



# What's News?

Superannuation & Funds Management

1 September 2010

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## Latest news

### National

#### **New derivatives licence inappropriate**

4 July 2010

Proposed new rules that require advisers to have a derivatives licence in order to advise on instalment warrants used to buy property within self-managed superannuation funds (SMSFs) have been greeted with concern by some in the SMSF industry.

[More...](#)

#### **FPSA investigates rogue representatives**

2 August 2010

Dealer group Financial Planning Services Australia has been forced to call in ASIC and the police after an internal investigation uncovered a series of "irregularities" by one of its now former authorised representatives. FPSA director said the company's investigation into its member firm, 360 Asset Management, had ended with ASIC cancelling the firm's Australian financial services licence. [More...](#)

#### **FPA: Greater consumer involvement required in Super**

2 August 2010

Good government policy should encourage greater education, participation and professional Advice in Superannuation, according to the Financial Planning Association. The FPA supports creating efficiencies and reducing costs in Superannuation, but warns that greater consumer engagement and access to professional advice are vital in ensuring the adequacy of Australians' retirement income streams. [More...](#)

#### **Complaints against planners fall**

5 August 2010

The Financial Ombudsman Service (FOS) has received fewer complaints against investments and financial planners in the past year, according to released figures. Alison Maynard, investments, life insurance and superannuation ombudsman, said the number of investment disputes dropped by 50 to 809 in the year to June 2010. [More...](#)

#### **Ex-super chief under fire**

5 August 2010

Statewide Superannuation is seeking the return of more than \$300,000 in personal expenses it alleges was wrongly charged to the company by its former chief executive. The \$1.7 billion South Australian superannuation fund alleges Frances Magill misappropriated \$344,000 worth of company monies. [More...](#)

#### **Top CEOs back statutory fiduciary duty for advisers**

9 August 2010

The country's top executives in financial services said that the Ripoll Inquiry recommendation to impose statutory fiduciary duty for financial advisers is the best way to improve the quality of advice, a survey shows. [More...](#)

#### **AMP Capital Investors to launch pure-play infrastructure fund**

10 August 2010

Global portfolio manager Craig Noble said the challenge facing Australian infrastructure groups had been high debt, but refinancing had resolved that issue. While the debt market was frozen for property companies, it remained open to infrastructure companies, indicating confidence in the sector's stable income streams. [More...](#)

#### **IMF settles Quantum, QBE action**

10 August 2010

IMF Australia has reached a conditional settlement with financial services group Quantum Securities and its insurer QBE Insurance on behalf of investors in its Westpoint class action. [More...](#)

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### APRA issues super prudential practice guides

11 August 2010

APRA releases prudential practice guides to help super trustees satisfy their licence conditions and operating standards. The PPGs replace APRA's previously issued guidance in four areas, are intended to assist trustees to satisfy licence conditions and operating standards under the Superannuation Industry (Supervision) (SIS) Act and the relevant SIS Regulations.

[More...](#)

### Trustees warned as APRA toughens guidances

11 August 2010

The Cooper Report's recommendations for a Trustee Code of Practice, the prudential regulator APRA has released revised trustee [guidances](#) on capital structures, risk management, resources adequacy and trustee fitness. The revised guidances also remind trustees any restrictions on trustee whistle blowing will not be tolerated. [More...](#)

### NAB deal threat as policyholders pursue \$2bn court claim against Axa Asia Pacific

12 August 2010

A damages claim worth more than \$2 billion against Axa Asia Pacific by aggrieved policy holders is expected to be lodged with the Victorian Supreme Court. Despite the court's finding that Axa could not change the policy terms, and with litigation continuing, the insurance group has insisted in court arguments that the value of the claim, which dates back to 2002, is zero.

[More...](#)

### ASIC prosecutions releases prosecutions for April to June 2010

12 August 2010

Summary prosecutions of company officers - April to June 2010. ASIC has successfully prosecuted 158 company officers between 1 April and 30 June 2010. [More...](#)

ASIC disqualifies 13 directors of failed companies from managing corporations. Between April and June 2010, the ASIC disqualified 13 directors from managing corporations following their involvement in failed companies. [More...](#)

### Financial Planners being unjustly targeted

12 August 2010

There is an unfair bias in the reform agenda against advisers, and more attention should be paid to researchers and product providers, according to the Financial Planning Association and Fiducian's managing director. He asserted that in many cases of inappropriate advice, advisers were acting upon information provided to them about a product. [More...](#)

### SPAA assists ATO with SMSF verification service

12 August 2010

SPAA will participate in the testing of a new ATO SMSF member verification service to be launched later this year. The new ATO system is designed to cut red tape for superannuation funds regulated by the Australian Prudential Regulation Authority when processing member rollover requests. [More...](#)

### FSC backs \$1bn investment in super system

12 August 2010

A \$1 billion investment by the superannuation industry in the back office systems of all funds in Australia is expected to give a \$20 billion return to the industry over the next 10 years, according to research from the Financial Services Council.

[More...](#)

### APRA defends rights on capital requirements

12 August 2010

The Australian Prudential Regulation Authority has defended its right to impose minimum capital requirements on superannuation fund trustees, even though it would not routinely do so. [More...](#)

### FSC targets consumers with brandmark

12 August 2010

A peak industry body for financial services is to widen its advocacy to engage with consumers in order to win back their trust in financial products. The Financial Services Council (FSC), formerly the Investment and Financial Services Association, will stamp its members' products with its brandmark from 2012. [More...](#)

### Great Southern legal battle continues

12 August 2010

Lawyers are progressing with their legal campaign against Great Southern, filing with the Victorian Supreme Court further allegations through a class action against the collapsed agricultural investment scheme manager. [More...](#)

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### Shock of the new: funds will make us pay for lower fees

14 August 2010

A report prepared by Ernst & Young for the Financial Services Council found that while the SuperStream proposals contained in the recent Cooper review into super could slash \$20 billion off fund administrative costs over the next 10 years, some fund members will still find themselves out of pocket. [More...](#)

### Oakvale in \$6.8m Ceramic settlement

16 August 2010

West Perth financial advisory group Oakvale Capital has settled a dispute with former client Ceramic Fuel Cells Ltd, which will see Ceramic and its litigation funder IMF Australia receive \$6.8 million.

Ceramic sued Oakvale to recover the full amount of its investment losses, claiming it was misled by its adviser into altering its investment policy to allow the inclusion of CDOs.

[More...](#)

### More planners bypass managed funds

17 August 2010

Fund managers are put on notice in a recent investment study that found a growing number of planners are placing their clients' funds into direct shares, ETFs, REITs and SMAs, leaving only a fraction of inflows into traditional managed funds. [More...](#)

### Former Chartwell director jailed

19 August 2010

Mr Ian Rau, the former company secretary of Chartwell Enterprises Pty Ltd was charged with running a financial services business without a licence, engaging in dishonest conduct, making and using a false document, and obtaining property worth \$40,000 by deception. The group's collapse caused another financial disaster for Geelong, taking about \$60 million worth of investors' money. [More...](#)

### Mark Occhilupo and former accountant settle dispute out of court

19 August 2010

An out of court settlement of the dispute was reached between the parties, following evidence being led by the accountant that he had provided Mr Occhilupo with a cheque for \$50,000 to invest in the shares, the sum of which Mr Occhilupo had claimed was a loan. [More...](#)

### Landa relations wait for decision in fraud case

19 August 2010

Family members of the former NSW Attorney-General Paul Landa are facing financial ruin due to the continuing fallout from a \$15 million fraud. Dr Barry Landa, is suing Perpetual Trustees Australia for \$2.7 million in cheques that he says the company cashed despite knowing the Cincotta account was suspect.

[More...](#)

### Storm Financial report has stalled

19 August 2010

A north Queensland economist says a report into the failed Storm Financial still has not been released, six months after the Australian Securities and Investments Commission (ASIC) was to complete it. [More...](#)

### Deadline looms for submissions on AXA

22 August 2010

The Australian Competition and Consumer Commission is conducting market consultations over NAB's proposed bid for AXA APH. If successful, it would be Australia's second biggest financial services takeover after Westpac's \$16 billion takeover of St George Bank in 2008. [More...](#)

### Three pennies in the fountain of Trio Capital losses

23 August 2010

The Albury fund manager Trio Capital is shaping up as the worst case of superannuation theft in Australian history, after \$180 million in investors' money disappeared offshore. [More...](#)

### ASFA calls on Cooper to aid SuperStream reforms

23 August 2010

The Association of Superannuation Funds of Australia has called the chair of the Super System Review panel, to write a paper that will outline the right framework to deliver key SuperStream reforms. At present, the industry already has standards, called SWIMEc, that are set out to improve the efficiency of processing super - but they are voluntary, not mandatory. [More...](#)

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### Challenger back in the black, annuity sales trebles

23 August 2010

Challenger Financial Services has staged a strong profit recovery during the year, buoyed by a record performance from its annuities business and a 22 per cent rise in gross assets under management to almost \$24 billion. [More...](#)

### Zurich Insurance cops record fine

25 August 2010

Zurich Insurance has been fined a record \$4 million in Britain after losing the personal details of tens of thousands of customers. The Financial Services Authority said that Zurich had put customers at risk by failing to put in place sufficient controls to protect their data. [More...](#)

### AustralianSuper seizes infra leadership

25 August 2010

Demand for more infrastructure investment creates huge investment opportunities for super funds, and AustralianSuper intends taking a leadership role. A major [report](#) released by IPA in April this year called on superannuation funds to consider stepping up their investments into the sector. [More...](#)

### Market volatility wipes shine off super

26 August 2010

The new financial year is shaping up as another roller-coaster ride for superannuation, as Super funds turned in a strong 2 per cent-plus jump for July to kick-start the new financial year. [More...](#)

### Women jailed over early release super

26 August 2010

A woman who pleaded guilty to nine charges related to an illegal early release superannuation scheme has been sentenced to 12 months' imprisonment. ASIC said Palusi had been convicted under section 62 and 202 of the Superannuation Industry (Supervision) Act pertaining to the sole purpose test and maintaining a self-managed super fund for any purpose other than to provide retirement benefits to the members. [More...](#)

### Investors call planners to charge performance-based fees

26 August 2010

Performance-based fees have traditionally been the domain of fund managers - but research shows a growing number of investors are urging financial planners to start adopting this fee structure. [More...](#)

### Managed Funds, Australia, June 2010

26 August 2010

At 30 June 2010, total consolidated assets of managed funds institutions was \$1,351.2b, a decrease of \$24.6b (2%) on the March quarter 2010 figure of \$1,375.8b. Consolidated assets of superannuation funds decreased \$13.4b (2%); public unit trusts decreased \$6.3b (2%); life insurance offices decreased by \$4.5b (2%); cash management trusts decreased \$0.3b (1%); and common funds decreased \$0.1b (2%). Consolidated assets of friendly societies remained virtually the same. At 30 June 2010, investment managers had \$1,119.9b in funds under management, down \$34.2b (3%) on the March quarter 2010 figure of \$1,154.0b. They managed \$757.3b (56%) of the consolidated assets of managed funds institutions. [More...](#)

### APRA outlines keys to good supervision

27 August 2010

A forward-looking supervision action plan tailored to respective financial institutions is the centrepiece of the Australian Prudential Regulation Authority's successful approach to supervision, according to APRA chairman John F Laker. [More...](#)

### Average fraud case costs business owners \$2 million, new report shows

27 August 2010

Businesses must implement stringent measures to detect and stop fraud when it first appears, otherwise it will spiral out of control and end up costing millions of dollars, the author of KPMG's Fraud Barometer warns. [More...](#)

### Financial Services and the test of time

30 August 2010

While the Australian financial services industry escaped the global financial crisis (GFC) without many of the disasters that befell financial services globally, changes are afoot around the world that will make life far more testing for many in the industry. [More...](#)

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### APRA Working Papers

#### **Australian superannuation: the outsourcing landscape / Kevin Liu, Bruce R. Arnold**

Source: Sydney: Australian Prudential Regulation Authority, 2010; [19] p.

Examines outsourcing landscape of the superannuation fund industry; Contracting out; Statistics. [More...](#)

#### **Australian superannuation outsourcing: fees, related parties and concentrated markets / Kevin Liu, Bruce R. Arnold**

Source: Sydney: Australian Prudential Regulation Authority, 2010; 34 p.

Superannuation fund industry; Contracting out; Statistics; Reviews of research. [More...](#)

### Practice Notes

#### **Market integrity rules**

The *Corporations Amendment (Financial Market Supervision) Act 2010* provides for a new type of rule called market integrity rules. These rules apply to market operators, market participants, other prescribed entities and financial products traded on the relevant markets.

ASIC market integrity rules were made on 1 August 2010 and are based on legislation and regulations as at 1 August 2010. ASIC also issued guidance on the market integrity rules: see [Regulatory Guides](#).

[More...](#)

#### **APRA releases superannuation prudential practice guides**

10 August 2010

Australian Prudential Regulation Authority released a response paper and prudential practice guides (PPGs) for superannuation trustees in the areas of capital, risk management, adequacy of resources and fitness and propriety. Deputy Chairman Ross Jones said the four PPGs outline what APRA regards as sound practice in these areas of a superannuation trustee's operations. [More...](#)

#### **ACCC to consult market on proposed undertakings from NAB and AXA**

The ACCC has commenced market consultation on proposed undertakings offered by National Australia Bank Limited (NAB) and AXA Asia Pacific Holdings Limited (AXA). The completed review is at: [www.accc.gov.au](http://www.accc.gov.au). The new consultation is at: [www.accc.gov.au/nab\\_axaundertaking](http://www.accc.gov.au/nab_axaundertaking). with parties required to make submissions by 23 August 2010. [More...](#)

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### Legislation

#### Commonwealth

##### **Corporations Regulations 2001 Number: SR 2001 No. 193**

3 August 2010

The amending Regulations provide for the powers of the Australian Securities and Investments Commission (ASIC) in respect of the supervision of Australia's domestic licensed financial markets, as a consequence of the transfer of this responsibility from market operators to ASIC. [More...](#)

##### **Corporations (Fees) Regulations 2001 Number: SR 2001 No. 194**

2 August 2010

The amending Regulations prescribe matters relating to the recovery of fees from market operators to cover the costs that ASIC will incur as a result of assuming responsibility for supervising Australia's domestically licensed financial markets under new Part 7.2A (Supervision of financial markets) of the [Corporations Act 2001 No.50 \(Cth\)](#). [More...](#)

### Cases

##### **ExxonMobil Superannuation Plan Pty Ltd v Esso Australia Pty Ltd & Ors [2010] VSC 357**

PRACTICE AND PROCEDURE – Represented parties – Role of representative – Approval of compromise – Whether for the benefit of the absent persons – Consideration of issues – Supreme Court (General Civil Procedure) Rules 2005, r.16.01.

TRUSTS AND TRUSTEES – Superannuation Plan – Rectification of Trust Deed – Approval of the trustee's decision to enter into Deed of Compromise – Supreme Court (General Civil Procedure) Rules 2005, r.54.02(c). [More...](#)

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