corresponding regard to the need to ensure they provide robust consumer protections.

There is evidence that some entrepreneurial promoters of new products and digital advice services is largely a marketing exercise aimed at directing consumers towards products that superficially meet the needs of millennials, women or the tech-savvy. However, the reality of some of these products is that they may be high-cost, under-performing products that have vanilla investment structures.

While there may be value in facilitating digital personal advice, it must proceed hand in hand with increased vigilance to ensure consumers interests are being protected. While use of technology may support consistency, there is no inherent reason why digital solutions are any better at protecting consumer interests.

Other issues

- **ASIC should require advisers to provide and explain disclosure and comparison tools they use to their clients**
- **With APRA, ASIC should review the methodology of product dashboards**
- **ASIC should support the extension of dashboards and heatmaps to all products**

There are a range of other tools that support access, affordability and utility of advice, and should be explicitly identified by ASIC as necessary concomitants to accessible and affordable advice. Financial advisers should be required to bring these tools and comparisons to the attention of their clients. This would assist consumers to understand the relative position of products in relation to key metrics. For example, this may prompt a customer to ask why an adviser is recommending a MySuper product with relatively low net-net returns as shown on a MySuper product dashboard.

However, there are changes that should be made to these tools to improve their value as an adjunct or alternative to obtaining financial advice:

- Review of MySuper product dashboard methodology and requirements. In particular, The Standard Risk Measure should be completely redesigned.
- Extension of product dashboard requirement to all superannuation products, including closed products, single-asset class products and retirement income products.
- Continuous improvement of fee and cost disclosure, especially in relation to consumer comprehension.
- Ongoing development and refinement of the APRA MySuper Heatmap, including an improved tool for dissemination and interrogation of product data.
- Extension of APRA Heatmap to all products, including closed products, single-asset class products and retirement income products.

Having these and other easy-to-understand tools to help members understand their current product, and compare it with other products, provide a critically useful point of reference for financial advice.

For further information regarding our submission, please contact AIST Senior Policy Manager, David Haynes at dhaynes@aist.asn.au

Yours sincerely,



Eva Scheerlinck
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$1.4 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.