

Tuesday 18 October 2011

Supplement to AAP second tranche FoFA submission (dated Thursday 13 October 2011)

The below text is taken from an email sent to our office on Friday, 14 October 2011. The only changes we have made to the original email is the removal of the names of the parties involved however, we can provide you with a copy of the original email upon request.

"I am very concerned and confused about the advice my parents have received from an Industry Fund and why the process contradicts what other financial providers must do.

My parents both have a superannuation account with Company X (an Industry Fund) and they also have a Pension Fund each with Asgard with around \$130k in each pension account. These accounts were set up some years ago by their previous adviser.

My mother went into to see a Client Service Office (who is RG146 trained but not an Authorised Representative) at Company X who said they can sell their funds in the Pension account, transfer it to their Company X account and then he will help them set up a Pension account within Company X. Mum completed the withdrawal form and that was it.

Now I don't have a problem with what mum wanted, what amazed me was that when I asked Mum was there any disadvantages of withdrawing their pension account, putting it into Super and then back out to a Pension account, she did not know.

There was no advice documents, no Statement of Advice explaining what the fees were, would there be any capital gains tax, would she be restricted for excessive super contributions or would it affect future Centrelink benefits.

When I phoned Mr M at Company X, he said they don't have to provide any advice documents because they are an Industry Super. Why not? I don't understand?

What happens if my Mum & Dad ends up with a tax bill? Why can an Industry Fund provide such a major transaction without advice documentation explaining the advantages and disadvantages of the transaction. Look forward to your thoughts.

Thanks"

One of the concerns we have with the above scenario is that the transaction appears to be treated as simple, intra-fund advice when this is clearly not the case. In this instance there does not appear to have been any negative consequences to the client however, that may be because of good luck rather than good management.

The client should have received a statement of advice setting out the advantages and disadvantages of the recommendations as part of helping the client make an informed decision. The client service officer

has not taken any steps to educate the client or ensure that the client fully understood the consequences of the recommendations.

No steps have taken place to know the client, in accordance with section 945A of the Corporations Act so there was no real way of knowing if the recommendations made were appropriate for their circumstances.

If the client service officer were an adviser they would have been accused of contravening section 947D of the Corporations Act as they made a recommendation that the client dispose of in interest in one financial product and acquire another without having regard to the consequences of switching.

It is concerning that a client service officer is of the view that the client, in this instance, did not require a statement of advice and considered the transaction was relatively straight forward. There were a number of potential negative impacts which do not appear to be addressed by the client service officer such as the impact on Centrelink benefits and any potential capital gain.

From an industry point of view we are concerned that the implementation of the FoFA reforms will promote scenarios such as the above and put more clients at risk of receiving inappropriate advice. The above scenario should have been identified as complex advice and should have been referred to a financial adviser. It is arguable that the industry fund in question does not have appropriate measures in place to ensure that clients who require advice on complicated matters receive it.

Once again, we thank you for the opportunity to voice our concerns, and look forward to your timely response.

Yours sincerely

Associated Advisory Practices Ltd