



**OCTOBER 2014**

## Welcome

Welcome to the October AIA 'Investor Update'. A good range of articles this month – Avoid another GFC, Does this rally have what it takes to last?, and SMSF alert re borrowing and insurance within an SMSF, note about excess contributions tax. There is also an offer from FIIG for a free e-book on fixed interest. **For NSW (and ACT) members, a reminder about the one-day seminar next Friday 7<sup>th</sup> November – 'Create your personal investment plan' (see page 3).**

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### 5 Simple Ways to Avoid Another GFC Investment Disaster

*By Nick Radge: The Chartist*

Are you still aching from the hammering your investments received during the Global Financial Crisis? Six years on and many investors are still struggling to recover financially and have to postpone their retirement plans.

"I'm shocked that so many mum and dad investors were financially and emotionally battered during the GFC," says Nick Radge, Head of Trading & Research at The Chartist. "The financial advisors they were relying on for advice gave them no advice: just the same old 'buy and hold' strategy that simply does not work in a collapsing market.

### Upcoming Events

#### Perth Information Meeting

##### Listed Investment Companies

Wembley Downs, 4<sup>th</sup> November 2014  
7.00pm

#### Frankston South Discussion Group

5<sup>th</sup> November 2014 1.00pm

#### Brisbane Information Meeting

5<sup>th</sup> November 2014 1.00pm

#### South Sydney Discussion Group

5<sup>th</sup> November 2014 7.30pm

#### Sydney One-Day Seminar

##### Create your personal investment plan

7<sup>th</sup> November 2014 9.00am – 4.30pm

#### Canberra Discussion Group

Canberra Labour Club, 10<sup>th</sup> November 2014  
7.30pm

#### Adelaide Information Meeting

11<sup>th</sup> November 2014 7.00pm

#### Geelong Discussion Group

11<sup>th</sup> November 2014 7.00pm

#### Sydney North Shore Information Meeting

##### Superannuation – Back to the Future?

12<sup>th</sup> November 2014 7.30pm

## 5 Simple Ways to Avoid Another GFC Investment Disaster (Cont'd)

If we are to learn anything from the financial crisis says Nick, it's that we have to take responsibility for our own investments. "It's your money. No one will look after it as well as you," he insists. "If you want to take control of your financial future then you need to manage your own investments."

Here Nick Radge offers five simple steps to get you back on track and to help you avoid another GFC disaster:

**1) Buy only stocks that are increasing in value.** Just because a stock appears "cheap" does not mean its price will rise again. Become a hitchhiker – only buy stocks that are travelling in the right direction – up!

**2) When the stock market starts to trend down, get out and sit in cash.** Wait for the market to start picking up again then gradually get back in. Hanging on to stocks that are falling in value erodes your capital. Who knows how long you will have to wait to recover your losses?

**3) Treat investing as a business.** As the 'business owner' your job is to minimise your expenses. Don't spend exorbitant amounts of money on expensive courses and software. Chances are they will not suit your personality and you will not use them.

**4) Trading for a living might sound sexy but the reality is quite different.** Instead, invest to supplement your income whilst you earn a salary and work in a career you enjoy.

**5) Simple is best.** Find an investment strategy that is simple to understand and follow and set aside 15 minutes each day to implement it.

This article was provided by Best Investor.

**Preserve your capital & secure your income. Learn how with a new e-book by FIIG.**

In the September edition of 'Investor Update', we published the following article from FIIG, offering a free e-book. Unfortunately, the download link did not function, and members were unable to access the e-book. The article appears again below, with a working link this time.

[Download Corporate Bonds Made Simple](#)

Australian investors are steadily embracing corporate bonds and it's easy to see why. A portfolio of corporate bonds can help your SMSF preserve capital and provide a steady and reliable income stream.

Corporate bonds in a balanced portfolio can also reduce volatility so you get a good night's sleep instead of worrying about the market.

Sadly, many investors continue to miss out on the benefits of corporate bonds because they don't understand them. Other investors are heavily invested in structured hybrids which have unique risks that corporate bonds don't.

FIIG is the leading educator on corporate bond investment in Australia. Through its seminars, courses for financial planners, and its definitive work *The Australian Guide to Fixed Income*, FIIG has shown thousands of Australians how to benefit from corporate bonds.

Now FIIG is offering AIA Subscribers free access to its concise e-book "*Corporate Bonds Made Simple*" which will quickly teach you what you need to know to **preserve your capital, secure your income, and reduce the ups and downs** of your portfolio.

*Corporate Bonds Made Simple* contains six easy-to-read chapters, a range of useful **reference tables** and **charts**, and an **extensive glossary** covering fixed income terminology. You can read it on your desktop, tablet or smart phone wherever and whenever you want, or print it out as a handy reference.

*Corporate Bonds Made Simple* can help you avoid some of the **myths and misconceptions** which prevent investors from achieving a balanced portfolio with an appropriate weighting to corporate bonds. These include:

### **Myth: Bond returns are too low**

Fact: This may be the case for some government bonds, but corporate bonds offered by FIIG offer returns of 5% pa - 7% pa\* and some bonds have even higher returns.

### **Myth: Bonds have long terms until they mature**

Fact: Bonds are tradeable investments and you don't have to hold until maturity. FIIG can help you access over 60 corporate bonds trading in the secondary market that mature in the next two years.

**Myth: With interest rates low, now is not the right time to invest in bonds, because as soon as interest rates go up bond prices will fall**

Fact: There are a range of Fixed, Floating and Inflation Linked bonds that suit various points in the economic cycle and FIIG can show you how to structure a portfolio that meets your specific needs.

**Myth: Bonds are only available in parcels of \$500,000**

Fact: FIIG make corporate bonds available from \$10,000, with a minimum total up-front investment of \$50,000, providing direct access for individual investors to the wholesale over-the-counter market.

### [Download Corporate Bonds Made Simple](#)

Kind Regards

Elizabeth Moran - Director, Education and Research

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### **Excess Contributions Tax – The Good News Continues**

By Tina Conitsiotis, Lawyer, and Bryce Figot, Director, DBA Lawyers

#### **Introduction**

True to its word, on 10 October 2014 the Government introduced draft legislation, which proposes practical and long-awaited changes to the treatment of excess non-concessional contributions ('NCCs'). This article outlines the tips and traps associated with the proposed changes.

#### **Details of the draft legislation**

The draft legislation takes the form of the Tax and Superannuation Laws Amendment (2014 Measures No. 7) Bill 2014: Excess non-concessional superannuation contributions tax reforms (Cth). Interested parties are invited to comment on its current form, with the closing date for submissions being 24 October 2014.

Naturally, the final version of the legislation may differ to the draft following completion of this consultation process.

## **Create Your Personal Investment Plan:**

**Sydney One-Day Seminar & Workshop,  
Friday 7th November, 9.00am to 4.30pm**

### **A 'hands-on' interactive workshop**

Why is financial planning so important, and why is the process of implementation so difficult. It appears there is no end to the questions and unknowns that make planning such a challenge, which is why financial literacy and sound financial planning is so important.

In this AIA "first", we bring together three of Australia's top investing and financial planning experts to guide us through a structured process of preparing a financial plan tailored to your personal needs and circumstances. Be prepared to roll up your sleeves, learn what to do and what not to do, and draft your own plan. With this knowledge, you will be better prepared to refine, update and improve your financial plan over time to suit your personal circumstances.

The sessions are:

**Introduction, a top down approach to financial planning-** Brian Spies (AIA Director)

**Lifestyle Goals and Expectations** - Doug Turek (Professional Wealth Pty Ltd)

**Strategic Asset Allocation** - Doug Turek (Professional Wealth Pty Ltd)

**Investment Types, Growth Assets** -Tony Rumble (SMSF Advice Solutions)

**Investment Types, Debt and Defensive Assets** -Tony Rumble (SMSF Advice Solutions)

**Managing Your Portfolio** - Colin Nicholson (Investor, Author and Educator)

**Revising and Improving Your Plan** - Colin Nicholson (Investor, Author and Educator)

### Background

The excess contributions tax ('ECT') regime was introduced in 2007 as a system designed to discourage people from exceeding their contribution caps. In its original form, it resulted in a maximum effective tax rate of over 90%.

This gave rise to unfair outcomes and there has been significant backlash within the industry regarding the regime. Since then, the regime has undergone a number of welcome changes to make it fairer and more flexible.

In particular, from 1 July 2013, excess concessional contributions ('CCs') are now included in a member's assessable income and taxed at marginal rates plus the usual levies. A 15% tax offset is then provided to the member to cater for the 15% contributions tax that should have been paid by the fund at the time the excess CCs was first made. An excess CCs charge (which is currently approximately 5.69%) is also imposed to counter any arbitrages that might exist.

The member is now also able to withdraw up to 85% of their excess CCs, which provides an added benefit. Not only can the member use these funds to assist with the payment of the assessment, but any such amounts that are withdrawn no longer count towards the member's NCCs cap. This is extremely positive and could assist many in escaping an excess NCC issue.

However, it will not assist all excess NCC cases and it is here that the draft legislation provides welcome relief.

### Overview of draft legislation

Consistent with announcements made in the 2014 Federal Budget, the draft legislation proposes to provide members with the option to withdraw their excess NCCs. Such withdrawn amounts will not be subject to excess NCCs tax.

In withdrawing the excess amounts, the member will also be required to withdraw an 'associated earnings amount', calculated by the ATO using an average of the General Interest Charge rate. This amount is intended to approximate the earnings generated while the excess NCCs were in the superannuation system.

Any excess NCCs that are withdrawn will be tax free in the member's hands, however the associated earnings amount will be included in the member's assessable income and taxed at marginal rates plus the usual levies.

### Tips and traps

The following is a broad summary of some of the key tips and traps associated with the draft legislation:

- **Positive action must be taken to withdraw** — In order to withdraw excess NCCs, an election to do so must be made in the approved form within 60 days of issue of a determination by the Commissioner that the member has excess NCCs. If no election is made, the Commissioner will issue the member with an excess NCCs tax assessment.
- **No cherry picking** — Any amounts that are released under the proposed changes must first be paid from the tax free component of the member's interests, before being paid from any taxable component. That being said, the member can choose which fund to withdraw the amounts from and this could provide planning opportunities (eg, where the member nominates a fund with a low tax free component). Note, this choice is subject to the Commissioner's discretion to determine otherwise.
- **Nil balances** — In the event that a member has withdrawn their superannuation benefits prior to receiving a determination from the Commissioner and the Commissioner is satisfied that the member's superannuation balance is nil, no excess NCCs tax will apply despite there being no withdrawal from super. However, the associated earnings amount will still be included in the member's assessable income.

Note, a member is not taken to have a nil balance simply because they are receiving a pension or have a defined benefit interest.

- **Calculation of associated earnings amount** — The amount the fund must release to eliminate an excess NCCs tax assessment is currently around a 9.66% pa return. This is significantly higher than the excess CCs charge, which currently sits at approximately 5.69%.

Therefore, even if a member's fund has suffered a loss, the member will still be deemed to have derived this return which is assessable as income. A legislative instrument could be introduced to determine a rate for a specified financial year and this may allow for a lower rate, for instance, if we suffer another Global Financial Crisis.

- **Applications to disregard or reallocate contributions still allowable** — The Commissioner's discretion to disregard or reallocate contributions where special circumstances exist remains unchanged. However, it is unclear how the timing of such an

application (which could take months to finalise) would correlate with the ability to elect to withdraw contributions (which must broadly be made within 60 days of issue of a determination).

Note, the Commissioner has a discretion to extend the 60 day deadline and would hopefully do so if notified that an application to disregard or reallocate contributions was being made. However, we cannot say this for certain and time will tell.

- **Calculation of excess remains unchanged** — The draft legislation does not alter the method for calculating excess NCCs or the associated caps.
- **No refunds** — There are no plans to refund past payments of excess NCCs tax, regardless of the fact that the tax was raised under a regime that has been recognised as ‘too harsh’.
- **Defined benefit interests** — Members who only have defined benefit interests may not be able to take advantage of the proposed changes, as their superannuation providers may be unwilling or unable to release the required funds.

#### A potential downside

Despite the highly positive nature of the draft legislation, there may still be a downside. DBA Lawyers has been warning about the possibility of this downside ever since this reform was announced in the 2014 Federal Budget. If the draft legislation is not amended, we can now say that this downside will come to fruition.

This downside is best illustrated by way of case study.

Consider Jessica who is aged under 65. Jessica wishes to make a significant superannuation contribution under the NCC bring forward rules in this financial year (ie, 3 x \$180,000 = \$540,000). Naturally, she first checks that she did not contribute over \$150,000 in the 2014 or 2013 financial years. She determines that she did not, having contributed exactly \$150,000 in each of those two years.

Accordingly, she makes \$540,000 of NCCs now.

Jessica later realises that she actually had NCCs that exceeded \$150,000 in the 2013 financial year. More specifically, she paid what she thought was merely a \$1,000 insurance premium in that year, but it constituted an NCC.

We pause here to note that there are lots of other ways people accidentally exceed their NCCs caps, including:

- they are members of defined benefit funds and what they think is an employer contribution (ie, a CC) is actually an NCC;
- they paid an expense on behalf of the fund and the accountant journalises it as an NCC;
- the member feels they made the contribution in one financial year but the superannuation fund does not recognise it until the next (for one illustration of this involving BPAY see *Liwszyc v Commissioner of Taxation* [2014] FCA 112); and
- the member simply forgot about a contribution, made a mistake in a calculation or received incorrect advice.

Jessica now realises that in the 2013 financial year she had \$151,000 of NCCs. This triggered the bring forward rules two years earlier than she thought and the result is that Jessica now has an excess NCC of \$391,000.

On its face, having to withdraw the \$391,000 does not seem like such a bad outcome. Especially, when compared to the associated excess NCCs tax liability she would otherwise have to pay. However, there was likely to be a good reason why Jessica made the contribution in the first place and, depending on her specific circumstances, it might be difficult or even impossible for the \$291,000 to make its way back into the superannuation system. For example, Jessica may now be over 65 and may not be gainfully employed.

The above highlights the fact that vigilance is key when it comes to contributions and there are still critical reasons to carefully monitor all contributions. The introduction of the draft legislation does not change this.

#### Conclusion

The draft legislation proposes positive and welcome changes to the treatment of excess NCCs. However, until the draft legislation is released in its final form, it could change. This should be borne in mind moving forward.

Note: DBA Lawyers holds SMSF CPD training at venues all around Australia and online. For more details or to register, visit [www.dbanetwork.com.au](http://www.dbanetwork.com.au) or call Marie on 03 9092 9400.

#### AIA 2014 National Conference Papers

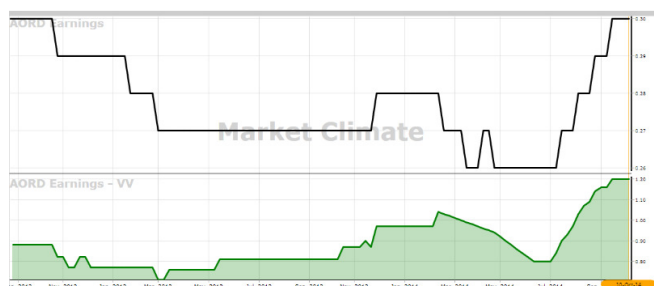
The conference papers are now available on the AIA website



## Does the latest rally have what it takes to last?

Robert Markham - Vectorvest

In my AIA article in September IU, I wrote about VectorVest's Bull/Bear Market Early Warning System which uses forecast earnings to consistently predict bull and bear markets. Our latest Market Climate Graphs for the Australian Share Market are reproduced below, and show the VectorVest Forecast Earnings Trend Indicator moving above 1 at the beginning of August after being essentially flat and below 1 for most of the last 2 years (A bullish stock market scenario will prevail as long as the bottom graph is above 1.00—warnings of an impending bear market are given when the line starts falling towards 1.00 and confirmation of a bear market is when the line goes below 1.00)



At the time I said “Could the current upward movement in the Forecast Earnings Trend Indicator mean we are about to enter a new bull market phase, and how long and strong is it likely to be?” At this point in time we were well into the sharp correction running from the beginning of September to mid- October, so this was a brave call some might say, but it was made with confidence using a system proven over many years.

We have seen the market rally in the last week--whether or not this rally has what it takes to last is probably the number one worry investors have right now.

To help us deal with this, I will reproduce (below) extracts from an article by our Chairman Dr. Bart Di Liddo published in the USA on Saturday 25 October “Market Timing and Earnings Growth”—what he says is all about forecast earnings and it applies to the Australian Market as well as the USA.

“The prelude to a bear market is the perception that corporate earnings will be going lower. The recent market correction is a prime example of this phenomenon.

It was reasonable to believe that the economic slowdowns in Europe, China and Japan, Vladimir Putin's land-grabbing aggression, the turmoil in the Middle East

and the Ebola outbreak would cause earnings growth to stall. But it has not for U.S. (and Australian) stocks just yet.

The data we track and analyse tells us that forecasted earnings for stocks in the S&P 500 are currently rising. Our Forecast Earnings Trend Indicator is favorable at 1.13 and it will not signal a Bear Market Scenario until it goes below 1.00.

We warned our subscribers of a possible onset of a long bear market on November 2, 2007, 3 1/2 months before the Forecast Earnings Trend Indicator fell below 1.00. How did we do that?

We used our Market Climate Graph to track the forecast earnings trend very closely. Back in 2007, the Forecast Earnings Trend Indicator was going lower and getting closer to 1.00. It was at 1.06 on November 2, 2007 and we took the Confirmed Down signal we received very seriously. But that wasn't the only reason we gave the warning of a long bear market. The main reason was that investor's perception of the future was changing. They lost faith in former Head of the Fed, Dr. Bernanke, and began to fear the end of interest rate decreases along with a slower economy. Does this sound familiar?

Yes, it does, but the situation is different now.

USA Q3 earnings season is turning out to be pretty good and the Earnings Trend Indicator is at 1.13. It doesn't move fast, so it won't go below 1.00 soon. Moreover, current Head of the Fed, Ms. Janet Yellen, is not showing signs of raising interest rates soon. But we cannot ignore all the trouble there is in the world today. So we have to keep a close eye on both Market Timing and Earnings Growth.”

Let us return again to the question “Does the latest rally have what it takes to last?”

According to the VectorVest System we are still in a bull market in the USA and in Australia--that's the macro view.

For the micro view, let's look at what the VectorVest Market Timing System is saying by looking at our Market Timing and Market Timing Indicator (MTI) Graphs.

The top graph is our Market Timing Graph and when combined with our Confirmed Up and Down Signal System it has the ability to identify significant market turns with uncanny accuracy. We use this with our bottom graph. It is a graph of our MTI which tracks the underlying trend of the market on a scale of 0-2. It has

the ability to tell us when the market is overbought or oversold so we can anticipate a significant change in market direction which is eventually reflected by a confirmed signal in the top graph. When the MTI approaches around the 1.5 level the market is “toppy” and due for a little—or sometimes big—pullback. When it drops to around the 0.6 level, it tells us the market is oversold, and that a bottom is likely to be just round the corner—the longer it hugs the 0.6 level the more explosive the rebound is likely to be.



We can see that from 14 October our MTI started to give us clear signals that the market was oversold and that we should get our shopping lists ready to go bargain hunting as the bull market resumes.

As we did in 2007, we will let our subscribers and associates know when the current bull market is starting to change to a bear market

For more about VectorVest go to [www.vectorvest.com.au](http://www.vectorvest.com.au)

### SMSF Alert: October 2014

**Liam Shorte and Richard Livingston highlight the past month's key SMSF developments.**

#### Key Developments

- Rumours of potential changes to SMSF borrowing rules
- Industry super fund members hit by rising insurance premiums

There's been a few interesting developments on the SMSF front this month so let's take a look.

#### Rules on leverage in SMSFs

The clouds are gathering over borrowing by SMSFs, with both the [Financial System Inquiry \(FSI\)](#) and the Tax Office looking at the issue.

The FSI has received submissions (including from the Reserve Bank and the big four) suggesting a ban, or further restrictions, on leverage inside self-managed

super. The most likely outcome is a restriction on related party borrowing, but a complete prohibition isn't out of the question.

The Tax Office has also attacked related party, low-interest loans through the tax ruling process (see [SMSF Alert: April 2014](#)).

It's not panic stations just yet but if your SMSF is using debt, you need to keep a close eye on developments and consider a 'fall-back' strategy.

A complete prohibition on borrowing is likely to see the banks lose interest in this sector of the loan market. If that happens, you should prepare for interest rate rises on your SMSF loans. Banks' periodic reviews are also likely to become more onerous, so make sure you can repay or replace the debt if necessary.

If you're considering a strategy based on borrowing, seek personal advice first. The decision on whether or not to proceed not only requires consideration of the current rules but also a judgment about how the current rules may change in the future.

**Rising insurance premiums for industry super members**  
In recent years industry super funds have added benefits to their in-fund insurance offering. And guess what? It's lead to higher claims, bigger payouts and is now causing large increases in premiums.

According to research by SuperRatings, the insurance premiums of 'not for profit' (industry) funds increased by 22.4% between 2011 and 2014. Members would have experienced higher increases once age-based changes are also taken into account.

*Action point: If you've stuck with, or kept some, external super (whether industry or retail) don't assume that the in-fund insurance they offer is cheaper than what you can get directly. Get direct quotes and compare them.*

#### Other recent developments

You may also be interested in the following:

1. [Lifetime contribution cap](#) – The Association of Superannuation Funds of Australia (ASFA) has submitted a paper to the Federal Government proposing that the current contribution cap regime be replaced with a 'lifetime cap' totaling \$2.5m in today's dollars.
2. [SMSF statistical report](#) – The Tax Office has published the self-managed super fund statistical report for June 2014, providing information on the SMSF population, including overall asset allocations.
3. [SMSF Assist](#) – The Tax Office has launched SMSF Assist, a website offering access to a range of answers

on topics relevant to self-managed super.

4. [SMSF case studies](#) – The Tax Office has started publishing case studies to help SMSF trustees. The first relates to action they took over a SMSF that had breached the SMSF residency rules.

5. [Division 293 tax debts](#) – Whilst not SMSF-specific, the Tax Office has updated its website with guidance on the mechanics for settling Division 293 tax debts (the surcharge payable on super contributions by those earning more than \$300,000). This includes an explanation on using a 'release authority' (where super monies are used to pay the surcharge).

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