THOMSON

COVER NOTE

Independent • News & Analysis • Since 1975

Issue 1664 January 27, 2010

ASFA says stop super 'tinkering'

The Assoc of Super Funds of Aust (ASFA) says the Fed Govt must stop "tinkering" with the super system if it wants long-term investor confidence. ASFA CEO Pauline Vamos told *CN* independent analysis showing a loss of confidence in super highlighted the need for the Cooper and Henry reviews to deliver greater certainty. Research firm SuperRatings found the good news of a bounce back in returns for Aust super funds in 2009 was offset by bad news of lower investor confidence, sparked by the GFC and evidenced through a fall in voluntary contributions. Its analysis showed a typical balanced fund lost 19.7% in 2008, but over 2009 returned 12.9%. Most of the clawback occurred through 12% growth in the six months to Dec 31, which SuperRatings described as "the largest half-year result for [Aust] super funds since the introduction of compulsory super in 1992". Almost all the turnaround was attributed to a resurgence in Aust equities. "The strength of this rally has surely convinced the average Australian that the GFC is over." But SuperRatings also found the economic crisis had "paralysed" fund members and instilled a "loss of confidence" in super, eg discretionary contributions fell more than 40% in 2008-09 on top of a 40% drop in 2007-08 after the Howard govt abolished generous contribution limits. Vamos said the GFC and the limited duration of Howard govt incentives for extra contributions were two factors underlying the drop in voluntary contributions. "We all remember [former fed treasurer] Peter Costello brought in tax changes and people were suddenly finding an extra $1m to put into their super." A third factor was "tinkering" by the Fed Govt with super rules, regs and tax treatments. The tinkering had to stop. "Until [people] know how tax benefits will work, they won't put extra money in [their super funds]." The govt should use the Henry review of Aust's tax system to clarify tax treatment of super (*CN 1663, 1660, 1658, 1644*). If tax rules were not set for the long term "people are going to hedge their bets" and invest elsewhere. Vamos said the govt also needed to use the Cooper review to deliver greater regulatory certainty (*CN 1663, 1662, 1659, 1658*).

Longer view highlights value

SuperRatings *(above)* said despite GFC-generated volatility, a longer-term view showed super funds were meeting objectives. Over the past seven years, the median balanced option had returned an average 6.8% a year against an annual inflation rate of 2.8%. The comparison over five years was "not as impressive", with a median return of 4.8% against 3%inflation. The 10-year return was 5.5% against a 3.2% inflation rate. SuperRatings said on a calendar-year basis, Aust super funds had negative returns for only two years in the past 10, 2002 and 2008.

New entrants bring price pressure

Although Aust's general insurance (GI) market is likely to stay concentrated in the hands of a few big players, the advent of smaller entrants should maintain rate competition, says an author of the 2009 JP Morgan/Deloitte survey *(CN 1663)*. The annual survey predicted continuing premium increases in 2010 as insurers sought to regain profitability, but increased competition would temper rises. JP Morgan snr insurance research analyst Siddharth Paramesweran told *CN* new insurers were important to maintain competition. He cited Budget, Real, Youi and Progressive as smaller, newer entrants to the Aust market that were keeping pressure on larger players *(CN 1654, 1653, 1640, 1639, 1629)*. "Until now, we didn't have many new competitors. There were only a few companies dominating the personal lines market; many brands but only a few companies." The survey identified 64 GI brands in the Aust market backed by 16 underwriting grps. Paramesweran said the newer entrants were a positive sign, despite their relatively smaller size. "There are a few new players willing to have a very strong go at [the market]. The impact on prices is likely to be at the margin, but it will restrain development of an oligopoly." More dominant insurers could still target "reasonable returns". "But they won't want to give [newer players] a lot of oxygen, as that will have an impact" on prices. Paramesweran said it would be interesting to monitor the new entrants' performance because "they are fighting established players [and] each other".

Watchdog criticises AAMI ads

The advertising industry's watchdog has upheld NRMA Insurance's complaint against a campaign by rival AAMI, although the finding carries no monetary or other type of penalty. NRMA complained to the industry's self-regulation body, the Advertising Standards Bureau (ASB), about allegedly misleading claims AAMI made in adverts in suburban newspapers on Syd's north shore and on buses and bus shelters in the same area last Aug-Sept. NRMA objected to the statement "It's unlucky if you're with NRMA", a variation of AAMI's own slogan. The adverts said AAMI had "just lowered car insurance prices on the north shore" and urged consumers to "switch now and you could save". ASB's dispute-resolution arm, the Advertising Claims Board (ACB), comprising a panel of three lawyers chaired by Ian Robertson, Syd-based managing partner of Holding Redlich, upheld NRMA's complaint. ACB said NRMA had supplied information on its own premiums for 20 categories of north shore consumers using various combinations of age, gender, suburb and vehicle type. It showed NRMA policies were cheaper than AAMI's in all 20 categories with savings ranging up to 40.2%. In response, AAMI told the ACB in-house market research showed 90% of new customers would experience a drop in premiums if they switched to AAMI. It submitted the research was "a reasonable basis" for claiming NRMA customers would save money if they changed to AAMI. But ACB said AAMI's refusal to provide further details of the research, on the grounds it was commercially sensitive, meant it could not substantiate its claims. The panel members unanimously found the AAMI adverts breached the industry code of ethics because they were likely to mislead or deceive and contained a misrepresentation likely to damage a competitor. They said advertisers assumed "a heavy burden" to ensure any price comparisons were "correct and not misleading". ACB said although the north shore campaign had finished, AAMI had undertaken not to run the campaign "in its current state in the future". Commenting on the ruling, NRMA said it encouraged competition "but we expect people to play by the rules". AAMI did not respond to a request for comment before press time.

PI plan may change birthing options

The Fed Govt's planned system of professional indemnity (PI) cover for midwives could encourage a move away from home births to hospitals, says the Aust College of Midwives (ACM). The govt called tenders last Sept to provide PI insurance for private midwives using hospital facilities as its response to a scarcity of cover *(CN 1649, 1623, 1483, 1409)*. ACM exec officer Dr Barbara Vernon told *CN* the planned PI product would cover midwives in private practice attending births in registered hospitals but not those attending in private homes. Midwives employed by hospitals already held vicarious cover. Vernon said midwives could continue attending home births for a time under a plan being developed by fed and state govts. It was proposed to offer those midwives a two-year exemption from holding PI cover that was otherwise mandated for all health professionals. They would require PI cover for pregnancy and post-birth care but would remain uncovered for deliveries. "All midwives now doing that always tell the [pregnant] woman they do not hold PI cover [for deliveries]. The woman is told she [could] sue [for negligence] only for the personal assets of the midwife." Vernon said the time-limited PI exemption was likely to encourage more private midwives to work only in registered hospitals, prompting a move away from genuine home births. She said insurers should find the PI tender attractive, given the Fed Govt would assume most of the risk. "The govt decided it didn't want to extend the [PI] premium support scheme it provides for doctors." Instead the insurer would carry the first $100,000 of any successful claim, with the govt paying 80% of settlements worth $100,000-$2m and 100% of those above $2m. "The history of claims against midwives is fairly modest so we would expect the premiums to be affordable," Vernon said.

Health dept assesses bidders

A fed health dept spokesperson told *CN* tenders had been received from PI providers *(above)* but he could not provide details, eg number or names of bidders. The tender assessment was continuing and he was not aware of a date for announcing a successful bidder. The tender conditions required PI policies to be marketed from May 1 this year with cover effective from July 1. A study by SA Health and Flinders Uni's obstetrics dept, published in the *Medical Journal of Aust,* cited about 300,000 hospital births and 1,100 home births in SA from 1991 to 2006. It said the proportion of SA home births was 0.2% - 0.5% of total births and similar to the nationwide proportion.

People

Zurich Aust has appointed **Shane Doyle** as GM general insurance. He previously held snr exec roles with AIG in the Middle East, Europe and the UK ... Former IOOF operations mgr **Paul Rohan** has joined Tower Aust to handle the insurance account for industry fund AustSuper. He will head a dedicated Melb-based unit based to managing the account ... LMI Grp has appointed former Crawford & Co exec **Steve Grandidge** to head its Bris-based claims services division.

ACCC considers AAPH bids

The ACCC's informal assessments of AMP Ltd and National Aust Bank (NAB) bids for Axa Asia Pacific Holdings (AAPH) are expected to be released in Feb and March. Both assessments will consider the implications any AAPH acquisition would have on competition in the life insurance, super, wealth mgmt, and financial planning and advice markets. The ACCC said it began its informal examination of AMP's bid last Dec following AMP's first offer to buy AAPH in partnership with Axa SA (*CN 1663*, *1658*, *1657*). The process was suspended on Dec 17 when AMP announced it was "considering its position" after NAB lodged a higher bid than AMP's "best and final" second offer. But the cmn later resumed its examination at AMP's request. It said it expected to outline its findings on Feb 10. The ACCC said submissions on NAB's bid for AAPH would close on Feb 5. Findings were expected to be published on March 18.

Swiss Re banks on Buffett again

Swiss Re has again turned to US billionaire Warren Buffett when adjusting its capital strategy. Swiss Re said it had struck a deal to transfer CHF300m ($A314m) of its US life reinsurance business to Buffett's Berkshire Hathaway Grp (BHG). Swiss Re's head of life & health operations Christian Mumenthaler said the transaction was part of the company's strategy to increase capital efficiency. "By transferring this block of business, Swiss Re is monetising intangible assets and freeing capital. The transaction puts us in an excellent position to redeploy the capital at more attractive returns." In Feb last year, Swiss Re raised CHF3bn ($A3.1bn) in extra capital from BHG shortly before reporting a loss of CHF864m ($A905m) for 2008 (*CN 1619*).

Insurer loses PI policy argument

A Syd-based finance firm has successfully joined a Bris solicitor's professional indemnity (PI) insurer to a negligence action seeking more than $1m in damages. Provident Capital Ltd (PCL) has alleged John Gould, principal of Compass Legal Solutions, engaged in misleading and deceptive conduct in handling $1.12m in funds linked to a unit development by his client Clucor Pty Ltd. In his decision, NSW Supreme Court Justice Stephen Rothman rejected arguments by Qld Law Society captive Lexon Insurance that it had no liability because the lawyer's alleged dishonesty voided his cover and the PI policy was not in force at the relevant time. Justice Rothman said PCL wanted to join Lexon to its action because of Gould's likely inability to pay damages in the event of a judgement against him. The court heard that in Oct 2003 PCL agreed to finance a Clucor development at Milton, in Bris, subject to receiving evidence all six planned units had been pre-sold on unconditional contracts with 10% deposit. Clucor itself had paid the required deposits, but not in cash. Justice Rothman said deposits were paid from the Ozecard account of one of Clucor's owners into a holding account in Gould's name. "The Ozecard account, while expressed in dollar amounts, is not in legal tender." Justice Rothman said Ozecard was a barter system in which account holders bought and sold from each other in "trade dollars". In Nov 2003, after Gould told PCL deposits of $1.12m were being held, the company made a $6.9m loan to Clucor. In Sept 2004, when PCL attempted to recover the deposits, it was told the funds were not in a trust account and were "trade dollars" incapable of being redeemed. In joining Lexon to PCL's action, Justice Rothman said Gould held a PI policy for the years to June 30, 2004, and 2005. It was "more than arguable" that Gould's alleged negligence had occurred after July 2004 which meant the policy would respond. He said questions about Gould's alleged dishonesty were a matter for the trial judge. A Lexon spokesperson told *CN* the insurer had lodged an appeal against the decision. *(NSWSC, Provident Capital Ltd v Gould, 1458/2009)*

Club faces insurance tax burden

The financial plight of a social club in regional Vic highlights the devastating impact of cumulative govt imposts on insurance premiums, says a Vic Opposition MP. Jeanette Powell, National Party MP for Shepparton, told *CN* she hoped the Fed Govt's Henry tax review would recommend changes to the system in which Vic's fire service levy (FSL) was compounded by state stamp duty and GST (*CN 1663*, *1659*, *1657*, *1644*). Powell said she hoped the Vic Govt's royal cmn into the Feb 2009 fatal bushfires would similarly recommend an alternative system for funding Vic's fire services. Powell said the Shepparton Italian Social Club had told her it faced an annual insurance bill of $5,400 for property and liability cover. Almost half its bill consisted of state and fed imposts, including Vic's FSL. Powell, shadow minister for local govt, said a new and fairer funding system was needed to replace the FSL. "The current system is inequitable because people who take out [fire] cover are subsidising those who don't or can't afford to buy it." Alternatives to the FSL should be explored, eg property-based levies collected by municipal councils. But she said the state govt's attitude did not give her much hope. "I have raised this issue with the Premier [John Brumby] who has said the FSL is not a tax." She said Vic Treasurer John Lenders also appeared to defend the current system in his comments when launching a govt review of fire-service funding (*CN 1659*).

Draft regulations welcomed

The financial services industry has cautiously welcomed the Fed Govt's release of draft regulations simplifying disclosure documents to help investors make more informed decisions (*CN 1637, 1595, 1573*). The proposed disclosure information was presented in six-page documents, compared to industry-issued documents that were often hundreds of pages. The statements would be supported online by more detailed or frequently updated information. Draft regulations allow the documents to be shorter than six pages, but not longer. Financial services, super & corporate law minister Chris Bowen said the proposals would improve consumer protection by ensuring financial disclosure documents were short and straightforward. "Information on key product features, such as fees, will be standardised across super and most managed investment products, making it easier for consumers to shop around and compare products." ASFA CEO Pauline Vamos said the model statements were a good start, but more work was needed. "There's a way to go before we get standardisation of portfolio descriptions, risk descriptions and transparency on top-line fees to enable realistic comparisons to be made. We will make submissions to point out areas where we believe it falls short. It is not only about simpler product disclosure, but ensuring ease of access online." John Hewison, CEO of private wealth mgmt firm Hewison & Assocs, said the disclosure statements were a step in the right direction, but the way information was organised was too generic. "There is room for more detail on fees." The draft regulations, explanatory materials and sample PDSs are available online at the Treasury website. Interested parties have until Feb 26 to comment.

Axa Asia Pacific expects profit rise

Takeover target Axa Asia Pacific Holdings (AAPH) *(see p3)* has foreshadowed a turnaround in profitability of more than $950m for calendar 2009, compared with 2008. In an ASX announcement, AAPH said its final 2009 results, due on Feb 17, were expected to show an after-tax profit of $675m ($278.7m loss in 2008). The expected result was built on a reversal of 2008's investment losses, a rally in earnings across AAPH's Asian operations, but a drop in income from its Aust and NZ businesses that both AMP Ltd and National Aust Bank have sought to acquire (*CN 1663, 1658, 1657*). AAPH said grp operating earnings fell slightly to $550m ($555.6m) and investment income was $185m, compared with a $537.7m loss the previous year. Operating earnings for its Hong Kong divn reached $330m ($280.3m) and its south-east Asian businesses also showed higher earnings of $50m ($34.9m). The interim results showed continuing losses in the rest of Asia totalling $35m but an improvement on 2008's $40.9m loss. The fall in Aust and NZ earnings to $205m ($271.3m) was attributed mainly to a 25% slump in funds under mgmt compared with 2008. AAPH said NAB had completed its initial due diligence for its proposal to buy the company and divest its Asian operations to AAPH parent entity Axa SA. It said the NAB proposal remained subject to several conditions, eg takeover discussions could not start until an exclusivity agreement between AMP and Axa SA expired on Feb 6.

Coface warns bubbles may burst

Although the GFC may be over, there are still potential "bubbles" that could burst and threaten economic recovery, says intl trade credit insurer Coface. The French-based grp said economic upswings in industrialised nations were still threatened by levels of public debt, uncertainty over govt economic policy in China and stock-market volatility. "The bubble in public debt is especially dangerous. It is not so much the risk of sovereign defaults that is feared, but rather the need to quickly implement budget-restriction policies that are detrimental to growth and therefore to companies." Coface said industrial overcapacities in China had to be monitored because authorities there had decided to restrict credit in overcapacity sectors. "This 'go-and-stop' policy, typical of China, could destabilise fragile companies." Sharp stock-market variations also could be expected in industrialised countries, due to optimism with financial markets that did not match the real economy's recovery. "The bursting of these bubbles is likely to generate new negative shocks. A relapse would affect companies, many of which are now quite weakened after two years of under activity."

Ditched plane heads to auction

The wreckage of the Airbus 320 that made an emergency landing in New York's Hudson River in Jan 2009 will be auctioned on March 27 by US-based Chartis Insurance, previously American International Grp (*CN 1660, 1643*). US news reports said the plane, described as severely water-damaged, would be sold in one piece and without its two engines. The pilot of the plane with 155 passengers on board ditched the aircraft in the river after a bird strike caused catastrophic engine failures six minutes after take-off from La Guardia Airport.

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Cover Note is published weekly by Thomson Reuters (Professional) Limited and is available by subscription only.
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