



What's News?

Superannuation & Funds Management

12 May 2010

Welcome

This is the first in our new series of 'What's News' publication for the Superannuation and Funds Management Industry. This publication will be issued fortnightly with the hope of being used as a resource tool for our clients.

Latest News

Practice notes/directions

Legislation

Case

Latest news

National

Criminal conviction would put super package in jeopardy

8 May 2010

A politician faces being stripped of hundreds of thousands of dollars in superannuation entitlements built up over her seven years as the member for Penrith if she is charged with and convicted of lying to the Independent Commission against Corruption. If the commission recommends that charges of perjury are brought against her and they are laid by the NSW director of public prosecutions, the stage will be set for a test case on the issue of what constitutes an "infamous crime" in NSW [More...](#)

Arrest in big super fraud case: identity fraud

8 May 2010

Sydney police have arrested the alleged ringleader of a multi-million-dollar identity fraud racket stealing money from superannuation accounts valued at more than \$557,000. He was the 23rd person arrested by Sydney police Strike Force Gamut, which has been investigating super fraud since 2008. It estimates more than \$7 million has been stolen from unsuspecting bank and super account holders [More...](#)

APRA contacts super funds on rollover fraud

6 May 2010

APRA is calling on super funds to look out for ABR documents with no official Australian Tax Office (ATO) letterhead, requests that list different postal addresses and requests where two trustee names are listed in one document. The SMSF Professionals' Association of Australia (SPAA) is well aware of this issue and has already recommended that a number of administration processes could be refined to stop fraudulent rollover requests [More...](#)

Industry's sports sponsorship questioned

6 May 2010

Industry superannuation funds that sponsor major sporting teams might be running contrary to the wishes of their members and, in some cases, their trustees, according to a survey conducted by Super Review [More...](#)

Short-selling bans counterproductive

6 May 2010

The bans on short selling imposed by regulators in Australia and the United Kingdom at the height of the global financial crisis did nothing to ease the downward pressure on financial markets, according to new research produced in Europe [More...](#)

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Not-for-profit super funds urge Opposition and business to back Labor's plan for 12% SG

4 May 2010

The Australian Institute of Superannuation Trustees (AIST)- the peak body for the \$450 billion not-for-profit super sector - today called for bipartisan support for the proposed increase to the Super Guarantee from nine to 12%, urging both the business community and the Federal Coalition to get behind the landmark reform [More...](#)

PM says more must be done to provide adequate retirement income

5 May 2010

The superannuation industry yesterday welcomed comments from Kevin Rudd that Australia's superannuation system was a project still under construction and in need of more work to improve it. While the reforms have had overwhelming support from the super industry, funds and key associations called for more [More...](#)

More reform needed for super: Rudd

5 May 2010

The government will continue with its reform initiatives in super, the prime minister announced yesterday. Rudd said the focus of the government's superannuation reforms were in the areas of adequacy, fairness and efficiency [More...](#)

Average Australian \$100k*d Better Off in Retirement

2 May 2010

The average Australian could be as much as \$100,000* better off in retirement thanks to the Government's decision to increase compulsory super to 12 per cent, said the Australian Institute of Superannuation Trustees. The Government has adopted a series of long-standing AIST policies including AIST's recommendation to the Henry Review to double the concessional cap for older workers with retirement balances of less than \$500,000.

Media Release: Australian Institute of Superannuation Trustees [More...](#)

Henry Tax Review brings boost for superannuation

2 May 2010

Australian's will get sweeping benefits to boost their superannuation savings in measures to be announced today by the Rudd Government as part of the biggest tax reform for more than a decade [More...](#)

APRA urges for clarity on conflicts

4 May 2010

Super trustee boards need to define which conflicts of interest they are willing to tolerate before they implement their management and disclosure, according to the Australian Prudential Regulation Authority's (APRA's) general manager of the specialised institutions division, Stephen Glenfield [More...](#)

Legislative hurdles to better risk management

29 April 2010

Existing legislation and documentation is preventing the super industry from adopting better standards of risk management, according to the chief executive of the Association of Superannuation Funds of Australia (ASFA) [More...](#)

Exotic assets banned and costs to rise under DIY super funds rules

30 April 2010

Under new rules proposed by a panel reviewing the operation of Australia's superannuation system, investors would be banned from holding so-called exotic assets such as art, wine, yachts and exotic cars in self-managed super funds. The review, headed by former ASIC commissioner Jeremy Cooper, handed down its third-phase report yesterday, specifically addressing the DIY super fund sector [More...](#)

Fund managers and banks win in \$20bn superannuation lift

4 May 2010

Banks and fund managers look likely to be the biggest beneficiaries of the proposed tax shake-up, with more than \$20 billion a year in fresh funds to flow into retirement savings once superannuation contributions increase [More...](#)

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Australia `must resist' G20 bank tax, reform plans

27 April 2010

Wallis Committee experts claim Australia should resist any push by the G20 to impose a tax on financial institutions that are too big to fail, and say "no" to shackling our banks with a leverage ratio or flexible capital ratios to smooth out the economic cycle

[More...](#)

Hedge funds under scrutiny

27 April 2010

While hedge funds may be enjoying a renaissance when it comes to performance, regulators around the globe are increasingly putting them under the microscope. After a string of collapses, concerns about short selling and allegations of fraud linked to hedge funds, regulators are talking up the need for closer scrutiny of this sector of the market

[More...](#)

Commission payments shakedown a super win

27 April 2010

The Rudd government has gone beyond recommendations contained in last year's landmark Ripoll review of the financial planning industry, with independent advisers set to be caught out by a crackdown on commission-based payments

[More...](#)

Superannuation `needs revamp of risk management'

29 April 2010

Rising competition and antiquated procedures will threaten the security of Australia's \$1.2 trillion superannuation industry in the absence of legal changes, the Association of Superannuation Funds of Australia warns. ASFA chief executive Pauline Vamos said the federal government should drop a legal requirement on funds to have risk management processes audited, as it encouraged them to take a "tick-the-box approach" to address audit needs and reputational risk rather than broader risks

[More...](#)

Financial Ombudsman welcomes statutory compensation scheme examination

28 April 2010

The Service (FOS) has welcomed a Government announcement that the outgoing convener of the Corporations and Markets Advisory Committee Richard St John will examine a statutory compensation scheme. The current requirement that AFS licensees hold professional indemnity [PI] insurance does not provide consumers with an assurance that they will be duly compensated

[More...](#)

FPA welcomes Minister's reform package

27 April 2010

The Financial Planning Association of Australia (FPA) has welcomed a number of reforms outlined in the government's response to the PJC Inquiry into Financial Products and Services (Ripoll Inquiry).

These reforms will play an instrumental role in improving transparency and investor protection in the financial planning industry

[More...](#)

Industry mostly welcomes reform

27 April 2010

Key bodies representing the financial services industry have broadly welcomed the Rudd Government's plans to overhaul the financial advice industry, but there are some caveats to that support. The ASFA in particular welcomed the intended broadening of the scope of intra-fund advice

[More...](#)

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Practice notes/directions

Henry Review overview

3 May 2010

The centrepiece of the Australia's Future Tax System Review (also known as the Henry Review) released on 2 May 2010 is a new resource super profits tax. The government has also accepted a number of recommendations relating to company and small business taxes and superannuation. The government has indicated that this is intended to be the first step in a 10 year tax reform agenda. The government's response can be downloaded from the [Treasury Website](#). The Henry Report itself can be accessed from the [AFTS Website](#).

Government acts to ensure access to justice for class action members

5 May 2010

Draft regulations will clarify that funded class actions and similar arrangements are not managed investment schemes (MIS). The regulations will be in place before the expiration of ASIC's temporary exemption on 30 June 2010 [More...](#)

ASIC releases short selling guidance

27 April 2010

ASIC has released regulatory guidance to assist with compliance with new legal requirements under the Corporations Act 2001 and Corporations Regulations 2001 in relation to short selling. The revised version of Regulatory Guide 196 (RG 196) clarifies the legal position about which short sales are permitted, along with specific reporting and disclosure obligations. Media release: [ASIC releases guidance on short selling obligations](#)

APRA consults on prudential reporting requirements for Basel II enhancements

5 May 2010

The Australian Prudential Regulation Authority has released for consultation a discussion paper and proposed amendments. The discussion paper and the associated draft reporting standards and reporting forms are available on [APRA's website](#). Written submissions in relation to the consultation package should be submitted by 1 June 2010 [More...](#)

Release of Draft Legislation On Anti-Roll-Up Fund Rule: Submissions

28 April 2010

The Assistant Treasurer, Nick Sherry, has released for public consultation exposure draft legislation for an anti-roll-up fund rule that will apply to certain offshore investments. The Government welcomes submissions from interested parties on the exposure draft. Copies of the draft legislation are available at the [Treasury website](#). Submissions close on Wednesday 26 May [More...](#)

New ASIC Class Orders

CO 10/135 - Registered and came into effect on 30 April 2010.

The class order exempts sellers from reporting "small" short positions that fall below a specific reporting threshold. The relevant threshold is where a seller has a short position in relation to a security or managed investment product that does not exceed the value limit (\$100,000) and the volume limit (0.01% of the total quantity of the products in the class) as at 7 pm on a day

CO 10/288- Covered short sale transaction reporting relief for market makers

This class order operates to exempt a market maker from the obligation under s 1020AB(3) to report a covered short sale transaction where: CO 10/288 commenced on 29 April 2010.

CO 10/289 - Variation of Class Orders [CO 08/764], [CO 09/774] and [CO 10/29]

3 May 2010

The purpose of this class order is to clarify that a short position in relation to an s 1020B product is to be calculated by reference to covered short sales and permitted naked short sales made by the seller (CO 10/29). CO 10/289 takes effect as follows: variations made to CO 10/29 on 29 April 2010 and variations made to CO 08/764 and CO 09/774 on 1 June 2010. Source: ASIC Class Order CO 10/288 and CO 10/289 Explanatory Statements.

Copies of class orders can be obtained at www.asic.gov.au

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Legislation

National

Corporations Act 2001

29 April 2010

Act Compilation (current) - C2010C00324 Number: No. 50, 2001

An Act to make provision in relation to corporations and financial products and services, and for other purposes Incorporating Amendments to: Act No. 44 of 2010 [More...](#)

Legislative Instruments

Corporations Amendment Regulations 2010 (No. 3)

6 May 2010

These Regulations amend the Corporations Regulations 2001 to support the national regulation of trustee companies which was implemented by Schedule 2 of the Corporations Legislation Amendment (Financial Services Modernisation) Act 2009 [More...](#)

Australian Securities and Investments Commission Amendment Regulations 2010 (No. 1)

6 May 2010

These Regulations amend the Australian Securities and Investments Commission Regulations 2001 to support the national regulation of trustee companies which was implemented by Schedule 2 of the Corporations Legislation Amendment (Financial Services Modernisation) Act 2009 [More...](#)

Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)

6 May 2010

Incorporating amendments to Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 4) [More...](#)

Case

Manglicmot v Commonwealth Bank Officers Superannuation Corporation [2010] NSWSC 363

EQUITY - trusts and trustees - powers, duties, rights and liabilities of trustees - general matters - rules governing exercise of discretion - where trustee entered into new insurance policy - where trustee gave reasons for decision - whether Court can review trustee's decision - whether trustee breached any duty owed to the insured under the general law - whether Superannuation Industry (Supervision) Act 1993 (Cth) alters the general law and whether breach by trustee [More...](#)

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Disclaimer

The information in this publication is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, we do not guarantee that the information in this newsletter is accurate at the date it is received or that it will continue to be accurate in the future.

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