



## ACCOUNTANTS, FINANCIAL SERVICES AND SELF-MANAGED SUPER FUNDS

### A. ASIC scrutiny of accountants and self-managed super funds

ASIC recently announced that it will look closely at advice given by accountants in relation to self-managed super funds.

The focus of ASIC's investigation is accountants who:

- do not hold an Australian Financial Services licence:
  - providing financial product advice in relation to self-managed super funds;
  - failing to advise clients to take advice about self-managed super funds from someone who does hold an Australian Financial Services licence; and
- provide misleading or deceptive advice about self-managed super funds.

### B. Limit of financial services exemption

The financial services exemption in relation to superannuation funds covers advice on the establishment, operation, structuring or valuation of a superannuation fund.

It does **not** cover the provision of advice as to the investment strategy that a self-managed super fund should pursue, or advice that a person should switch to a self-managed super fund.

**An accountant can only provide advice as to the investment strategy that a self-managed super fund should pursue, or advice that a person should switch to a self-managed super fund, if the accountant has an Australian Financial Services licence which enables them to provide that advice.**

### C. What ASIC is looking for

ASIC is looking for accountants who:

- have advised a client to establish a self-managed super fund when the client's current superannuation savings are insufficient and the circumstances do not otherwise support the advice;
- have failed to advise a client properly about ongoing costs and the time and skill needed to administer a self-managed super fund;
- do not have an Australian Financial Services licence, and have:
  - failed to advise a client in writing that they are not licensed to provide financial product advice, and that the client should consider taking advice from an Australian Financial Services licence holder before making a decision; or
  - given financial product advice, including advice about switching to a self-managed super fund or the investment strategy that a self-managed super fund should pursue.

ASIC will take a close look at self-managed super funds with fund balances of less than \$200,000. ASIC considers it is generally accepted that a self-managed super fund with a balance of less than \$200,000 is not cost competitive with other options for superannuation savings.

## D. Suggested compliance action

In respect of self-managed super funds, accountants should:

- where the accountants do not hold an Australian Financial Services licence enabling the accountant to advise on self-managed superannuation funds:
  - limit any advice given to the establishment, operation, structuring and valuation of a self-managed super fund;
  - not give financial product advice about self-managed superannuation funds, and in particular not advise a client that they should switch to a self-managed superannuation fund and not advise a client on the investment strategy that a self-managed superannuation fund should pursue; and
  - advise the client in writing that the accountant is not licensed to provide financial product advice, and that the client should consider taking advice from an Australian Financial Services licensee before making a decision to set up a self-managed superannuation fund; and
- not advise clients to establish a self-managed super fund when the client's current superannuation savings are insufficient and their circumstances do not otherwise support the advice;
- if advising a client to establish a self-managed super fund, keep a record of the reason for the advice, particularly where the fund balance of the self-managed superannuation fund will be less than \$200,000;
- if instructed by a client to advise on the establishment of a self-managed super fund where the fund balance will be less than \$200,000, advise the client in writing that the self-managed super fund may not be competitive with other available option for superannuation savings; and
- take care to properly advise clients in writing about ongoing costs and the time and skill needed to administer a self-managed superannuation fund.

If you would like any further information about financial services law and its application to accountants, please contact Stephen Doyle or Greg Wheatley.



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