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**Ripoll inquiry findings**

The Parliamentary Joint Committee on Corporations and Financial Services have tabled their report on their inquiry into financial products and services in Australia: [http://www.aph.gov.au/senate/committee/corporations\\_ctte/fps/report/index.htm](http://www.aph.gov.au/senate/committee/corporations_ctte/fps/report/index.htm).

The committee received 407 submissions as it investigated the role of financial planners and the impact of the collapses of Storm Financial and Opes Prime.

These are the recommendations that the Committee provide in their report:

**Recommendation 1**

The committee recommends that the Corporations Act be amended to explicitly include a fiduciary duty for financial advisers operating under an Australian Financial Services Licence (AFSL), requiring them to place their clients' interests ahead of their own.

**Recommendation 2**

The committee recommends that the government ensure the Australian Securities & Investments Commission (ASIC) is appropriately resourced to perform effective risk-based surveillance of the advice provided by licensees and their authorised representatives. ASIC should also conduct financial advice shadow shopping exercises annually.

The committee suggests that ASIC should focus on licensees that:

- ⊘ have come to the attention of the regulator previously;
- ⊘ recommend a high proportion of high risk products;
- ⊘ have limited products on their approved product list;
- ⊘ disproportionately recommend one type of product; or
- ⊘ have limited experience or qualifications.

The committee also suggests that annual shadow shopping exercises should be conducted.

### **Recommendation 3**

The committee recommends that the Corporations Act 2001 be amended to require advisers to disclose more prominently in marketing material restrictions on the advice they are able to provide consumers and any potential conflicts of interest.

The committee highlights that this is particularly important in the case of advice from vertically integrated financial institutions, where conflicts of interest attributable to the ownership structure will exist even if commission payments to advisers are eliminated as a form of remuneration.

### **Recommendation 4**

The committee recommends that the government consult with and support industry in developing the most appropriate mechanism by which to cease payments from product manufacturers to financial advisers.

The committee notes that remuneration structures that are incompatible with a financial adviser's proposed fiduciary duty (Recommendation 1) should be removed. The committee acknowledges that some in the industry have already indicated a willingness to move away from commission-based remuneration practices. The committee welcomes this and recommends that government consult with and support industry in effecting this transition.

### **Recommendation 5**

The committee recommends that the government consider the implications of making the cost of financial advice tax deductible for consumers as part of its response to the Treasury review into the tax system.

### **Recommendation 6**

The committee recommends that section 920A of the Corporations Act be amended to provide extended powers for ASIC to ban individuals from the financial services industry.

This was suggested in ASIC's submission to the inquiry.

### **Recommendation 7**

The committee recommends that, as part of their licence conditions, ASIC require agribusiness managed investment scheme licensees to demonstrate they have sufficient working capital to meet current obligations.

### **Recommendation 8**

The committee recommends that sections 913B and 915C of the Corporations Act be amended to allow ASIC to deny an application, or suspend or cancel a licence, where there is a reasonable belief that the licensee 'may not comply' with their obligations under the licence.

This was suggested in ASIC's submission to the inquiry.

### **Recommendation 9**

The committee recommends that ASIC immediately begin consultation with the financial services industry on the establishment of an independent, industry-based professional standards board (PSB) to oversee nomenclature, and competency and conduct standards for financial advisers.

This would mean that those wishing to call themselves 'financial advisers' or 'financial planners' would be required to obtain PSB membership and adhere to its standards.

## Recommendation 10

The committee recommends that the government investigate the costs and benefits of different models of a statutory last resort compensation fund for investors.

The committee recognises that the deficiencies of PI insurance make a last resort statutory compensation fund covering licensee wrongdoing appealing. How it needs to be determined whether a tailored statutory compensations scheme would be desirable and cost effective in Australia.

## Recommendation 11

The committee recommends that ASIC develop and deliver more effective education activities targeted to groups (i.e. retirees) in the community who are likely to be seeking financial advice for the first time.

Please refer to the Parliament website for further information: [http://www.aph.gov.au/senate/committee/corporations\\_ctte/fps/index.htm](http://www.aph.gov.au/senate/committee/corporations_ctte/fps/index.htm).

Source

Parliamentary Joint Committee on Corporations and Financial Services, Inquiry into financial products and services in Australia, November 2009.

## Update to RG126 (Compensation and insurance arrangements)

Providers of financial services to retail clients are required to have arrangements in place for compensating those clients for any breach of Chapter 7 of the *Corporations Act 2001* (Cth). The most common way to meet this obligation is to have professional insurance (PI) insurance in place.

In March 2008, ASIC released an update to RG126 (*Compensation and insurance arrangements*) which sets out how ASIC administers the compensation arrangements which AFSL holders are required to have in place. ASIC's aim in releasing the amended RG126 in March 2008 was to raise the standard of available PI insurance cover available for AFSL holders in the Australian market.

RG126 provides for an "implementation period" which expires 31 December 2009. From 1 January 2010, AFSL holders will be required to meet a higher standard of PI cover.

From 1 January 2010, AFSL holders will be required to meet a higher standard of PI cover. If they do not have PI cover which meets the increased requirements from 1 January 2010, they might need to cease operating as a licensee.

## What are the updated requirements?

Following inquiries by ASIC into the availability of insurance cover that fully complies with the requirements of RG126, ASIC has made two significant changes to RG126:

- ASIC has removed the requirement for AFSL holders to obtain automatic run-off cover. Under the previous version of RG126, AFSL holders were required to obtain PI insurance that included 12 months automatic run-off cover from 1 January 2010.
- ASIC has clarified that AFSL holders who are sole traders are not required to obtain fraud cover. Under the previous version of RG126, in relation to the requirement to obtain fraud cover, no distinction was made between AFSL holders who are sole traders or companies.

ASIC has stated that its decision to remove the automatic run-off cover requirement from RG126 was as a result of such cover not being available in the current "hard" insurance market. ASIC has resolved however to continue to monitor the availability of automatic run-off cover and may reassess its position should the market soften and automatic insurance cover become available in the future.

## What do the changes mean?

Apart from the two modifications to RG126 outlined above, the requirements of RG126 will become operational on 1 January 2010. That is, by 1 January 2010 all AFSL holders must have in place PI cover from an authorised insurer which meets the requirements set out in Schedule C of RG126 or risk being required to cease operating as a licensee (unless alternative arrangements are made with ASIC).

Please refer to the updated guide for further details: [http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/rg126-1.pdf/\\$file/rg126-1.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/rg126-1.pdf/$file/rg126-1.pdf).

Source

Australian Securities & Investments Commission, Regulatory Guide 126: Compensation and insurance arrangements for AFS licensees, October 2009.

## IFSA Superannuation Member Charter released

The Investment and Financial Services Association (IFSA) has released the IFSA Superannuation Member Charter which will allow consumer to choose, assess and measure their superannuation funds.

Under the new Charter, fees for financial advice will now be clearly be separated from the fees members pay for their superannuation.

IFSA explains that the Charter aims to build consumer confidence and ensure continuous improvement of the industry for the benefit of superannuation members and the economy.

The charter will apply to members of IFSA and will not necessarily be accepted by industry superannuation funds.

## What are the Charter's commitments?

Under IFSA's Superannuation Member Charter, commitments have been made four key areas:

### 1. Increased transparency and control in payments to advisers

*Member Advice Fee:* Superannuation members who receive personal financial advice will be asked to agree to both the amount and method of payment. If members wish to cease their relationship with their financial planner they will be able to turn this fee off. No superannuation member will be charged for personal advice unless they actually receive that advice and agree to the charge.

*Plan Service Fee:* In recognition of the variety and levels of services provided by financial planners to corporate plan members, those members will be able to see the fee they pay for the support services provided by their corporate plan's financial planner. Corporate plan members will be able to opt out of receiving these services and therefore paying the charges levied for them.

### 2. Enhanced competition through more informed choice

*Investment Option Performance Comparisons:* Superannuation members will be able to confidently compare the performance and fees of investment options with other 'like' investment options available; and will have access to enough information to help them understand why the performance and fees of seemingly 'like' options may vary.

*Advertising and Promotion:* Superannuation members will know that the data presented in fund advertising or promotion is based on the past performance of an actual investment option that is available to them. Performance or fee estimates/ forecasts will be prohibited in all advertising material.

### 3. Improved regulation of the superannuation industry

Superannuation members will better understand their responsibilities in relation to their superannuation decisions and have confidence in a regulatory system that applies consistently across all superannuation funds and in relation to the advice given in respect of all funds.



#### 4. Partnership approach with regulators and government

The policies introduced by IFSA's Superannuation Member Charter will improve transparency in the industry, give members greater control and will allow for more informed decision making to facilitate further competition in the superannuation industry. Consumer sovereignty, combined with competition, will ensure that products and services continually improve across the industry. The effective implementation of the Charter requires a partnership between industry, regulators and government.

#### What will be different?

Under the Charter, superannuation members:

- must agree to the amount they pay for the advice they receive and how the adviser gets paid.
- will have the ability to stop paying their adviser if they wish to cease their relationship with that adviser.
- will not be asked to pay for advice they do not receive.
- will have access to investment options performance information online every quarter.
- can have confidence that the investment option performance information is calculated in a consistent way.
- can have confidence that the investment option performance information they are shown relates to an actual investment option that they are actually able to invest in.

#### Implementation

IFSA's members are encouraged to implement IFSA's Superannuation Member Charter as soon as practicable.

There will be a managed transition period in the 24 months from 1 July 2010 to ensure implementation is completed by 30 June 2012.

Please refer to the Charter for further details: [http://www.ifs.com.au/media%20releases/IFSA%20Superannuation%20Member%20Charter\\_Final.pdf](http://www.ifs.com.au/media%20releases/IFSA%20Superannuation%20Member%20Charter_Final.pdf).

Source

Investment and Financial Services Association, IFSA's Superannuation Members Charter: A New Commitment to Superannuation Members, 17 November 2009.

### Super fund aimed at Gen Y

An article published in the Australian Financial Review today explains that a number of retail providers are on a campaign to win over younger generations of members. Within this context, the article reveals that AMP, BT Financial Group, MLC and Colonial have each launched their own versions of low-cost superannuation fund.

According to the article, the AMP low-cost fund is offering charges of \$1.50 per week and a manager-expense ratio of 0.65 percentage points of the assets for its balanced option, and 0.5 of a point for its cash option.

This fund has been up and running since May and does not have long-term performance numbers but had delivered 10.4 per cent in the three months to September.

The article indicates that the offering recently won the SuperRatings best new product award.

Source

The Australian Financial Review, No-frills super aimed at GenY, 18 November 2009.

#### [aonmastertrust.com.au](http://aonmastertrust.com.au)

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