24 Sewell Road
TANAH MERAH 4128
12 September 2016

**My submission to the financial system dispute resolution consultation paper**

The following is documented in the first attachment: **'Recent research commissioned by the CBA reveals that the unemployed, students, low-income earners, the poorly educated and non-English speakers are over-represented within society's most financially illiterate and least equipped to weather financial stress.'** Therefore it is imperative that a warning be printed in large letters on the front outer cover of every financial product disclosure statement about the danger of investing in shares. It must be worded thus: **'WARNING! SHARES ARE HIGH RISK INVESTMENTS'.** The warning is necessary for the following reasons:
(a) FOS's Ms June Smith admitted (see second attachment): **'Many investors complained that the advice they received was not suitable for their goals, objectives or risk tolerance. Risks are not always adequately disclosed or explained to investors.'**
(b) The managing director of a large financial institution Mr Christopher Joye stated (see third attachment): **'A lot of people have fallen into the trap of putting their money into the casino that is the share market'.** So the share market is a casino. Where does a financially-illiterate person get that information.
(c) Mr Andrew Young, a Slater and Gordon lawyer, stated (see fourth attachment): **'The relevant legislation and legal standards do not specifically require a financial adviser to advise a client that "shares are high risk".'**
(d) The Financial Planning Association's John Bacon wrote about rule 111 (see fifth attachment): **'In preparing oral or written recommendations to clients a member shall provide an explanation of the nature of the investment risks involved in terms the client is likely to understand.'** That is not law. It's merely an exploitable rule. The Commonwealth Bank issues two different product disclosure

statements, one for the bank's staff that states in crystal-clear black and white **'shares are high risk',** the other for the financially-illiterate investor that doesn't. How can a financially-illiterate investor get information on risk when neither the product disclosure statement nor his financial adviser disclose it? It's not a level playing field if the financial adviser is aware of something his client isn't. It's a fact that the financially-illiterate consumer is at a disadvantage while the financial adviser holds the winning cards. That is not a level playing field. The time is overdue for a notice that warns a financially-illiterate consumer of the uncertainty of investing in shares. The law says every investor, who pays for financial advice, must be presented with a product disclosure statement. Therefore the placing of a large print conspicuous **'WARNING! SHARES ARE HIGH RISK INVESTMENTS'** on the outer front cover of every financial product disclosure statement is essential. That would level the playing field and benefit the financially-illiterate investor.

Greg Cadwallader

# Inappropriate advice main cause behind FOS disputes

Inappropriate advice was the main reason for investments and advice disputes being referred to the Financial Ombudsman Service (FOS) in 2015-16, an annual review has revealed.

FOS said in a statement yesterday that the ombudsman had accepted a total of 1,141 investments and advice disputes in 2015-16. Almost two thirds of these disputes were related to managed investments and superannuation, FOS said.

The main investment product involved in the disputes was mixed asset funds (multiple asset classes such as cash, bonds, shares and property), which figured in 22 per cent of investments and advice disputes.

Inappropriate advice (28 per cent) was the most common issue in investments and advice disputes, the review found.

**FOS lead ombudsman, investments and advice, June Smith said many investors complained that the advice they received was not suitable for their goals, objectives or risk tolerance.**

**"We often also see that risks are not always adequately disclosed or explained to investors," Ms Smith said.**

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Aussies have the casino, there who love to trade them it is easier

**'A lot of people have fallen into the trap of putting their money into the casino that is the sharemarket'**

– RISMARK MANAGING DIRECTOR CHRISTOPHER JOYE

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# How financially illiterate is Australia?

1 September 2014

So how big is the financial literacy problem in Australia?

There's no shortage of research to demonstrate exactly how low financial literacy is across all age groups within Australia and the pay-off associated with having a more financially savvy and educated society.

A recent Senate inquiry, together with the interim report of the Financial System Inquiry (FSI) both highlighted a poor understanding of financial products within the Australian community. Particularly noteworthy was an indifference towards superannuation, plus a distinct lack of price awareness. These findings support ANZ's 2011 survey on Adult Financial Literacy in Australia which found that a third of people had trouble understanding their superannuation statements.

**Recent research commissioned by the CBA reveals that the unemployed, students, low-income earners, the poorly educated and non-English speakers are over-represented within society's most financially illiterate and least equipped to weather financial stress.**

Interestingly, ANZ's research also revealed that 36% of people find dealing with money stressful, even when things are going well. This suggests that more needs to be done to help overcome the anxiety and uncertainty many Australians share when it comes to dealing with money and personal finances. It also highlights the need for more community support in the form of advice, coaching, seminars, and other tools to raise the financial acumen of all Australians.

and us, you have place significant emphasis on the facts that:

28.1 the PDS did not use the words "shares", "high" and "risk" in close proximity to each other[9];

28.2 you have located a Product Disclosure Statement for the CBA staff superannuation which includes a table which states Australian and International shares are high risk.

29. The appropriate approach to analysing your prospects of succeeding in relevant legal claims is not to enquire whether CFP failed to advise you that shares were high risk[10], but whether CFP complied with its various legal obligations outlined in paragraph 26. This is the approach we have taken in our advice below.

30. You will note the relevant legislation and legal standards do not specifically require a financial advisor to advise that "shares are high risk". They generally require financial advisors to conduct themselves to a standard which is reasonable in the circumstances.

31. Further, focussing on the particular phrase "shares are high risk" (or similar statements) is also not a constructive approach because:

31.1 it is unclear from that phrase alone what "risk" is being referred to, and arguably, the word is meaningless without further explanation. It appears to us the key risks which should have been explained are:

# When is a rule not a law?

Rule 111 contains a very straightforward proposition:

*'In preparing oral or written recommendations to clients a member shall provide an explanation of the nature of the investment risks involved in terms the client is likely to understand.'*

Rule 111 is not enforceable like a law or a regulation made by parliament. However, where relevant to the circumstances of your dispute with the bank, it should be persuasive to the Financial Ombudsman Service (FOS), or to a court exercising civil jurisdiction to as to the expectation of the common law negligence standard of the reasonably diligent financial planner acting competently.