

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

21 – 22 October 2009

Question: sbt 20

Topic: Class Order Relief

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Senator BUSHBY asked:

Senator BUSHBY—Good. Are you able to tell me how many superannuation trustees have applied for class order relief?

Mr D'Aloisio—I did have that.

Ms Gibson—If it is a class order, would you apply for relief? Ordinarily, the class order, on the face of it, means that they do not need to ask to knock on the door. I do not know the specifics.

Senator BUSHBY—They do not have to apply for it?

Mr D'Aloisio—I do not have them with me this evening, but I can get them for you. There is not general relief, but there are specific applications that trustees need to make. I will give you that data. For some reason, a figure of 19 sticks in my mind in relation to it, but I would like to have a look at it.

Senator BUSHBY—It is best to check.

Mr D'Aloisio—I had better check it.

Answer:

Super fund trustees are not required to apply to ASIC to rely on relief under ASIC Class Order [CO 09/210].

Super fund trustees may choose to rely on [CO 09/210] if they meet a number of eligibility criteria, all of which must be satisfied. These are outlined below and also summarised in Tables 1 and 2 of *Regulatory Guide 200: Advice to super fund members*.

All of the following circumstances must apply for a super fund trustee to rely on the relief:

The super fund trustee must be the trustee of a regulated super fund or an authorised representative of the trustee. The fund must not be a self-managed super fund.

The super fund trustee must hold an Australian financial services licence authorising the provision of personal advice about super.

The advice must only be about the member's existing interest in the trustee's fund and must not relate to:

- an investment strategy that involves a financial product that the trustee is required to provide disclosure about under section 1012IA of the *Corporations Act*;
- an election by the member to receive a pension from their super interest in the accumulation phase; or

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- the issue of a new interest in the fund, which is taken to occur because of a change to the member's interest in a sub-plan, where the member has an option, choice or election about the change under the governing rules of the fund.

In addition, the super fund trustee must meet all of the following conditions to rely on the relief:

The super fund trustee must inform the member in writing when, or as soon as practicable after, the advice is given, that they are providing the advice relying on the relief in [CO 09/210] and that the advice is limited in scope (that is, they have only considered the member's existing interest in the trustee's fund).

Where the personal advice provided would result in an increase in any:

- fees, costs or charges incurred in relation to the member's interest in the fund;
- premiums attributable to the member for insurance attached to the member's interest in the fund; or
- remuneration (including commission) or other benefits payable for the member's interest in the fund,

the super fund trustee must also notify the member in writing of the increase as an amount in dollars when, or as soon as practicable after, the advice is given.