

Alert

Superannuation trustee changes after Hayne

Changes to super trustee arrangements may impact both profit-for-member and retail funds; the impact varying depending on parliamentary discussions

Trustee Obligations

Hayne continues the structural reform to the Financial Services industry which commenced under the Future of Financial Advice (FOFA) package of legislation 6 years ago. It continues to address the issues of conflicted remuneration by recommending the removal of grandfathered commission arrangements and repealing previous carve outs.

It does not go so far as to recommend structural changes regarding the separation of product and advice, which was what some commentators anticipated.

Implications for trustees, namely superannuation trustees

It appears that under Hayne's recommendation, a trustee of a superannuation fund will no longer be able to assume additional obligations and duties, other than act as a superannuation trustee. Commissioner Hayne refers to 'conflicts between the duties to members and the interests of, or the duties owed to, the owner of the trustee company'.

Whilst all recommendations are digested by industry, this change in theory impacts both profit-for-member and retail funds.

The recommendation from Hayne, at 34 words, is concise. This means industry is now left speculating on what the regulatory change will look like as it makes its way to parliament. At a minimum, we expect integrated retail superannuation businesses will follow the lead of other fund managers and establish separate trustee companies with new independent directors to address conflicts of interest between beneficiaries and business owners. Whilst such an approach will have some administrative inconvenience and cost, it should have minimal impact on the bottom line of most established businesses.

Given the current political situation, with the both ALP and the government looking to point score ahead of the election, it is possible we could see a more draconian response to the recommendation. This may require complete independence of ownership and control of superannuation trustee companies. Such a change would require businesses to choose to either act as trustee or outsource the trustee role to an independent entity.

This approach would have a significant impact on existing business operations and profitability of operators in the superannuation industries.

Given the obvious importance of the issue to our clients and contacts in the superannuation industry, ShineWing Australia will monitor the development of the recommendation as it is moulded into legislation.

Where appropriate, we will work with companies and industry bodies to lobby government to ensure the regulatory impact on business is minimised. We encourage you to get in touch with us at any stage to talk through your considerations.



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