

9 February 2015

Kelly Fung
Lawyer, Strategy and Policy
Australian Securities and Investments Commission
Level 5
100 Market Street
SYDNEY NSW 2000

Email: policy.submissions@asic.gov.au

Dear Ms Fung,

Re: Consultation paper – CP226 – Remaking ASIC class orders on secondary services and general advice

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$600 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training, consulting services and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

In brief:

AIST strongly endorses the process of sun-setting legislative instruments after 10 years, unless action is taken to review them. While CP226 covers matters which are the subject of various reviews, these are outside the scope of CP226. Accordingly, AIST supports the renewal of CO 05/835, CO 04/1572, CO 04/1573 and CO 05/1195.

AIST strongly endorses the process of repealing legislative instruments and 'sun-setting' them after 10 years, unless action is taken to retain the objectives of these instruments. AIST notes that CP226 proposes to remake (without significant changes) CO 05/835, CO 04/1572, CO 04/1573 and CO 05/1195.

1. Introduction

AIST appreciates that the issue of general advice – and indeed all forms of advice – is currently under a high level of scrutiny and review. AIST has made a number of substantial submissions over the past year in particular regarding these issues. Our submissions have included recommendations such as:

- Advisers being required to identify themselves as offering either restricted (limited to the products of a particular provider) or independent advice (not confined to a particular list of solutions).
- The need to disclose the ‘eventual owner’ of any dealer group.
- Enshrinement of the terms ‘financial planner’ and ‘financial adviser’ into law.
- Re-labelling of ‘factual information’, ‘general advice’, ‘scaled advice’, and ‘personal advice’ to better aid consumer understanding.

All of these points – and others – bear upon the subject matter contained in CP226.

However, AIST appreciates that such major policy issues are outside the scope of CP226, and understands that CP226 substantially remakes the class orders. Therefore, in making this submission, we have confined our comments accordingly.

We note as a final observation that all issues contained in this consultation paper are worthy of more in-depth discussion. We would support a review of these issues separately, but understand the need to ensure certainty in discussion of the extension of these instruments.

2. Class Order [CO 04/1572] *Secondary Services: Financial Services Guide relief for experts*

AIST supports extension of CO 04/1572.

In particular, AIST endorses the current approach requiring disclosure of the relationship between the expert and the product provider (called the ‘client’ in CO 04/1572). While perhaps outside the scope of this review, AIST believes that this relationship should also be required to be disclosed to the retail client who is the end user of services provided, i.e. the actual “mum or dad” investor who is benefiting from the advice being provided. This is not currently a requirement under either CO 04/1572.

3. Class Order [CO 04/1573] *Secondary Services: Financial Services Guide relief for arrangers acting under an intermediary authorisation*

AIST supports extension of CO 04/1573.

4. Class Order [CO 05/835] *General advice in advertising*

AIST supports extension of CO 05/835.

5. *Class Order [CO 05/1195] Simplified warning for oral general advice*

AIST supports extension of CO 05/1195. AIST notes, however, that further consumer testing of these types of warnings would be desirable. AIST also believes that consumers are confused about what constitutes 'general advice', but recognises that this is a policy issue outside the scope of CO 05/1195.

If you have any further questions regarding this submission, please contact Karen Volpato, Senior Policy Advisor on 0419127496 or at kvolpato@aist.asn.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom Garcia', is written over a light blue horizontal line.

Tom Garcia
Chief Executive Officer