

# Asset

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## FINANCIAL REVIEW

# LICENCE TO ADVISE

The right to give financial advice to self-managed super funds is under debate as accountants delve deeper into territory planners call their own, **LENG YEOW** writes.

**I**N 1995, there were about 97,000 self-managed superannuation funds in Australia. That number had almost doubled to 187,000 by 1999, when the Australian Taxation Office took over the regulation of self-managed funds. By June 30 last year there were more than 400,000 funds with about 750,000 members. They account for roughly \$300 billion of the \$1.1 trillion superannuation pool.

For more than a decade, SMSFs have been the fastest growing sector of superannuation, attracting the attention of fund managers, financial planners, accountants and the regulators.

Last month, the head of the government's superannuation review, Jeremy Cooper, confirmed that self-managed super was high on his agenda and his review would look at the role accountants play in providing basic advice to SMSFs. In addition, the federal parliamentary Joint Committee on Corporations and Financial Services, chaired by Bernie Ripoll, is examining the adequacy of the licensing regime, and although superannuation falls outside Ripoll's jurisdiction, the committee is sure to look at the need for accountants to be licensed and meet all obligations of the Corporations Law.

Accountants are exempt from licensing under the Financial Services Reform Act (FSRA), introduced in 2004. The Howard government granted recognised accountants a carve-out from Act, enabling them to set up self-managed super funds for clients and to provide factual information about the different SMSF structures, including advice on the tax implications of the options. They can also set out the fund's broad

asset allocation, audit the fund and provide compliance advice on trustees' obligations.

But the exponential growth of the SMSF sector, the dismal performance of superannuation funds in the past two years and the role accountants played in the distribution of agribusiness managed investment schemes, in light of the collapse of Timbercorp and Great Southern, has reignited the debate on whether accountants need to be licensed to provide advice on superannuation.

Before Prime Minister Kevin Rudd's ministerial reshuffle, former Minister for Superannuation and Corporate Law Senator Nick Sherry had expressed his desire to create a more level playing field in the SMSF sector.

Last year, in a speech to the Self-Managed Superannuation Fund Professionals' Association of Australia, Sherry questioned the logic of allowing accountants to establish an SMSF when they're not able to offer advice on strategy and investment.

"We have a situation where accountants can advise on setting up SMSFs, which is half the equation, but unlicensed accountants can't offer advice on the relative merits of establishing an SMSF compared with other products, nor can they advise the trustees of the SMSF on what to invest in," Sherry said in his address. "This is the other, important, half of the equation."

It is Cooper's task to determine what the future looks like for accountants in superannuation. "I'm interested in understanding how an investor, who has established a self-managed fund through an unlicensed accountant then goes about getting regular advice about their funds and options," he says.

Marianne Perkovic, managing director of Count Financial, says anyone advising on superannuation must be able to look at all aspects of the client's needs and take a holistic approach to tax and financial planning.

"Because of the different rules, it appears accountants have an unfair advantage in the SMSF space," she says. "There are still a large number of accountants setting up SMSFs, and there are a lot of accountants who like the fact that lesser rules apply to them, but because they're not licensed it means they don't have the same qualifications, and education and training.

"A licensed financial planner or licensed accountant can look at a range of options including wrap accounts and managed funds, and that means they're in a better position to recommend the right investments and



TAMARA YONINSKI

strategy. It can only be a good thing if SMSFs can gain access to broader advice.”

David Price, principal of Strategy First Financial Planning, says accountants are more informed and qualified to advise on tax than most financial planners, but when they set up an SMSF – even if it is driven by structural tax benefits – they lack a lot of relevant information.

“They do it without knowledge about the alternatives,” he says. “It seems only right that they should make informed decisions.”

He believes that self-managed funds set up by accountants are in danger of being fully invested in cash for an extended period of time.

“Members are missing out on opportunities to change strategy and make money,” he says. “In the last 12 to 18 months, being stuck in cash wouldn’t have been such a bad thing, but over the long term you don’t want to be in cash, and there’s also the risk of the client investing the money themselves.”

Price set up Strategy First Financial Planning in 2005 and has a number of informal referral relationships with accountants. The firm employs three financial planners, including Kath Bowler, former financial planning policy officer for CPA Australia. It charges an hourly fee or project-based fee determined by the time and materials required.

The practice does not charge brokerage or accept commissions.

“Our business has a relationship with 20 to 25 accountants,” Price says. “They like dealing with us because of our fee model.

“Accountants are approached by financial planners

**Marianne Perkovic,  
Count Financial:  
The different rules  
make it appear that  
accountants have an  
unfair advantage.**

all the time for referrals, but sadly, many accountants have had bad experiences and disagreements with financial planners, mainly over the commission structure.”

Hugh Elvy, head of financial planning and superannuation at the Institute of Chartered Accountants in Australia, says that the carve-out has caused confusion for some accountants as well as clients because it’s difficult to draw the line between general superannuation advice and personal advice.

“There are grey areas under the exemptions, and some of our members have asked for clarification,” Elvy says.

CPA Australia’s members also say it can be difficult to stay inside the lines, CPA superannuation policy adviser Michael Davidson says.

“Technically, accountants can’t give advice on basic issues such as co-contributions and salary sacrificing,” he says. “In the past, however, they’ve been able to do so. The big question is, should accountants be able to advise on non-product-related issues without being licensed?”

Elvy says a level playing field is the best outcome, but the complexity of the licensing regime, as it is, is a problem.

“A lot of our members want to be fully licensed,” he says. “They don’t want to advise on products, yet under the current licensing regime they’d have to undertake onerous study on product.

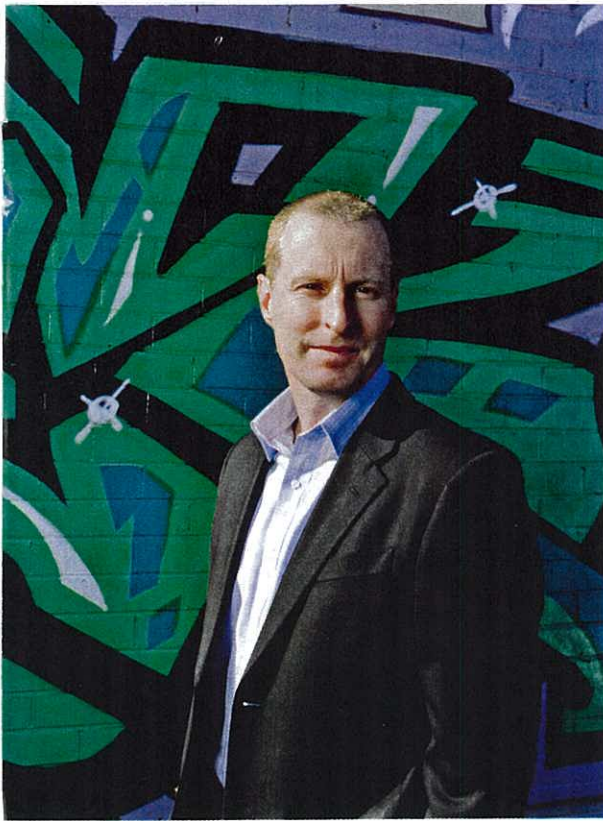
“As an entry point to being able to give advice, there must be some sort of licensing and that’s the direction the industry is heading in – but licensing at what level? If you’re not giving product advice, then are the same licensing requirements necessary?”

Keith Inns, the founder of specialist SMSF administrator Super Concepts, which was sold to ING Australia in 2001, has been working in superannuation for more than two decades and recently launched SMSF Works. He says the carve-out hasn’t worked, so the important question now is to determine who is in the best position to advise on SMSFs.

Accountants think of self-managed super as their natural domain, arguing that their qualifications and the continuing education and training they receive through their professional associations, combined with their intimate knowledge of their client’s affairs, put them in the best position.

They also argue that consumers don’t have a great deal of faith in financial planners or the system in which they operate. It’s a system that revolves around trails and commissions, and those financial planners who charge fees essentially base those on percentage of funds under management. “A lot of trustees object to those types of arrangements, so they prefer to deal with accountants,” Inns says.

But accountants need to brush up on their super



ROB HOMER



**David Price, Strategy  
First Financial  
Planning, left, and  
Hugh Elvy, Institute of  
Chartered Accountants.**

skills and their understanding of financial strategies in order to advise on SMSFs effectively, he says. They also need to be licensed.

“Accountants see SMSFs as part of their area because it has a lot to do with tax and auditing, but most accountants would struggle to become licensed under the present regime because it’s all about product advice and accountants don’t want to go down that track,” he says. “They’re more strategic advisers.”

They’d also struggle to find a dealer group to partner with, given that most groups depend on income from product and platform sales. Dealer groups typically license those who can contribute to the bottom line.

Accountants are philosophically more suited to holding their own licence. There is also an opportunity for a new licensee to enter the market, catering to the specific needs of accountants.

Of the incumbents, Count Financial is one obvious choice for accountants. Others include Lonsdale Financial Group and Premium Wealth Management.

When Barry Lambert established Count, he targeted accountants who wanted to move into financial planning. The majority of Count’s 900 authorised representatives are accountants.

But groups like Count and Lonsdale lean on their authorised representatives to support their preferred platforms, products and lenders to generate income for the dealer. And that’s a problem because many SMSFs are not product driven. Their popularity is driven by their members’ desire for greater control over their assets, the ability to avoid paying high fees and use a lower cost option and, in some instances, avoid seeing a financial planner.

JIM RICE

Inns says the growth of the SMSF sector is driven by independent investors who want their super funds to hold direct assets such as equities and property. But investing in products that don’t pay rebates or commission doesn’t suit the model of most dealer groups.

He estimates that the bulk of the 400,000 SMSFs in existence are set up and administered by accountants who are not licensed financial planners. Specialist administrators such as SMSF Works, Super Concepts, Cavendish Superannuation, Smartsuper and Heffron Consulting administer between 25,000 and 30,000 funds altogether, leaving more than 350,000 to be administered by accountants.

That poses the question: are SMSFs primarily established for tax purposes or for wealth creation?

“It may start out as a tax-effective thing but ultimately it becomes about wealth creation,” Inns says. “As the fund’s balance grows larger and larger, the interest of the investor picks up.”

“People who have an SMSF need strategic advice first, then assistance with compliance. Investment advice is a very distant third.”

“Because of this and because a great number of SMSFs want to invest in direct assets, they don’t see the need to use a financial planner.”

CPA Australia has 80,000 members in Australia, of whom 3000 are engaged in giving financial advice. The association fields between 25 and 30 inquiries a month from members looking to move into financial planning. That number has dropped in the past 12 months.

While neither Cooper nor Ripoll’s joint committee have given any indication of where their reviews are heading, and there’s no clear-cut direction on how

it will affect accountants or SMSFs, any changes will have minimal impact on CPA members who advise on SMSFs as most already meet the full licensing requirements under the FSRA, CPA's Davidson says.

An increasing number of CPA members have gained their own licence, joined dealer groups or forged referral relationships with financial planning practices.

"We get a lot of calls from members wanting to move into financial planning," Davidson says. "We've put out a guide outlining their obligations under FSRA, and also their options for operating in this space."

Jo-Anne Bloch, chief executive of the Financial Planning Association, has been scathing in her attack on the accountants who recommended the agribusiness managed investment schemes offered by failed promoters Timbercorp and Great Southern.

About 300 accountants piggybacked off the Great Southern licence to invest clients in Great Southern's products for tax purposes.

As a result, hundreds of investors lost their capital when the company went into administration in May.

Financial planners have been slammed for recommending agribusiness products that typically pay advance commissions of as much as 10 per cent, but Bloch says that some accountants are equally guilty of taking hefty commissions.

Davidson is more cautious. "There's no evidence to suggest that accountants are getting into financial planning or SMSF purely to make money," he says. "If someone recommends a product or a scheme, their primary consideration is the suitability of the scheme for the client, not revenue."

Perkovic says the primary basis for recommending a product should always be its merit as a sound, quality investment, not its tax effectiveness. Count has no exposure to Great Southern.

"Our research process did not allow us to put Great Southern on our list," she says. "It didn't stack up from an investment perspective. It's unfortunate for clients and for the industry that other dealer groups are embroiled in this situation."

"If you're really looking after your clients, you should be looking after all aspects of their needs. A holistic approach that encompasses tax, strategy and financial planning, coupled with a strong client relationship, will ensure success in this challenging environment."

Inns breaks the self-managed super fund market into two broad categories: dependent investors and independent investors.

Dependent investors pay financial planners to recommend strategies and products and take care of things. Independent investors want the freedom



JAMES DAVIES

**Keith Inns, SMSF Works:**  
The important question to ask is, who is in the best position to advise on SMSFs?

to invest in direct assets; they don't want to use an administration platform and they don't want to pay high ongoing fees.

Unlike financial planners, many accountants and SMSFs are not product driven, Inns says.

"It's not unreasonable to expect accountants to be better educated and qualified, and fall under some sort of licensing regime," he says, "but not a licensing regime that was originally established to manage the financial planning industry because these people are not financial planners."

If the Cooper review and Ripoll's joint committee both recommend that accountants need to be licensed to provide basic advice, then there'll be opportunities for dealers like Count.

Perkovic says Count will be selective about who it takes on.

"We only take on people with a passion to get into financial planning," she says. "We don't want people who are looking for a licensee simply because legislation prescribes it and they need to comply with the law."

"More and more accountants will get licensed, and there's an opportunity for us to attract people who are genuinely interested in delivering the best solution to their clients." 🌟