

ENFORCEABLE UNDERTAKING

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Section 93AA *Australian Securities & Investments Commission Act 2001*

The commitments in this Enforceable Undertaking are offered to the Australian Securities and Investments Commission ("ASIC") by:

Industry Fund Services Pty Ltd ACN 007 016 195 ("IFS")

Casselden Place
Level 29
2 Lonsdale Street
Melbourne Victoria 3000

BACKGROUND

1. IFS launched an advertising campaign on 22 May 2005 to promote industry-based superannuation funds using both print and television advertisements under the headings "A lifetime of difference for you" and "Compare the pair".
2. ASIC is responsible for monitoring and promoting consumer protection in relation to financial services, and under section 12GD of the *Australian Securities and Investments Commission Act 2001* ("Act"), may seek injunctive relief in respect of a contravention of the Act, or an order requiring publication of an advertisement (section 12GLA).
3. ASIC is concerned with the following aspects of the advertisements ("the Statements"):
 - a. They are based upon assumptions that:
 - i. The difference between the average fees of certain Industry Super Funds and Retail Master Trusts as at 31 March 2005 will remain unchanged for periods of up to 40 years.
 - ii. Current average fees for Industry Super Funds will remain unchanged for periods of up to 40 years.

and so represent that the final retirement payouts shown are a prediction of actual payouts or will be achieved.

- b. They state that an employee who is a member of an industry-based superannuation fund "will be better off" than an employee in a Retail

Master Trust and implies that the only relevant factor in assessing which employee is better off is the fees charged by the operator of the fund.

- c. They state that industry-based superannuation funds "return all profits to members" and imply that Retail Master Trusts do not return all profits to members.
 - d. The modelling upon which the comparison is based was performed independently by SuperRatings, rather than commissioned by IFS.
4. On 26 May 2005, ASIC indicated to IFS that it had formed a preliminary view that the advertisements were likely to mislead or deceive in contravention of section 1041H of the Corporations Act and section 12DA of the ASIC Act and that its advertising campaign should cease.
 5. IFS has consistently denied that it breached any statutory obligation.
 6. Without accepting ASIC's views, IFS cooperated with ASIC and agreed to suspend its campaign on 27 May 2005 in order to address ASIC's concerns.
 7. No advertisements containing the Statements were published by IFS after 27 May 2005, apart from the following two advertisements that IFS informed ASIC it was unable to stop being published:
 - a. A full page print advertisement appearing in the Brisbane Courier Mail on 30 May 2005.
 - b. A print advertisement appearing in the Australian Financial Review on 2 June 2005.
 8. IFS acknowledges ASIC's concerns and has offered ASIC this Enforceable Undertaking, which ASIC has agreed to accept.

UNDERTAKINGS

Pursuant to section 93AA of the *Australian Securities and Investments Commission Act 2001* ("the ASIC Act"), IFS provides the undertakings set out below.

Future Advertising by IFS

9. IFS will refrain from using, in any of its advertising or other promotional material about industry-based superannuation funds:

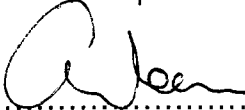
- a. Projections of retirement payouts or future fund balances applying comparisons of current or past fees or average fees:
 - i. Unless the advertising or material also provides consumers with prominent explanation that those projections:
 - A. Are not predictions or estimates of actual retirement payouts.
 - B. Would be altered by any changes in the relevant fees or average fees.
 - ii. Unless the information concerning current or past fees included is the most recent data that is available at the last reasonably practical opportunity to update the material in the verification and publication process and that the relevant fees have not since materially changed.
 - b. A representation that the only relevant factor for comparisons of different superannuation funds, in the context of projections about retirement payouts or future fund balances, is the fees charged by the operator of the fund
10. In any future advertising or promotion about industry-based superannuation funds it conducts, IFS will disclose whether it commissioned any external research or modelling upon which its advertising or promotion is based.

ACKNOWLEDGEMENTS

11. IFS acknowledge that ASIC:
- a. May issue a media release on execution of this Enforceable Undertaking referring to its terms and to the concerns of ASIC which led to its execution;
 - b. May from time to time publicly refer to this Enforceable Undertaking; and
 - c. Will make this Enforceable Undertaking available for public inspection.
12. IFS acknowledges that this Enforceable Undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this Enforceable Undertaking.

13. IFS acknowledges that ASIC's acceptance of an Enforceable Undertaking does not affect ASIC's power to investigate a contravention arising from future conduct, or pursue a criminal prosecution, or its power to lay charges or seek a pecuniary civil order.
14. IFS acknowledges that this Enforceable Undertaking has no operative force until accepted by ASIC.
15. ASIC acknowledges that nothing in this Enforceable Undertaking constitutes any admission by IFS.
16. All the provisions of this Enforceable Undertaking terminate on 31 December 2005.

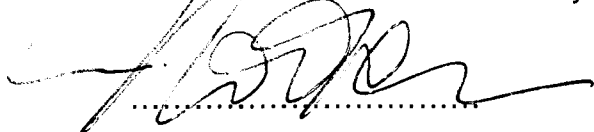
Signed on behalf of Industry Fund Services Pty Ltd ACN 007 016 195 by its duly authorised representative:


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3.6.05

Garry Arthur Weaven
Executive Chair

Accepted by the **Australian Securities and Investments Commission** pursuant to the **ASIC Act** section 93AA by its duly authorised delegate:


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3 June 2005

Jeremy Cooper
Deputy Chairman
Delegate of the Australian Securities and Investments Commission