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A CHANGING OF THE GUARD ON THE BOARD OF THE SMSF ASSOCIATION WON'T DEFLECT IT FROM ITS FOCUS ON POLICY AND THE INTERESTS OF TRUSTEES AND MEMBERS.

The self-managed super fund (SMSF) sector has always played a valuable role in contributing to Australian prosperity and would

look to fund infrastructure, innovation, growth capital and housing in future, said new SMSF Association chairman Andrew Gale.

The executive director of Chase Corporate Advisory stepped in as the association's seventh chairman yesterday and said funding ideas were "part of the thought process for public policy" over the next two years.

Thanking his predecessor Peter Crump, who remains on the board, Gale said the association's 2020 strategic plan and its name change were highlights of Crump's two-year tenure, during which awareness of the

Association increased.

Gale emphasised the growth of SMSF sector, noting that 42 per cent of new members this financial year were aged under 45 with a high proportion of them women, showing that self-managed super funds were "increasingly appealing" to Generations X and Y.

Growth in funds was on the back of middle Australia and "not the preserve of fat cats" Gale said, with more than 70 per cent of SMSF trustees on incomes of less than \$100,000.

"Break-even point continues to fall at a time of more change and disruption. It's a really exciting time to be in the SMSF sector," he said.

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It was also a time for the association to be on its toes as both sides of politics focused on tax reform and superannuation in the lead up to Australians going to the polls later this year.

"In an election year you can rest assured we're being extra vigilant," Gale said.

In his outgoing speech, Crump thanked association chief executive officer and managing director Andrea Slattery, and her husband Paul for sharing her with the association.

He also thanked key event sponsors Super Concepts, Vanguard, Colonial First State and Accurium, with planning for the next annual conference in Melbourne underway. ■

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L-R:  
SMSF Association chairman Andrew Gale;  
SuperConcepts executive and Chairman's  
Award winner Peter Burgess; and outgoing  
SMSF Association chairman Peter Crump.



SMSF Association chairman Andrew Gale  
with Award winner Roddy Liu.



SMSF Association chairman Andrew Gale  
with Award winner Daniel Martinez.

## **BURGESS RECOGNISED** *for outstanding contribution to industry*

Unaccustomed to non-technical speeches, SuperConcepts executive Peter Burgess praised the work of the SMSF Association as he accepted the SMSF Association's Chairman's Award at the association's national conference on Friday.

"I don't know what to say," a surprised Burgess told a packed room of 1500 delegates.

"Normally I speak technical-speak. I don't know any good jokes either.

"I've been fortunate to have spent some time with the association and experienced first-hand the hard work they do. I'm also fortunate to work for an organisation that strives to work for this industry going forward."

Outgoing SMSF Association chairman Peter Crump said Burgess was a stand-out winner for the 2015 award, which recognises mentoring, leadership and excellence in practice in the industry.

"From the university students he teaches to the advisers he deals with, he is highly valued by all of us and we believe he is a worthy recipient," Crump said.

Burgess, who is technical services and education general manager at SuperConcepts, spoke on day

one of the conference on "What's changed, what's about to change and what's still to come" in the SMSF sector.

He accepted the chairman's award alongside the highest-achieving specialist accreditation course students, including Daniel Martinez Roddy Liu, Timothy Phang and Marie Ickeringill. ■

## **GET THE OBJECTIVES clear first to underpin superannuation tax policy**

CLEARLY ARTICULATING THE OBJECTIVES OF THE SUPERANNUATION SYSTEM WOULD FORM A SOUND BASIS FOR SETTING POLICY, BUT IT MUST BE REMOVED FROM THE POLITICAL CYCLE

Clearly defining the objectives of the superannuation system should be a relatively straightforward task and is an essential first step in informing the debate about how tax concessions for the sector could be determined and targeted, the SMSF Association National Conference has heard.

A panel session moderated by Vanguard Investments' head of market

strategy and communication, Robin Bowerman, concluded that the politics should be removed from setting and monitoring superannuation policy.

But as a starting point, and in agreement with the Financial System Inquiry (FSI) chaired by David Murray, the panel agreed that the objectives of superannuation should be enshrined in legislation.

"It's not a hard exercise. It would be quite easy to write," said Craig Emerson,

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managing director of Craig Emerson Economics and a former Labor minister.

“There is an historic debate on which I may be able to shed some light because it is relevant to the present and the future,” he said.

“There’s a view around that when compulsory superannuation was introduced by Paul Keating, really, that it was to supplement the age pension. That has never been the case. That is an urban – and rural – myth.

“I used to work for [former Finance Minister] Peter Walsh and I can assure you Peter Walsh would never have said what a great idea, we’ll have tax concessions for super and we’ll keep the age pension as it is.

“Everyone was concerned, even then, about the ageing of the population and the rising bill for the age pension. This was meant to create more self-reliance and less reliance on the age pension.

“Setting out the objectives, I would do that [and say] you want a secure income in retirement; you could say – I don’t know if you say it in one paragraph – that associated with that is to reduce reliance on the age pension. I would also add that it is not and was never designed as an estate-planning mechanism. If it works that way it wasn’t the purpose of the architecture.

The SMSF Association’s head of policy, Jordan George, said that a focus on creating a system to generate retirement income is the key.

“It should be income in retirement that supplements or substitutes the age pension, and will reduce reliance on the age pension for the population,” George said.

“The reality if enshrining the objectives in legislation is an admirable goal and we’ve got bipartisan support and we had the Treasurer yesterday saying he was committed to doing it and we had the Labor Party with Jim Chalmers here on the first day of the conference they were keen to do it.

“But I wonder what is the practicality of having some very high-level statement in law stopping governments from raiding super to fill holes in the budget. The more important thing in setting the objective is trying to remove

L-R: JORDAN  
GEORGE / SMSF  
Association  
head of policy;  
DEBORAH  
RALSTON /  
Professor of  
Finance / Monash  
University



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superannuation policy decision-making from the budget cycle.

“That’s why we’ve recommended a more appropriate way to make superannuation policy decision may be to link it to something like the intergenerational review, which is published every five years. Every five years you can have a stocktake; stop, have a look and say how has this been performing in the last five years? Do we need to tweak it, adjust it? Yes? OK, we’ll do that now – and it’s not used for revenue and it’s not used to fill holes in the budget.

“People can have a lot more certainty in their retirement planning.”

Emerson said he believes it is possible to “get agreement across the table from the political parties on that”.

“It mightn’t seem so, but politicians are acutely aware of the dangers of fiddling with superannuation every budget,” he said.

“You’ve still got to look at the alternatives and they can be pretty ugly too, and sometimes they do fiddle, but I reckon if this government sought an agreement to lock it into the intergenerational reports, you check

the sustainability of the system every five years, but in the meantime you leave it alone.”

Defining the objectives well would make it easier to know if the system was actually meeting those objectives and tax and other concessions could be better targeted, said Deborah Ralston, Professor of Finance at Monash University.

“You know what you’re targeting and your ability to have a good impact is greatly enhanced, and then the population understands what you’re going for, and you can rebuild trust because it’s more transparent,” Ralston said.

“The FSI was right, that we should be really focused on building retirement savings and assisting people to either replace or supplement their pension. That’s an admirable objective. In the background you never know whether to say whether it was explicit or not, but building a pool of national savings was always an objective.

“And I think that’s been well demonstrated, certainly through the GFC we saw a very good outcome by having more domestic capital to support business when international funds dried up.

“And we’ve just had some researchers do some work to show that pool of savings, when you build a major model of the economy and link the real economy and the financial system, is actually having an impact on reducing the cost of capital, which is fantastic.

“But I don’t think we need to be explicit about that any more.” ■



CRAIG EMERSON / director /  
Craig Emerson Economics.

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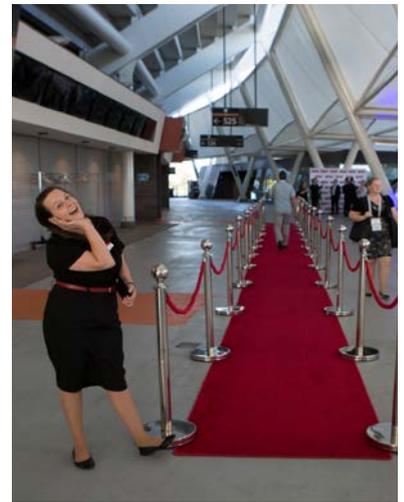
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# LACK OF TRUSTEE KNOWLEDGE REMAINS *A BIG CONCERN* FOR THE ATO

A VAST MAJORITY OF SMSFS ARE BEING ESTABLISHED WITH INDIVIDUALS RATHER THAN CORPORATIONS AS TRUSTEES, AND THE REGULATOR IS CONCERNED ABOUT THE LEVEL OF INDIVIDUALS' KNOWLEDGE AND UNDERSTANDING.



RICHARD SMITH / managing partner / ASF  
KASEY MACFARLANE / assistant commissioner,  
superannuation / Australian Taxation Office.

## HOPE FOR THE BEST *BUT* PREPARE FOR THE WORST

Dementia is a condition that will affect about one in 10 people aged over 60 and about three in 10 people aged over

85, but incapacity can strike anyone, anytime, and all SMSF advisers must be prepared in advance to deal with the consequences.

Scott Hay-Bartlem, a partner in Cooper Grace Ward, told the 2016 SMSF Association National conference that incapacity is not just an issue that affects people who are getting older. "It can strike people of any age," he said.

When an individual becomes incapacitated, it affects their ability to be a trustee of a self-managed super fund and if they cannot be a trustee they cannot be a member of the fund. Likewise, it affects their ability to be

The Australian Taxation Office assistant commissioner for superannuation, Kasey MacFarlane, has expressed concern at the regular incidence of self-managed super fund trustees not understanding their basic responsibilities and the continued dominance of individual trustees over corporate trustees.

In a session hosted by ASF Audits managing partner Richard Smith, MacFarlane said there appeared more that the ATO and advisers can do to ensure that trustees are well informed and make good decisions, even before a fund is set up. She said that it continues to be a cause for concern that trustees seem to lack even simple understanding and a grasp of what running a self-managed fund is all about.

"From the perspective of the ATO as the regulator, and all of you as advisers, it is critical that we work together even before a fund is set up so trustees have information and they have the right information so they can understand what the purpose of an SMSF is and what the clear rules are about running an SMSF," MacFarlane said.

"I know that you are all SMSF professionals and I suspect that you are thinking, gee, thanks for that, but that's pretty obvious and maybe should have

gone to another session." However, MacFarlane said the ATO receives about 8500 contravention reports each year and most – about 22 per cent – relate to loans and the provision of financial assistance to members and their relatives.

"What we commonly find is these contraventions arise simply because they have not understood that SMSF money isn't there for them to dip into to...fund their personal purchases," she said.

MacFarlane said the ATO also undertook about 2200 integrity checks on SMSFs in the six months to the end of December 31, 2015, contacting trustees and taking them through a series of questions "to check their understanding of some of the basic rules of running an SMSF".

"In more than a few cases...they actually ask us to cancel their registration because it's suddenly become apparent to them that their super fund isn't like a personal bank account," she said.

"That's a concern. People need to have that basic understanding up front. It's too late once the money has been taken out of the fund. At that time the money is gone, but also there's been a regulatory contravention so there's further potential penalties that the trustees have to personally satisfy." ■

a director of a company that acts as a trustee for an SMSF – and if they cannot be a director, they cannot be a member of the fund.

Hay-Bartlem said that as a bare minimum, every SMSF trustee should have an enduring power of attorney (EPOA), and every adviser should have a detailed understanding of the trust deed of the trustee's fund and what it says about removing a trustee and installing a new one – or how to change directors.

"What happens if you lose capacity?" Hay-Bartlem said.

"If you can't be a trustee or a director, what does that mean? It means you can't be a member."

//  
IF YOU CAN'T  
BE A TRUSTEE  
OR A DIRECTOR,  
WHAT DOES THAT  
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MEMBER

But good planning "allows us to have someone who is an enduring power of attorney to be a trustee in our place", he said.

"Any trustee that can suffer incapacity – that's all of them – need an enduring power of attorney in preference to tearing the SMSF apart," he said.

"We need to get the incapacitated person [out] and the attorney or attorneys go in and become trustees or directors of the trustee company."

But Hay-Bartlem said it is important that the incoming trustees or directors understand that they assume all of the responsibilities and liabilities that the original trustees or directors had. ■



L-R: KATHY EVANS / Superannuation and SMSF principal / Crowe Horwath; TIM MACKAY / head of strategy / Quantum Financial; SHELLY BANTON / director / Superauditors.

## Investment strategy is a blueprint not a compliance document

Some financial planners are treating the investment strategy requirement for self-managed super funds purely as a compliance document, a conference delegate told a discussion on strategies hosted by auditing, financial planning and accountant experts.

Questions in the session “Drawing up an effective, compliant and flexible investment strategy”, pointed to at least two financial planning firms ticking the box for auditors while keeping asset allocations in a wide zero to 100 per cent range.

Superauditors director Shelley Banton said auditors frowned upon allocation ranges and said investment strategies should list all assets, including cash, property and others.

“Trustees need to use strategy as a blueprint for fund investment ... auditors need to ask when it will return to an investment strategy if it goes outside those guidelines,” she said.

Trustees need to comply on risk, return, diversification, liquidity, discharging of debt and insurance within the strategy and need it written down before making investments, she said.

“We’ve only had one verbal strategy, which of course we sent back, and one of the worst [written strategies] was one paragraph saying

‘I can invest in whatever I like’. Needless to say there were compliance issues,” she said.

However none of the investment strategies audited by her firm had been looked at by the Australian Taxation Office, she said.

“The investment strategy really isn’t something they’re looking at,” Banton said.

Quantum Financial head of strategy Tim Mackay said the new legislative requirement for insurance for SMSF trustees was “overreach” and irrelevant for many financial planning clients.

“I think it’s a bit of overreach. I think it’s best practice to consider insurance but I don’t think it should be legislated,” he said.

Kathy Evans, Crowe Horwath superannuation and SMSF principal, agreed with Mackay, saying older clients, for example, do not need to consider life insurance.

“There are cases where it’s just not relevant to clients,” she said.

However she said it was important that trustees continually review their investment strategies, considering recent sharemarket volatility.

A poll of the audience showed more than 70 per cent of advisers reviewed clients’ investment strategies annually, in line with best practice. ■

## MOBILE GLOBAL WORKFORCES *posing challenges for SMSF advisers*

Retirees moving to Australia can “have their cake and eat it too” when transferring money between superannuation funds, says Cooper Partner directory Jemma Sanderson.

But increasingly mobile workforces moving, and retiring, between countries has created some specific headaches for SMSF advisers, she said.

A specialist in Recognised Overseas Pension Schemes (ROPS), Sanderson described some of the pitfalls associated with tax treatments between funds in her session “Transfers from overseas funds - more than just forex considerations.”

In one case, clients needed to liaise with their foreign fund and set up lump-sum rollovers into an Australian fund before they left for Australia to take advantage of paying no tax within six months of arrival.

“I very rarely see these transactions come within six months. Unless that’s approached before departure, it very rarely happens,” she said.

But with new ROPS rules in place in the UK making it harder for under-55s to move their money into Australian funds, advisers needed to consider other strategies to lower the tax burden for their migrating clients.

It may be better to transfer any tax-attracting lump sums to a personal account and pay a marginal rate of tax but still attract a foreign income tax offset, Sanderson said.

It was worth SMSF advisers communicating with foreign funds to make sure they did not withhold tax for the foreign country before proceeding with the right strategy, she said.

“But you can have your cake and eat it too,” Sanderson said.

“Other options are likely to be far superior (than ROPS) in my opinion. Going down the ROPS path may not be ideal in the long term.”

Sanderson said she was seeking a ruling from the Australian Tax Office to clarify confusion over tax jurisdiction on foreign and Australian funds. ■

## CHOOSE NOW

On an airline flight a few years ago the chief steward advised that in the event of an emergency oxygen masks would fall from the ceiling and that passengers should fit their own before assisting children – and anyone traveling with two children or more should decide now which one they love most. In similar vein, Cooper Grace Ward partner Scott Hay-Bartlem outlined a subtle way that an SMSF trustee demonstrated which of his children he loved more in the way he left money to them. While he ostensibly treated them equally and they were each left a similar dollar amount, the one he loved more received a tax-free payment, while the one he loved ... less ... received a fully taxable payment. Subtle, diabolical – and excellent.

## Fess<sup>up</sup>

The regulator of the SMSF sector, the Australian Taxation Office, isn't really the big, scary bureaucracy it's often made out to be. In fact, according to assistant commissioner of superannuation Kasey MacFarlane, it's here to help. But sometimes advisers and trustees have to help themselves. MacFarlane told the conference the ATO is keen for trustees to self-report contraventions of the regulations and has a hotline and staff standing by to take their calls. And while the ATO may look favourably on those who fess up, it isn't like a confession in church, MacFarlane said. A trustee can't just lay out a litany of sins and expect to be forgiven – a breach is still a breach, and they'll actually have to take steps to put things right.

## CAGEY ON STAGE

Fresh from a cage fight in New Mexico, advertising guru and adventurer Todd Sampson gingerly stepped onto the stage to test delegates' brain power at the SMSF Association conference's final day lunch.

The Leo Burnett chairman, no stranger to boardroom brawls, said he was suffering a few muscular aches after being knocked down in the first round of the fight in the US about 48 hours before stepping on to the stage in Adelaide.

After death-defying rock climbing, Houdini-like escapes from underwater and high-wire walking in Sampson's first series of Retrain My Brain, the cage fighting will form part of Series Two, still in production.



TODD SAMPSON / chairman / Leo Burnett

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