

13 June 2014  
Committee Secretary  
Senate Economics & Legislation Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

By Email only: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Secretary,

### **Inquiry into the provisions of the Corporations Amendment (Streamlining the Future of Financial Advice) Bill 2014**

The Association of Superannuation Funds of Australia (ASFA) understands that the Senate Economics and Legislation Committee will be shortly publishing its report into the *Corporations Amendment (Streamlining the Future of Financial Advice) Bill 2014* (“the Bill”). We also note that the nature and cost of intrafund advice and how these costs are recovered became part of the recent hearing process. The purpose of this letter is to provide information which we hope will assist the Committee in understanding intrafund advice as we believe there has not been an opportunity for the Committee to receive fulsome information in that regard.

#### **About ASFA**

ASFA is a non-profit, non-politically aligned national organisation. We are the peak policy and research body for the superannuation sector. Our mandate is to develop and advocate policy in the best long-term interest of fund members. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

#### **The History of Intrafund advice**

Intrafund advice is not new – Superannuation providers have been providing advice to members as part of their general service offering to members for some time. Amongst other things, it has been regarded as complying with the sole purpose test under SIS.

The intrafund advice regime did not flow out of the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services inquiry (“Ripoll review”) as it was in place well before that inquiry process.

Funds have been free to decide whether they would provide this advice and how they charge for it if they do provide it. In this context, in 2009 ASIC issued Regulatory Guide 200 and Class Order 09/210 which specifically contemplated and regulated the giving of intrafund advice by superannuation trustees. Intrafund advice was also reviewed as part of the Cooper inquiry and further regulated by the Stronger Super reforms which culminated in the existing regime (s99F of SIS).

### **What is Intrafund advice?**

*Intrafund advice, by its nature, is limited in scope.*

Intrafund advice is advice relating to a person's existing interest in a superannuation fund and is regulated, and limited, by the advice areas set out in section 99F of the *Superannuation Industry (Supervision) Act 1993* ("SIS"). The effect of s99F is to limit the scope of intrafund advice to advice provided to an existing member of a fund about their interest in the fund. Advice about new products or consolidating funds is specifically excluded from intrafund advice as is the provision of ongoing advice. Clearly the intent and impact of s99F is to limit the scope (and cost) of intrafund advice and to exclude any potential "selling" of new products or switching between products from its scope.

*Commissions cannot be paid in respect of intrafund advice.*

The fees paid by superannuation funds for the provision of intrafund advice are not commissions and in our view cannot be construed as commissions or conflicted remuneration. A "commission" is generally defined as "a payment to someone who sells goods that is directly related to the amount of goods sold, or a system that uses such payments"<sup>1</sup>.

Based on this definition, for a payment to constitute a "commission" it would need to be a proportionate fee payable for the sale of a product based on the value of the product. It is generally used as an inducement to sell something. Given that intrafund advice cannot be used to sell a product, by definition the fees charged do not constitute commissions.

*The cost of intrafund advice is paid for collectively by all members.*

The cost of intrafund advice is generally paid from the administration fees charged to all members of the fund and members cannot opt out of having the potential to receive, and having to collectively pay for it. This arrangement is consistent with the charging and opt out arrangements for other services offered by superannuation providers. For example the cost of call centres and insurance benefit administration are charged to all members. They cannot be opted out of even though not all members utilise them in any given year, although over a longer period many if not most members may make use of such services. Like these

---

<sup>1</sup> [Cambridge Advanced Learner's Dictionary & Thesaurus](#) © Cambridge University Press

services, the provision of intrafund advice is considered to be a valuable and intrinsic part of the services offered by all superannuation funds.

### **Intrafund advice is provided by the complete range of funds**

ASFA has conducted research into which funds offer intrafund advice. A survey conducted by ASFA in 2013 collected information from funds with a total of 7 million members. Around 90% of the industry funds surveyed offered intrafund advice, with 83% of the corporate, retail and public sector funds surveyed offering intrafund advice.

The Fair Work Commission website also has a comprehensive compendium of information about MySuper products (including retail funds) which are applying to be offered as default funds, including information about which funds offer intrafund advice. ASFA's review of those applications indicates that basically all providers of MySuper products offer intrafund advice, in almost all cases at no cost in addition to the general administration fee charged. The applications argue that this is a valuable design feature of the product offered.

It is our understanding that many superannuation providers, including retail superannuation funds, have now developed or are developing the capability to provide large scale intrafund advice on a cost effective and accessible basis. We consider that this demonstrates innovation and efficiency in the superannuation industry.

### **The benefits of Intrafund Advice**

ASFA supports the government's stated vision "to make it easier and more affordable for consumers to access information for their financial affairs as well as make it easier for business to operate by cutting red tape"<sup>2</sup>.

The provision of intrafund advice by superannuation providers is part of the solution of making affordable advice more accessible to Australians.

Intrafund advice:

- provides members of superannuation funds with affordable and accessible advice regarding their account;
- is popular with members and helps deliver better retirement outcomes;
- necessarily includes a degree of personal advice; and
- does not impose an excessive cost burden on the funds or unreasonable cross subsidisation between members.

ASFA considers that intrafund advice makes financial advice accessible and affordable for millions of superannuation fund members who might not otherwise seek or have access to financial advice.

---

<sup>2</sup> Senator the Hon. Arthur Sinodinos, *Australian Financial Review*, 11 February 2014

I hope that these comments will be of assistance to the Committee.

Yours sincerely,

Pauline Vamos  
Chief Executive Officer