

In this issue:

[Update on ASIC's projects](#)

[Financial Ombudsman Service – case studies](#)

[Changes to superannuation from 1 July 2009](#)

- Temporary reduction of the super co-contribution
- Super co-contribution rates for previous years
- Reduction in concessional contributions cap
- Reforms to income tests

Update on ASIC's projects

The Australian Securities & Investments Commission (ASIC) is actively exercising its powers to regulate market conduct and improve disclosure, ASIC Chairman Tony D'Aloisio revealed in his speech to the Australian Financial Counselling & Credit Reform Association on 28 July 2009.

Tony D'Aloisio notes that ASIC has been working to build consumers confidence in the financial services industry and provides the following examples to illustrate their work.

Simple Super Advice: ASIC has released a regulatory guide (RG 200) that facilitates the provision of personal advice from superannuation funds to their members in relation to the member's existing interest in a fund (see Aon Super News 179). Tony D'Aloisio indicates that, when members get their periodic statement (this year negative returns of around 13% are reported in the media) they will be able to contact their superannuation fund to receive factual, general or personal advice.

Super risk disclosure project: ASIC is also working with the industry to improve the quality and consistency of superannuation risk disclosure. A comprehensive program of industry consultation has been completed and consultants reports are being completed. Tony D'Aloisio noted that the next step is considering options for improvement for ASIC's consideration. Part of the project involves considering consistency in labelling, as this is critical to investors' understanding of the risks associated with their superannuation investment.

External Dispute Resolution improvements: ASIC has significantly expanded access to Financial Ombudsman Service, Australia's independent external dispute resolution scheme. From 1 January 2010 schemes will be able to hear complaints up to \$500,000 and provide increased levels of redress (from 1 January 2012) of at least \$280,000. Tony D'Aloisio explained that these reforms will ensure that many more consumers and retail investors will be able to bring their claims to EDR schemes, thus avoiding expensive litigation.

Quality of financial advice project: ASIC has launched a comprehensive project designed to improve the quality of financial advice in Australia. The project involves developing benchmarks, obtaining industry data, and considering key impacts on the quality of financial advice.

Surveillance activities: ASIC is also active in monitoring financial services licensees. An example is given: in one matter a large licensee reported inappropriate advice for 4 clients. The licensee was then required to conduct a full review of all clients of a particular planner which resulted in the subsequent identification and remediation of a further 112 clients who had received inappropriate advice.

Source:

Regulatory issues arising from the financial crisis for ASIC and for investors and financial consumers, speech by ASIC Chairman Tony D'Aloisio to the Australian Financial Counselling & Credit Reform Association, 28 July 2009.

<http://www.asic.gov.au/ASIC/asic.nsf/byHeadline/AFCCRA%20Speech%20-%20Regulatory%20issues%20arising%20from%20the%20financial%20crisis%20-%20investors?opendocument>

Financial Ombudsman Service – case studies

The latest newsletter from the Financial Ombudsman Service has 3 case studies worth reviewing to understand the Ombudsman's approach to resolving disputes:

Financial planning advice: Mr and Mrs A complained about the advice they received from their bank's financial planner about how they could arrange their financial arrangements to allow Mrs A to qualify for the maximum aged pension and maximise their income. After a meeting with the bank's planner, he provided advice that Mrs A would qualify for the full pension if her term deposit monies were invested in a superannuation fund in her name and recommended investment in a bank balanced superannuation fund.

Mr and Mrs A accepted the advice and transferred the funds to the recommended fund. Mrs A subsequently reached retirement age and applied for the aged pension. However, she was subsequently advised by Centrelink that her pension entitlement was approximately half the full pension. A review of the financial planner's advice showed he had erred in his calculation. The lower pension entitlement therefore meant Mr and Mrs A's overall already modest income fell after implementing the planner's recommendation. The value of Mrs A's superannuation investment subsequently fell significantly.

The Financial Ombudsman Service's view was that the recommendation made by the planner was inappropriate given Mr and Mrs A's financial position, their historical investment profile and the resultant reduction in their income. Had the correct pension information been stated, and the appropriate recommendation supplied, it was more likely than not, in the circumstances of this case, that Mr and Mrs A would have retained their existing investment arrangements together with a part pension.

On that basis, the Financial Ombudsman Service determined that the disputants were entitled to be put back in the position they would have been had the term deposit remained in place and the bank was liable to compensate them on that basis.

Superannuation advice: Mr D alleged that the superannuation consultant agreed to advise the consumers into the future and for an indefinite period of changes to the superannuation rules which would prevent them withdrawing their contributions without incurring tax or other penalties.

Eight years after initial contact, changes to superannuation rules meant that a component of Mr and Mrs D's superannuation contributions would be taxed substantially if it were withdrawn. Mr and Mrs D complained that the member breached its contractual obligation to warn them of such changes ahead of their operation, and claimed compensation.

The Financial Ombudsman Service found that there was no ongoing retainer to provide financial advice, Mr and Mrs D had not paid any fees for advice, and that there had been no contact between Mr and Mrs D and the member during the eight year period. The Financial Ombudsman Service did not uphold the dispute.

Travel insurance: Mr B was stranded in Thailand in September of last year when the Phuket airport was closed due to an anti-government protest. As a result, Mr B had to purchase new flight tickets, and incurred additional costs. The member denied his claim on the basis that the proximate cause for the loss arose from an excluded clause in the policy that is "a loss that arises from any act of war, or from a rebellion, revolution, insurrection or taking power by the military". The Financial Ombudsman Service upheld Mr B's claim on the basis the events should be described as a "riot" or "civil commotion" rather than an "insurrection".

Source:

Financial Ombudsman Service, Enews Issue 3, June 2009

http://www.fos.org.au/centric/home_page/news/enews/issue_3/case_studies.jsp



Changes to superannuation from 1 July 2009

Following the 2009 Budget announcements, a few new measures have now become law (see Aon Supernews 175 and 178). The following new measures took effect on 1 July 2009.

Temporary reduction of the super co-contribution

As announced in the 2009 Federal Budget, from 1 July 2009 the Government has temporarily reduced the:

- ⊘ co-contributions matching rate
- ⊘ maximum amount payable by the Government as a co-contribution on an individual's eligible personal non-concessional super contribution.

Under this measure, the new matching rates are now:

- ⊘ 100% for the 2009-10, 2010-11 and 2011-12 financial years, with a maximum co-contribution of \$1,000
- ⊘ 125% for the 2012-13 and 2013-14 financial years, with a maximum co-contribution of \$1,250
- ⊘ 150% from 2014-15 onwards, with a maximum co-contribution of \$1,500.

Super co-contribution rates for previous years

From **1 July 2007 to 30 June 2008**, the maximum co-contribution amount was **\$1,500**, and the self-employed became eligible.

From **1 July 2006 to 30 June 2007**, the maximum co-contribution amount was **\$1,500**.

From **1 July 2005 to 30 June 2006**, the Government announced a one-off additional payment, which doubled your co-contribution entitlement for that year. The maximum co-contribution amount was **\$3,000**.

From **1 July 2004 to 30 June 2005**, the maximum co-contribution amount was increased from **\$1,000 to \$1,500**.

Reduction in concessional contributions cap

In the 2009 Federal Budget, the Government announced:

- ⊘ a reduction of the concessional superannuation contributions cap from \$50,000 to \$25,000 (indexed) for the under 50 years old for the 2009-10 financial year.
- ⊘ a reduction of the transitional concessional contributions cap from \$100,000 to \$50,000 (not indexed) for those aged 50 years old or older for the 2009-10 to 2011-12 financial years.
- ⊘ The annual cap on non-concessional contributions remains at \$150,000 (indexed) for the 2009-10 financial year. In the future, the non-concessional contributions cap will be six times the level of the (indexed) concessional contributions cap.

Reforms to income tests

On 1 July 2009, the income tests for a range of tax and transfer programs changed. The changes to these tests do not affect a person's assessable income, but they may affect their entitlement to a range of tax offsets and the amount of tax they are liable to pay.

Please refer to this link for further information: <http://www.ato.gov.au/individuals/content.asp?doc=/content/00189164.htm>

Source:

The Australian Taxation Office, SuperUpdate July 2009. <http://www.ato.gov.au/superfunds/content.asp?doc=/content/00204172.htm>

aonmastertrust.com.au

The information in this factsheet is general in nature. Your personal objectives, financial situation or needs were not taken into account when preparing this information. You may want to seek independent advice before making any decisions about your super. This factsheet was prepared by Aon Consulting Pty Limited (ABN 48 002 288 646, AFSL 236667) and issued by Aon Superannuation Pty Limited (ABN 83 057 982 822, AFSL 237465) as trustee for the Aon Master Trust (ABN 68 964 712 340). © 2009 This work is copyright. Apart from any use permitted under the Copyright Act 1968, no part may be reproduced by any process nor may any other exclusive right be exercised without the permission of Aon Consulting Pty Limited.