

manner in undertaking their fiduciary obligations and which members would have had no ability to foresee. In giving consideration to a widening of the definition, ASFA would be seeking to ensure that the broader industry is not funding the result of what is effectively a poor or imprudent choice of fund by an individual or employer.

4. SIMPLE AND UNDERSTANDABLE DISCLOSURE FOR CONSUMERS

4.1 The Lessons of Behavioural Finance Research

As noted above, compulsion and preservation help ensure the role of superannuation in the provision of retirement income. However many superannuation fund members are disengaged from their super and / or relatively unsophisticated in their financial literacy. In a choice environment, it is therefore important that disclosure to members is simple and understandable.

Disclosure should be grounded in how consumers actually make decisions rather than abstract notions of economics or law. Much of our thinking has been informed by behavioural finance research, including our own consumer comprehension testing.

Behavioural finance research of the two decades has reinserted individual psychology into economic decision-making. It has shifted away from the abstract notion of the economic actor as rational and utility maximising. Rather, behavioural finance examines how economic decisions are actually made - often relying on experimental settings.

Behavioural finance has discovered some important findings about how individuals make economic decisions. One is that individuals often rely upon "rules of thumb" when making decisions, so that complex decisions are simplified so that a decision can be made. Another finding is that how material is presented can impact on the decision. Lastly, there is the notion that individuals engage in economically irrational behaviour, often mispricing as a result of emotional decisions.

In our own various rounds of consumer comprehension testing, ASFA had similar findings. We found that individuals preferred documents that were short and simple.

We also found that individuals will ordinarily not read a disclosure document from cover to cover. The take-aways from our research has been that ideally disclosure documents should be short, simple, with important information near the front and navigation tools available so individuals can find the information they want quickly and easily.

One element that should be considered when developing consumer protection policy is to actually test the proposed policy prescription with real consumers. ASFA has found that consumer comprehension testing of sample disclosure documents is an invaluable tool in this regard.

Based on our own testing and the broader behavioural finance, we should expect consumers to want disclosure documents that are relatively brief, easy to navigate and understand and

SECRETARIAT

Piccadilly Tower
Level 19
133 Castlereagh St
Sydney NSW 2000

PO Box 1485
Sydney NSW 2001

T + 61 2 9264 9300

F + 61 2 9264 8824

outside Sydney
1800 812 798

provide answers to their key questions. Ideally, new superannuation fund members should receive a relatively brief disclosure document that explains the basic features of the fund. If they want further information, it should either be available on request or on the fund's website.

4.2 Shorter and More Understandable Product Disclosure Statements

Unfortunately, the main disclosure documents for superannuation funds, the Product Disclosure Statements (PDSs), have become lengthy and complex documents, often difficult for members to comprehend.

PDSs should be consumer guides. They should be presented and written in a way that will assist a member make decisions. As noted above, proposed requirements should be tested with consumers to better ensure that efficacy.

As well, "incorporation by reference" of certain non-essential information may assist in keeping PDSs shorter and therefore more understandable for members. However, information that is critical to consumer decision-making should always be included within the PDS.

The internet represents a cost-effective mechanism for providing additional information to members. However, there remain variations between the membership of different superannuation funds and their accessibility to the internet. If the incorporated material were available through the fund's website, then the fund should also be prepared to provide hard copies of incorporated material upon request.

In the *Corporations and Financial Services Regulation Review: Draft Corporations Amendment Regulations and Commentary*, released for comment on 26 March 2007 by the Commonwealth Treasury, Proposal 1.15 would introduce an ability for PDSs to refer to other documents available from a website or on request. Though ASFA supports the general intent of this proposal, we have made specific recommendations to Government to ensure a workable "incorporation by reference" provision in the Corporations Act.

Ideally the incorporation by reference test should be relatively unambiguous and preferably refer to specific content requirements, such as information about insurance or investment options. Otherwise, the reforms may be under-utilised and not achieve the intended policy outcome.

ASFA intends to undertake future research on effective disclosure documentation and liaise with ASIC and Treasury on the outcomes. ASFA is also continually supporting more effective disclosure through initiatives such as the ASFA Communication Awards and supporting the role of communication experts through specialist discussion groups.

4.3 Improving Financial Literacy

Improving the quality of disclosure documents is only one part of the equation. ASFA is also supportive of initiatives designed to promote and improve financial literacy within the

SECRETARIAT

Piccadilly Tower
Level 19
133 Castlereagh St
Sydney NSW 2000

PO Box 1485
Sydney NSW 2001

T + 61 2 9264 9300
F + 61 2 9264 8824

outside Sydney
1800 812 798

community. The Government's Financial Literacy Foundation was one such initiative that we anticipate will bring about such improvements. We believe that both Government and industry have roles in advancing such initiatives and that the most effective initiatives are those where Government and industry work together.

5. EFFICIENT AND COST EFFECTIVE REGULATION

5.1 Levies

Consumer protection regulation in financial services is paid for through a regulatory levy. ASIC and the SCT receive funding for their consumer protection role through a levy placed on financial service providers including superannuation funds. This is an important factor to keep in mind as often it is the superannuation fund member, who is effectively paying for the cost of regulation. The supervisory levies have risen considerably in recent years and have become a concern for superannuation funds seeking to maximise the retirement benefits of their members. The cost/benefit of the current and ever-increasing regulatory demands is not always evident.

Currently the Government, following consultation with industry, sets the levies.

To improve the operation of the levies, ASFA seeks:

- a) a fair and more transparent distribution of costs amongst superannuation fund members and between superannuation funds and other regulated financial institutions;
- b) provision of data and information to allow the industry to give informed comment on levy proposals;
- c) an independent board to set levies and formal requirements for it to consult with industry on a timely basis: and
- d) appropriate accountability for the use of levies.

5.2 Reducing Regulatory Duplication and Overlap

One of ASFA's main concerns has been regulatory duplication and overlap between ASIC and APRA. This is not necessarily an issue specifically touching consumer policy regulation, as ASIC has primary responsibility for consumer protection in financial services.

However, given the two regulators operating in similar areas, guarding against duplication and overlap is important. Regulation should be efficient and cost effective and avoid any unnecessary duplication or overlap of functions between regulators. Positive examples where the regulators have worked together in a pro-active fashion, such as unit pricing policy needs to be replicated where the prudential responsibilities of APRA and the consumer protection responsibilities of ASIC become blurred.

SECRETARIAT

Piccadilly Tower
Level 19
133 Castlereagh St
Sydney NSW 2000

PO Box 1485
Sydney NSW 2001

T + 61 2 9264 9300

F + 61 2 9264 8824

outside Sydney
1800 812 798

If you have any questions or comments on this submission, please feel free to contact me, Brad Pragnell or Robert Hodge at the ASFA Secretariat on 02 9264 9300.

Yours sincerely,

Philippa Smith AM
CEO, ASFA

SECRETARIAT

Piccadilly Tower
Level 19
133 Castlereagh St
Sydney NSW 2000

PO Box 1485
Sydney NSW 2001

T + 61 2 9264 9300

F + 61 2 9264 8824

outside Sydney
1800 812 798