Submission to CP 216
Received from Darren Howard via email

Re the above.

My comments are as follows applying to Tables 1 and 2.

B 1Q1)I am querying why the TRIO incident has received such huge attention and there is an inference that the reason people lost money in this fraud, was the fact that they had a SMSF.

I would suggest that these people were duped by experienced fraudsters.

You seem to be drawing a long bow, between TRIO, and SMSF here.

As I understand it, there were 285 SMSF affected by the TRIO fraud from approx 500000 SMSF.

So 0.05% of SMSF were affected.

It seems to me, that while a significant fraud, there are significantly larger amounts of money lost by investors due to lack of education around things such as tolerance to volatility or an understanding of volatility etc

The Cooper review indicated the the SMSF Sector is "largely successful and well functioning".

From my observation on the information on SMSF provided in your paper, there seems to be a negative slant on SMSF, and an inference, that if you do not have adequate experience (intelligence), then SMSF is not for you.

There are a number of key benefits that prompt people to move to the SMSF structure, which are not made clear in your paper.

If you are going to list areas where SMSF may not have same protection benefits as APRA regulated funds, It is misleading that you do not also list the reasons why many superannuants prefer the SMSF structure, and the benefits it provides eg Flexibility; Customised investment and Tax benefits, Estate Planning; Cost; Control etc.

B1Q2).Many clients that moved to SMSF in the wake of the GFC, did so following significant falls in value of money they had invested in opaque managed super fund structures where they did not understand, or have any idea of the underlying investments.

For example, many industry funds were invested in unlisted property that were not revalued until months after the GFC was in full swing, giving distorted performance figures, encouraging inexperienced investors to continue to invest money into poorly performing super funds.

Clients often prefer the clarity around their investments, the SMSF structure provides, where they could see exactly what they were invested in.

Accordingly, are you going to provide a list of warnings that apply to clients that are not using a SMSF, and the benefits they may be deprived of by not using the SMSF structure, so clients can make an informed decision.

For example, an inference could be drawn from the way you have worked the TRIO incident into your paper, that if you are in an APRA regulated fund, you can nearly feel safe to seek out any "hair brained" or "wacky" investment scheme, and if it turns bad, then in an APRA regulated fund you will be fine.

Some investors, will take a message from the line you are taking here, that they get a "free bet" under an APRA regulated fund.

I think is misleading.

B1Q3). When I rang ASIC and asked them how you obtain compensation in the event of Fraud, via an APRA regulated fund, they were very vague in their response.

They said it needed to be a "significant fraud", and that was as much as they would say.

If this access to the "Statutory Compensation Scheme", is of such a great benefits to the members of these funds, why is this not more heavily promoted, and more detailed information provided on what super members should do in the unfortunate event they are affected by a fraud.

Why do they not heavily promote this benefit, that should you be affected by a fraud, in this type of fund you can feel quite secure?

If you are going to take this line, you need to be very clear under what circumstances super members are protected, and how they go about it, getting compensation.

I also think you should make them aware of exactly what their % chances are of them being affected by a fraud, and if they are exactly what their % chances are of receiving compensation under this compensation scheme.

B1Q4) you are opening up a "can of worms here".

if you are going down this path, then you should arrange for a battery of psychometric tests to determine what really gets clients into trouble when investing their money.

I think you will find it is not SMSF that is the issue here.

I am sure that you will find far more investors, lose significantly more money, when investing due to their misunderstanding of volatility and tolerance to volatility (amongst many other things).

If you find clients do not rate well in types of tests, maybe you should look at legislating that they only invest in cash & fixed interest type investments, or get them to sign strict disclosures, and provide clear warnings, if they do invest outside this asset class.

But then also provide clear warnings, that should they only invest in cash & fixed interest, it also highly likely, they will not accrue enough funds in retirement to satisfy their income needs, and they should prepare themselves for a drop in their standard of living at retirement.

As I mentioned, this is a "can of worms".

B1Q5). Whenever you increase disclosure requirements costs will increase.

It would seem to me that you are focussing your attention, in the wrong areas here.

B1Q6). These have been partially covered in the above points.

I have a SMSF, and it is administered by a " State of the Art" SMSF admin system, virtually making it foolproof, from a compliance perspective, and trustee obligations etc.

As such I find it actually makes life far simpler, for myself and my wife to manage our superannuation, and given the admin cost is fixed, far more cost effective.

Table 2

1)Trustees definitely need to be made aware of their responsibilities, but the main pros and cons need to be presented to the potential SMSF trustees, and for example the fact that if they use a professional administrator, there will be a far lower chance of them running into problems, and they may find this structure better suits their needs.

The information provided in the paper is not balanced.

2)Under any circumstances, a clients risk needs need to be considered, and this definitely should be covered in the SOA.

3)again, using a professional SMSF administrator, the investment strategy requirements are a strong focus, and alerts will be generated when they are not. Again, some more detailed information needs to be provided here so an informed decision can be made.

4)I believe the time commitments and skills for running a SMSF need to be adequately explained. Again, using a professional SMSF administrator, in many cases, this is not an onerous task, and in fact may make lie simpler, for example where members / trustees are running accumulation and pension accounts simultaneously.

5) you will find that above a certain threshold say $250k, SMSF are a very cost effective vehicle. I would go further to say that in many cases, where superannuants have been completely shielded from the management / involvement with their super, over the years, the fees on certain superannuation funds seem to have "blown out".

As clients continue to take a greater involvement with their super, which for many / most Boomers / Gen X/ Gen Y/ Gen Z will likely be the structure they hold the majority of their wealth, this move toward SMSF, has led to significant cost savings in many respects, for clients in the appropriate circumstances.

It seems that apathy is nearly being encouraged here.

Apathy has never delivered good results, and the "leave it all to us message" has not necessarily been great so far.

Where clients have been apathetic about anything, in this case super, it has often led to gradually increasing fees, and in many cases mediocre results.

For the right people SMSF get members engaged and involved, and as Emerson said "nothing great was ever achieved without enthusiasm".

6) re the need to consider an exit strategy, again I think this may be blown out of proportion.

Certainly, when a SMSF balance falls below a certain value, then this point should be raised.

If you have a stat that indicates that there is a large proportion of SMSF trustees, exiting the structure after 2 or 3 years, then maybe this issue needs to be looked at more closely.

However, it would seem that the majority of SMSF trustees, are quite happy / comfortable with their involvement with their SMSF.

7) re regulatory change, this applies to every facet of the financial industry. In fact, the SMSF structure, has often provided more comfort around these types of things, as it is a customised structure. When legislation, tax laws, regulations change, trustees, are in a much better position to act on them and perhaps adjust their SMSF depending on what these changes are.

In summary, on reading of this paper there seems to a clear inference:

-that SMSF are this highly complex savings vehicle, that only the most intelligent of people should consider setting up.

- they are risky as you may not have appropriate insurance and you don't have access to the Super Complaints Tribunal

- developing an investment strategy is a very time consuming and difficult task.

- trustees are going to buried under mounds of paperwork, if they attempt, to be more involved with their super, and attempt to manage it via a SMSF.

-the costs of managing a SMSF are excessive.

- the winding up of SMSFs is an onerous, common, and expensive task.

From my experience, this is not the case, and as as the "Cooper Review" suggested the sector is "largely successful and well-functioning".

So I am a little concerned, at exactly what the agenda is here.

Some more attention to educating clients about things such as:

-Coping with volatility.

-clients taking advantage of their concessional and non- concessional superannuation limits.

- educating clients as to why they should take a close look at commencing pensions with there super once to once they reach preservation age.

I think your money would be better spent on this type of endeavour, than focussing on a segment that is "largely successful, and well functioning".

Thanks.

Darren Howard.