



23 July 2020

Mr James Shipton
Chair
Australian Securities and Investments Commission
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Dear Mr Shipton,

I am writing to you in relation to the SMSF Fact Sheet which was published in October 2019 and was the subject of questions during the Parliamentary Joint Committee on Corporations and Financial Services (PJC) hearing last week. We understand that ASIC is reviewing this Fact Sheet in light of feedback from the pilot and the latest 2017-18 annual ATO SMSF statistics which were published in June.

I should begin by stating we share ASIC's objective that SMSFs should only be established and maintained by those for whom an SMSF is an appropriate retirement savings vehicle.

In the context of this review, we urge ASIC to consider whether information contained in the Fact Sheet and published on the ASIC and Moneysmart websites fairly portrays the true cost of running an SMSF. We believe the use of averages rather than medians in the Fact Sheet grossly overstates the true running costs for all but a very small proportion of SMSFs that have extremely large balances. We are concerned that the use of averages to illustrate the running costs of an SMSF in this manner could portray ASIC in the eyes of many as not properly understanding the SMSF sector and could diminish ASIC's reputation as a regulator.

I note the comments to the PJC hearing last week by ASIC Deputy Chair, Mr Daniel Crennan: "... we need to take it on notice ... we need to check the record, as it were, to make sure there isn't anything unhelpful or misleading which we will do. But thank you for raising the issue because you're absolutely right. We can say now in the public domain that those numbers are stale and have been updated and we will take on notice how best, if there is a need, to clarify information or a misimpression. We will certainly do that."

We believe that leaving the Fact Sheet on the ASIC website without revision could be misleading to those wanting to take more control of their financial lives, especially in relation to the supposed average cost of running an SMSF which includes components that do not relate to running costs, such as optional insurance premiums and interest expenses. True professionalism requires critical analysis and appropriate use of statistics not just the mechanical addition of items that produces an inappropriate total when assessing running costs.

Furthermore, we note that the Moneysmart website SMSF page has been revised to reflect the latest 2017-18 annual ATO SMSF statistics and now includes a median figure as well as an average figure. However, both those figures still include components that do not relate to running costs and hence could be misleading. (<https://moneysmart.gov.au/how-super-works/self-managed-super-funds-smsf>).

Interestingly, the Moneysmart website SMSF page could be seen to demonstrate bias against the SMSF sector. The SMSF page encourages those who are seeking more investment control to consider other options: “You don’t have to set up an SMSF to choose your own investments. See super investment options. (<https://moneysmart.gov.au/grow-your-super/super-investment-options>)” However, there is no reference from that page on the Moneysmart website back to the SMSF page.

Another example of potential bias against the SMSF sector is this unconditional statement on the same page: “On average, an SMSF **will** not perform as well as a professionally managed super fund, also known as an ‘APRA-regulated fund’...”, followed by a chart comparing returns over the period 2012 to 2016 (although the data are now available to illustrate average returns for the period to 2018 and show that the average return for SMSFs exceeded the average return for APRA-regulated funds in two of the most recent five years).

This unconditional statement appears to be in conflict with the principles of “Regulatory Guide 53: The use of past performance in promotional material”:

8.1 A promotion with information about past performance has a greater risk of being misleading if it is presented: (a) in a manner that implies it constitutes a projection illustrating the likely future value of an investment; or (b) in a way that creates the impression that substantially the same returns will be achieved in the future.

8.2 A promotion with information about past performance has a greater risk of being misleading unless it draws attention (unambiguously and without reservation) to the fact that past performance will not necessarily be repeated.

Even the opening paragraph of that Moneysmart SMSF page could be regarded as misleading: “When you manage your own super, you put the money you would normally put in a professionally managed fund into your own SMSF. You choose the investments and the insurance, and **you run every aspect of the fund yourself.**” There are many thousands of professionals (including accountants, financial advisers, auditors, lawyers, administrators and actuaries) who assist the majority of SMSFs on a regular basis. SMSF trustees are legally responsible for the operation of their SMSF and for meeting legislative, compliance and tax obligations but are not required to “run every aspect of the fund”.

When your review of the SMSF Fact Sheet has been completed, we would be pleased to consult with ASIC on the amendments required to the Fact Sheet and the Moneysmart SMSF page to address the concerns raised in this letter.

Yours sincerely,



John Maroney
Chief Executive Officer
SMSF Association