stonehouse

Newsletter
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Death Benefits: Your Will is only half the battle

By Amy Tickle, SMSF Adviser

A recent jump in court cases regarding Superannuation death benefits begs the question, do you know where your superannuation will go when you die? Death is not a topic most people like discussing despite the fact it's probably one of the most important conversations to have. Many people might even confidently say they have their estate in order; however, a substantial number would be wrong.

Did you know superannuation is an outlier when dealing with your estate as it needs to be considered separately? While you might have a will in place, it is likely that you haven't considered what will happen to your superannuation member balance. If you do have a will, and it does deal with your superannuation balances, you may find it is superseded by a binding nomination or reversionary pension that you have not considered.

Having been in the industry for over 10 years, I can't stress enough how important it is to check you have all your T's crossed and I's dotted when it comes to your estate and its potentially largest asset. When push comes to shove, you can't predict what your family members will do when you're gone.

Binding Death Nominations

The best way to ensure your super balance goes where intended is to have a Binding death benefit nomination (BDBN) in place. These legally binding documents specify who gets what from your super balance and confirms your wishes. If completed correctly, they cement your wishes and can avoid a family feud.

If you have an Self managed super fund (SMSF), a BDBN needs to be in a format allowed by the trust deed and the provisions of the SIS Act. To be binding, it must be witnessed by two independent adults who are not nominated as beneficiaries and usually requires updating every three years. If you have a public offer superannuation fund, you will need to complete the forms specified by the provider and follow their instructions carefully.

A BDBN allows you to nominate one or more dependants including your spouse, a person you have an interdependent relationship with (including a financial dependant) and/or your estate should you want your super balance dealt with as part of your will. But what happens if you don't have one?

Ioppolo Vs Conti Case

One of the most poignant cases for having your BDBN reflect your wishes is Ioppolo vs Conti.

Mr and Mrs Conti were the Trustees of their SMSF. Mrs Conti had a will in place which appointed her daughters as executrices. She directed her superannuation to those daughters, she had made it clear that her husband, Mr Conti, was not to receive any of her superannuation. However, Mrs Conti did not have a BDBN in place nominating her "Legal personal representative".

On her death, Mr Conti appointed a new Corporate Trustee for the SMSF acting as sole director and distributed Mrs Conti's superannuation benefits to himself. The daughters attempted to rectify this by:

- insisting in a court of law that they be appointed as trustees of the SMSF alongside Mr Conti; and
- proving that Mr Conti had not acted in a bona fide manner in providing the benefit to himself, going against the provisions of the SMSF trust deed.

The daughters failed. Quite simply put, Mr Conti acted within the provisions of the trust deed in his role as Trustee and, in the absence of a BDBN, was within his rights to pay the entire superannuation balance to himself as Mrs Conti's dependant spouse.

This just reiterates the fact that if you fail to provide your wishes in writing to the Trustee of your superannuation fund, they are allowed to decide where it goes and it might not be where you intended.

What else can go wrong

Even if you have a BDBN in place, you may find it has lapsed or is invalid due to inadvertently nominating someone who does not meet the definition of a dependant under the SIS Act.

It is important to ensure you regularly review your death benefit nominations and will as circumstances change over time. Not doing so can significantly impact your family at a time when they need you the most. If you are unsure where your superannuation is going, contact your Stonehouse Adviser.

In this Issue:

Assessment Rate Changes

By Michael Chiel,
Credit Adviser

How much can you now borrow? APRA has officially removed the 7% servicing buffer. Banks used to be able to reject borrowers who were unable to service a loan at 7% or a rise of 200 basis points, whichever was higher. Banks typically add another 25 basis points on top of APRA's guidelines - assessing serviceability at 7.25%. Under the new arrangement, a borrower paying a comparison rate of 4% will be assessed against their ability to repay at 6.5%. The new requirement is for lenders to add 2.5% to the actual repayment rate, adding almost 14% more borrowing capacity to the average person.

By way of background, in December 2014 APRA wrote to all of the ADIs with a number of new guidelines for sound mortgage practices. One of the measures specified by APRA at that time was that prudent ADI's serviceability assessments should incorporate a buffer of at least 2% above the loan product rate and a minimum floor rate of at least 7%. APRA further noted that prudent practice would maintain a buffer of 2% and a floor rate above 7%. As a result, many lenders used an assessment rate on mortgages of 7.25%.

"Under the new changes: A family on an average household income of $109,688 would be able to borrow around $60,000 more. The average single person would be able to borrow around $50,000 more under the same scenario."

The lending environment has changed quite a lot since that time. We have seen the reintroduction of differential mortgage pricing for owner-occupiers, investor and interest-only borrowers. Lenders have become much more focussed on responsible lending requirements and as a result, they are asking borrowers more detailed questions about their financial positions and moved away from using the HEM Index.

What you can borrow*

TYPE OF BORROWER	Maximum you can borrow under the current rules and at a current interest rate of 3.75%	Maximum you can borrow after APRA rule changes – if interest rates stay the same	Maximum you can borrow after APRA rule changes – if interest rates fall to 3.25%
SINGLE PERSON on $80,000	$512,000	$567,000	$598,000
SINGLE PERSON on $120,000	$811,000	$899,000	$949,000
COUPLE on $80,000 each, no children	$884,000	$980,000	$1,034,000
COUPLE on $80,000 each, two children	$719,000	$797,000	$841,000

** Borrowing amounts are indicative only, and will vary by lender according to their risk appetite and the individual circumstances of a potential borrower. Modelling assumes borrowers have no other debts (including no credit cards) and have demonstrated living expenses at or below the Household Expenditure measure.*

SOURCE: INDEPENDENT MORTGAGE PLANNERS

The differential pricing in mortgages and the decline in interest rates since the end of 2014 are really the major factors that have made the greater than 7% buffer inappropriate for the current lending environment, as an example owner-occupiers wanting a principal and interest mortgage can now comfortably borrow with a mortgage rate below 4%. If someone is offered a mortgage at 3.9%, for example, they are currently being assessed on their ability to repay a mortgage at an interest rate of 7.25%. Of course, a mortgage is a 25 to 30-year commitment and over that period interest rates will fluctuate. However, at the moment it is a low-interest rate environment with low inflation and low wage growth.

The market expectation is that interest rates will fall further, however under the current policy, lower interest rates (and mortgage rates) would not necessarily enable new borrowers to take out a mortgage. The reason being those that couldn't qualify for a mortgage previously would still be unable to qualify despite the lower rates.

APRA chairman Wayne Byres said although many of the risks that faced the property market in 2014 (such as high levels of household debt) still existed, there have been some important changes to the operating environment.

"The changes, while likely to increase the maximum borrowing capacity for a given borrower, are not intended to signify any lessening in the importance that APRA places on the maintenance of sound lending standards," Mr Byers said.

"Rather, it is simply a recognition that the current interest rate environment does not warrant a uniform mandated interest rate floor of 7% across all products."

Mr Byers said as the cash rate moved lower the gap between the interest rates on mortgages and the actual rates paid had become "quite wide in some cases". The RBA has cut rates by 100 basis points since the buffers were introduced.

APRA is now proposing the following revisions to its lending guidelines:

1. Remove the quantitative guidance on the level of the serviceability floor rate, i.e. the reference to a specific 7%. APRA will still expect ADIs to determine, and keep under regular review, their own level of floor rate, but ADIs will be able to choose a prudent level based on their own portfolio mix, risk appetite and other circumstances;
2. Increase the expected level of the serviceability buffer

Assessment Rate Changes

Cont'd

from at least 2% (most ADIs currently use 2.25%) to 2.5%, to maintain prudence in overall serviceability assessments; and,

3. Remove the expectation that a prudent ADI would use a buffer 'comfortably above' the proposed 2.5%, to improve the clarity of the prudential guidance.

The reasons detailed for APRA about these proposed changes are:

1. The low-interest rate environment is now expected to persist for longer than originally envisaged. This may mean that the gap between actual rates paid and the floor rate may become unnecessarily wide; and
2. Compared to 2014, when a single standard variable rate was used as the basis to price all mortgage loans, ADIs have introduced differential pricing for mortgage products. The merits of a single floor rate are therefore less obvious, particularly as it will be most binding on owner-occupiers with principal and interest loans, and least binding on investors with interest-only loans.

Under these proposed changes, if we look at the same scenario as previous, whereby someone is looking to borrow at an interest rate of 3.9%. This borrower would previously be assessed on their ability to repay the mortgage at an interest rate of 7.25%. Now they would be assessed on their ability to repay at a lower 6.4%.

The proposed APRA changes seem sensible given the expectation that interest rates will fall from here and remain lower for longer. Furthermore, since 2014 it has become much more difficult to get a mortgage, that is partly because of this serviceability assessment.

In a recent investor update to the market from ANZ, it noted that the drivers of reduced borrowing capacity were driven by three factors: HEM changes (60%), servicing rate floor at 7.25% (30%) and income haircuts (10%). While these changes would ease some of the tightening around the servicing rate floor according to the ANZ statement at least 70% of the reduction in borrowing capacity sits outside of these changes.

While these changes are welcome and will help some borrowers that can't quite access a mortgage currently to get one, it is unlikely to result in a rebound in the housing market.

As shown by ANZ, it will still remain much tougher than in the past to get a mortgage because of other areas of tightening. Furthermore, the buffer of 2.5% above the mortgage rate is higher than the 2% buffer that was used prior to December 2014.

Overall for the housing market, it will mean more people are able to get a mortgage. These proposed changes in conjunction with the uncertainty of the election now behind will potentially provide additional positives for the housing market. Furthermore, these changes may also ease some of the urgency for official interest rate cuts by the Reserve Bank. If housing can provide some additional economic stimulus, rate cuts may be less necessary.

With some, but not all lenders applying these changes, it will be interesting to see how the lending landscape evolves over the coming weeks and months.

Droplets in a Stream Update

Droplets in a Stream is a Brisbane based charity, directed by Rodney Callanan, Jennifer Barker, Jon Myers and Stonehouse partner Andrew Stewart. Founded in 2007, Droplets in a Stream (DIAS) works with partner organisations in underprivileged African communities to care for and bring hope to vulnerable children.

DIAS have a strong relationship with Peter Michael and his Ugandan based charity Kyampisi Childcare Ministries (KCM). Together, they have a strong focus: To stamp out the practice of child sacrifice.

Child sacrifice is a phenomenon that bears no relationship to the local culture, but instead preys on those in poverty and disease. Witch doctors play on peoples' fears, naivety and suspicions, promising them blessings of prosperity or cures from illness.

These witch doctors tell their clients to bring them a human body part, blood or even a child to sacrifice. Children are often kidnapped from their families for these rituals.

DIAS and KCM work closely to provide medical treatment and comfort to those affected, as well as bring justice to the families by having the witch doctors and kidnappers prosecuted.

Droplets in a Stream

Cont'd

Most recently, Rod from DIAS visited Uganda. He and Peter were on a mission to capture a witch doctor who had been on the run for many years.

In 2009, he attacked a 7-year-old boy named Allan. He was severely mutilated and fell into a coma for 2.5 months. Following reconstructive surgery in Australia, he was able to make a miraculous recovery.

Rod and Peter could see the importance of finding justice for Allan and his father as well as sending a strong message to the community. The pair went on a several-day hunt to find the offender, in what could only be described as a movie-like sequence of events leading up to his eventual capture and arrest.

Amazingly, every moment was caught on camera by an SBS Dateline videographer. To watch the incredible episode and get an appreciation for the work DIAS and KCM do, head to: bit.ly/SBSDIAS.

Stonehouse are proud supporters of Droplets in a Stream. If you would like to help, head to their website at www.dias.asn.au.

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Find us on

Five Minutes with...

Brendon Wong
Financial Adviser

Brendon is an experienced, qualified Adviser with an Advanced Diploma of Financial Services (Financial Planning). He is also a member of the Financial Planning Association of Australia.

Brendon originally joined the Financial Planning industry in 1995 and since then has worked in a range of roles within the industry including Financial Adviser, Paraplanner and Compliance.

Tell us a bit about yourself?

I have been in this industry for 18 years and have been fortunate to work in a variety of businesses and roles, working my way up the ranks. I really enjoy working with people to find strategies that suit their needs and help them reach their goals.

What are you enjoying about being at Stonehouse?

Stonehouse is such fast paced workplace. It's great! I am finding that the variety of clients and range of strategies keeps every day interesting.

What do you find most challenging about your role?

The ever changing legislation creates the biggest challenge. At the same time though, I enjoy working with clients to take advantage of opportunities that these changes present.

Tell us a bit about your personal and family life?

I am married to my lovely wife Samantha and have two young daughters, Chloe and Lilly. The kids keep our weekends busy with various sporting activities but we wouldn't have it any other way.

Favourite pastimes?

Whenever we have the time I love to get the family outside and explore either the beach, bushland or a park.

What are you reading at the moment?

I enjoy a good biography and have recently finished reading the Steve Jobs biography by Walter Isaacson.