

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

17 October – 18 October 2012

Question: SBT 5

Topic: Self-Managed Superannuation Funds – SMH 13/10/12

Hansard Page: pg 121, Wednesday 17 October 2012 &
pg 125-126, Thursday 18 October 2012

Senator CAMERON asked:

Senator CAMERON: Mr Laker, you probably have not seen this article. It is an article by Marcus Padley, who says he is a stockbroker with Patersons Securities and author of stock market newsletter *Marcus Today*. He says his views do not necessarily reflect the views of Patersons. This is an article that was in the *Sydney Morning Herald* on 13 October 2012. To me it is a blatant promotion of self-managed super funds. I am just wondering if someone who is promoting themselves as an expert on some financial advice in the press as to what people should do in terms of their super choices, would fall under your purview.

Dr Laker: No.

Mr Jones: It would be ASIC's responsibility.

Dr Laker: It is ASIC's.

Senator CAMERON: Sometimes it is very difficult to get the mix. The reason I am thinking it would be you guys is that it is actually about risk profile. His article is about the risk profile of self-managed funds against, basically, industry funds.

Dr Laker: Yes.

Senator CAMERON: It is about the performance, both relative and actual. So these are issues that go to the organisations that you have responsibility for. He basically promotes self-managed funds in this article. The question I am asking is, if someone is doing this—and it really seems to me to be just a blatant push for the Association of Superannuation Funds of Australia—shouldn't there be some warning to potential investors or people who are looking to pick a superannuation fund, that this is fundamentally an ad for ASFA?

Mr Jones: With regard to warnings, there are now warnings on the ATO website, as I understand it, that self-managed superannuation funds are not covered by the same protections that APRA regulated funds are, but I think your question probably goes a bit beyond that. I am not aware of the article but from the sound of things it is probably linked to the advice. I will check out the article, as well.

Senator CAMERON: Yes, it was in the *Sydney Morning Herald* on 13 October 2012. Could you take it on notice and maybe come back. My concern is that self-managed funds do not provide the same protections.

Mr Jones: Correct.

Senator CAMERON: I am just wondering how we can deal with this as a government to try and protect people who may look at an article like this from a prominent media personality and

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stockbroker. They may say, 'This is great,' but none of the problems are explained there. If it is just advertising that is fine.

Mr Jones: It would probably be a useful question also for ASIC, in the sense that ASIC has also been doing some work recently on the nature of advice given to individuals who are contemplating setting up self-managed superannuation funds. I think, for instance, they had some information about minimum balances and being aware of the costs that may be appropriate. A lot of ASIC work has been done on that.

Senator CAMERON: I will take this up with ASIC when they appear.

...

Senator CAMERON: Mr Medcraft, I asked ASIC questions in relation to self-managed funds. There was an article that I raised with them; it was by a commentator, Markus Padley, and it was in the *Sydney Morning Herald* on 13 October 2012. The article was basically promoting self-managed funds. It was almost an advert for ASFA and self-managed funds, basically promoting self-managed funds over industry funds. I asked ASIC whether this was an issue for them and they said no, it would be an issue for APRA. What I was raising with them was that this article, which is basically an advert, was not marked as an ad. It was simply an individual's opinion. The article says he is a stockbroker with Patersons Securities and the author of stock market newsletter *Marcus Today*—where you can go for a free trial—and his views do not necessarily reflect the views of Patersons.

I suppose people can write individual stories on what they like, but when it comes to trying to guide people in a certain investment area, without some balance in terms of the issues associated with self-managed funds and the lack of overview of self-managed funds, and ASIC said that yes, there were some issues and risks in self-managed funds that were not there in the industry funds that were overseen by APRA.

I am just wondering if you have got a view: if this sort of blatant advertising is run in newspapers, is it an issue for you in terms of education for consumers?

Mr Medcraft: We have been focussing on advertising. Commissioner Kell or Tanzer, would either of you comment?

Mr Kell: Obviously I have not seen the article. I am happy to have a look at it.

Senator CAMERON: I am happy for you to take this on notice.

Mr Kell: I raise a couple of points. If it is general advice or general information around what SMSFs do and what they can offer then it may well be entirely appropriate. On the broader issue, though, of comparing different types of funds, ASIC certainly does have a strong interest in that area. We want to ensure that if people do go into SMSFs, they do so for the right reasons and that they understand the responsibilities that they will take on in setting up an SMSF and the costs and other issues that are involved. We have recently established an SMSF task force to look at some of the advice that is being provided to people going into SMSFs. They are obviously a very effective vehicle for more experienced and better resourced investors, but we want to make sure that people who are potentially less experienced and with fewer resources are not being encouraged to go into them for the wrong reasons. So it is very much at the forefront of our actions at this point in time. We are particularly looking at the issue of people who are being potentially encouraged to set up SMSFs with relatively low amounts of money when other sorts of superannuation vehicles might be more

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appropriate for them. The broader issue is one that we have a strong interest in, and certainly if we see any marketing or advertising that looks like it is inappropriately encouraging people to set up these sorts of funds, we will take action if it is misleading.

Senator CAMERON: I would like you to have a look at it because Garry Weaven, who I am sure you know—

Mr Medcraft: He is a member of our advisory board.

Senator CAMERON: He is a member of your advisory board, is he? His comments might carry a little bit of weight then. What he is saying is that there is very little monitoring of self-managed funds. They are apparently monitored by the Australian Taxation Office, but there are 440,000 schemes. He says that APRA monitors the industry funds, and that in relation to SMSFs:

APRA funds get policed at least one week out of the 52 a year; they have one every 52 years.

I am sure he is not arguing that that is exactly the case, but it is an example of the situation. He then goes on to say that self-managed funds are

...a creature of the commission-driven system.

I am not sure if Marcus Padley advises on this stuff and gets commissions. If so, I think it is wrong that he is out there promoting these without disclosing that. I may be wrong about that, but I think somebody should have a look at it. He says that really these funds are not self-managed. People are not managing their own super funds; they have been put there by their accountants. Then there is the trail of commission into these funds. When I saw this, I just went, 'This is just wrong.' I do not mind people having an opinion, but there has got to be a balance. People can end up in real trouble on these issues, so I think Garry Weaven's comments and the comments of Marcus Padley really need to be looked at to see whether there is an issue emerging here that we need to deal with. I ask you on notice to have a look at both the issues.

Mr Medcraft: It is certainly troubling, I agree.

Answer:

We have answered this question in two parts. The first part of our answer discusses some of the work ASIC is currently doing in relation to SMSFs. The second part of our answer deals specifically with the Marcus Padley article referred to above.

ASIC SMSF work

ASIC has set-up a SMSF taskforce to deal with risky issues in relation to SMSFs. ASIC's overarching concerns in relation to SMSFs can be summarized as:

- (i) Concern about the quality of advice SMSFs receive from accountants and advisers (this includes examining licensing issues); and
- (ii) Concern about the general suitability of SMSFs for 'mum and dad' investors.

The taskforce is headed by Commissioners Peter Kell and Greg Tanzer.

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The taskforce will work on several projects. The taskforce's first project is examining the advice provided to investors who have set-up low balance SMSFs. We are concerned that some of these investors may have received inappropriate advice and may not be well suited to a SMSF vehicle.

We have appointed Rice Warner to determine the point at which a SMSF becomes cost effective compared to an APRA regulated fund. We expect Rice Warner's analysis to be completed by December 2012.

We have also served notices on a number of financial advice licensees and accountants to gather high level information about the SMSFs they set-up in 2011. This includes information about the balance of the SMSF, the age of the members, the assets of the SMSF and whether the SMSF borrowed any money to invest. We expect to receive this high level data by December 2012. Once we have received this data we will analyse it against a number of risk indicators of potentially inappropriate advice and will then conduct file reviews on selected client files. Where we see examples of inappropriate advice we will take appropriate regulatory action.

We expect to release a public report containing our findings and some useful guidance to industry and consumers on SMSF structures by the first half of 2013.

In addition to the work discussed above, we are also looking closely at SMSF advertising and will take action where appropriate

Marcus Padley article

We have reviewed the Marcus Padley article dated 13 October 2012.

We do not think the article contains financial product advice that attracts the financial services licensing requirements. This issue highlights the importance of investors being able to access unbiased and useful information about investing through a SMSF.

We note in this regard that ASIC's MoneySmart website contains a lot of information about investing through a SMSF. We will continue to add to this information over time to ensure that investors have access to the most up to date thinking on the advantages and disadvantages of investing through a SMSF structure.