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This Week's Top Articles

Howard Marks on expert opinions as a coin toss

Graham Hand

Regular readers of Cuffelinks know we are fans of the straightforward and direct writing of Howard Marks. In September 2014, he personally gave Chris Cuffe permission to republish a confidential presentation he had given to institutional clients of Oaktree Capital.

Since then we have reported on a conference where he said there is no way to predict commodity prices, a more recent memo called '*Risk Revisited Again*', and then when he was a star attraction in the Sohn Hearts & Minds Conference in Sydney (see photo below).

His latest memo was therefore received with much enthusiasm, especially given the global uncertainty heightened by a totally unpredictable new US President. We need a calming influence in a sea of speculation. Marks's latest work is titled '*Expert Opinion'.* This article is a brief summary, and the full paper is here.

A poor year for polls and media

Marks goes to some length to describe the poor forecasting of opinion polls on both Brexit and the Presidential election. Even the legendary Nate Silver, who established his reputation when he correctly predicted all 50 states in the 2012 race, said Clinton was 71% likely to win, and many pundits were at 90%. The experts either misinterpreted the data or failed in their sampling.

Equally important, most experts forecast that a Trump win would be bad for markets, but then we experienced the strong 'Trump rally'. Marks gives this warning:

"First, no one really knows what events are going to transpire. And second, no one knows what the market's reaction to those events will be."

There are no 'facts' about the future, only opinions. We also have a media industry where 'news' is not original research or reporting, but a collection of personal opinions backed by little data, often with some contentious line of argument which is supposed to be the story. It's no coincidence that the Oxford Dictionary word of the year for 2016 was 'post-truth', defined as:

"relating to or denoting circumstances in which objective facts are less influential in shaping public opinion than appeals to emotion or personal belief."

Marks uses the example of the New York Post's Bettor's Guide, where 11 experts advise readers which teams to bet on. The overall results are distributed around the 50/50 level, suggesting it's little more than a coin toss.

Warren Buffett told Marks that for a piece of information to be worth pursuing, it must be both important and knowable. The CEO and President of Vanguard, Bill McNab, recently said:

"We've seen over and over again that the forecasters don't get it right. All the people who were wrong about Trump and Brexit are now putting forth all these things we should take as gospel in terms of what's going to happen. That makes no sense to me."

The influence of macro guesses

Last year, I presented a one-hour webinar for one of our sponsors. The subject was behavioural biases in our investing, using my own habits and SMSF as an example. At no stage did I portray myself as a stock picker or economist (although for my sins, I do have an economics degree). At the conclusion of the talk, clients sent in questions, and of course, they included: "Where do you think the Australian dollar will be at the end of the year?" and "Is the ASX good value at the moment?"

Like any 'expert', I gave reasons why either could go up or down and then a personal view, but the best answer is the one nobody likes to hear. It sounds unprofessional to say, "I don't know" but it should be a far more common response. I can know about the superannuation rules or the difference between an ETF and a managed fund, and these are useful facts, but what is my opinion on the future of the AUD worth?

It's refreshing to read Marks say the most common question he is asked is about when the Fed will raise interest rates, and his response is consistent: **"How would I know, and why do you care?"** Marks says nobody knows, even the closest Fed watchers, and probably not the Fed itself. Importantly for the effect on markets, events may already be priced in, and so even if a prediction is correct, it might have no value. Nobody predicted a price fall in oil of 75% between 2014 and 2016.

Not only does Marks not know what innings we are playing, he does not know how long the game will last. We are usually dealing with the unknowable:

"Developments in economies, interest rates, currencies and markets aren't the result of scientific processes. The involvement in them of people – with their emotions, foibles and biases – renders them highly unpredictable."

Some of Marks's favourite sayings on forecasting

We have two classes of forecasters: Those who don't know – and those who don't know they don't know. – John Kenneth Galbraith

No amount of sophistication is going to allay the fact that all of your knowledge is about the past and all your decisions are about the future. – Ian Wilson (former GE executive)

Forecasts usually tell us more of the forecaster than of the future. – Warren Buffett

I never think of the future – it comes soon enough. – Albert Einstein

What does Marks rely and act on?

Given his legendary success as an investor, Marks must be acting on some guidance, instinct or insight. He makes his big gains acting on extremes in the market, especially capital markets, while not betting heavily in less distinct markets. He suggests investors ask whether markets are in 'an extended state' or not. That is, is there euphoria, depression, illiquidity, overly generous pricing, etc. These questions can be answered in a more predictable and helpful way.

Graham Hand is Managing Editor of Cuffelinks and he has little idea whether Donald Trump will be good or bad for markets over the next 12 months. As a markets person, Graham cannot understand how a President that criticises global trade and threatens tariffs can be good for Australia and the global economy. We'll see.

Second-level thinking on banks and the outlook

Roger Montgomery

In September 2015, Howard Marks wrote a memo entitled, 'It's Not Easy', a reflection on Charlie Munger's famous aphorism about investing, "It's not supposed to be easy. Anyone who finds it easy is stupid."

The memo reflects upon the requirement for second level thinking in order to be a successful investor.

"The first-level thinker simply looks for the highest-quality company, the best product, the fastest earnings growth, or the lowest p/e ratio. He's ignorant of the very existence of a second level at which to think, and of the need to pursue it."

Given the substantial aggregate IQ devoted to identifying value in the market, most opportunities are seized upon quickly and priced such that the prospect is eliminated. Anyone who believes investing with consistent success is easy can miss "substantial nuance and complexity".

Good investing is not only about good IQs

However, I believe successful investing is not merely a race to the prize between the highest IQ's. Indeed Charlie Munger's business partner, Warren Buffett, stated investing is not a game where the highest IQ wins.

Many extremely bright people require hard evidence, quantitative proof if you will, before making a decision. They argue that anything less is a guess. Sadly for this line of reasoning, the speed of repricing is so rapid in financial markets that waiting for the robin to sing renders spring over.

This is where second level thinking comes in. As Howard Marks wrote: "You must think of something they haven't thought of, see things they miss, or bring insight they don't possess. You have to react differently and behave differently."

This article is about how Howard Marks's memo topic might be applied to today's equity markets.

Second level thinking in today's market

Consider for a moment the widely-held view that banks are the place to invest. Since 29 February 2016 to the time of writing, CBA has risen 17%, NAB 26%, ANZ 34% and Westpac 12%, driving much of the gains in the S&P/ASX200 over the last year.

Late 2016 one analyst wrote: "The last Aussie banks results season once again confirmed no collapse in the housing market, no rampant rise of bad debts, resilient NIM's and no cuts in dividends or imminent capital raises to rebut the bear thesis coupled with attractive valuations and double digit ROE's."

What about that second level thinking? Does a rear view mirror – that which has already occurred – aid in the navigation of what lies ahead?

Knowing that humans suffer from representativeness – a belief that the past is a good sample to use to identify what the future holds – is it any surprise that we are notoriously bad at predicting turning points?

Given that bank updates are at best a distillation of the last three months, what can they offer about turning points other than that they have passed?

As Howard Marks observed, first level thinking says, "It's a good company; let's buy the stock." Second-level thinking says, "It's a good company, but everyone thinks it's a great company, and it's not. So the stock's overrated and overpriced; let's sell."

Bank share pricing is factoring in a scenario that does not have a high chance of transpiring, and while there is little hard evidence today that the banks are suffering from any headwinds, any sailor knows the ripples and wind lines on the water are a better sign of what's to come.

Australia's mortgage debt and household debt-to-GDP ratios are the highest in the world, and with credit card debt also at a record, consumers – who are also leveraged apartment investors - can least afford increases in their mortgage interest rates now.

And yet the prospect of imminently higher mortgage rates is real. The correlation between 3 year bonds and mortgage rates is high and while Australian three year AA-rated corporate bond yields have been declining since 2012, they have been rising recently. Mortgage rates are showing early signs of rising.

Of course, as long as highly-geared investors keep their jobs, they can attempt to raise rents and offset any increase in interest rates on their mortgages. Sadly, rents are unlikely to go anywhere but down. Late last year in Cuffelinks, I described the situation for landlords in Brisbane and it's worth repeating here:

"For the nine months to September 2016, just over 5200 apartments were completed within 5 kilometres of the Brisbane CBD. During the same period of time, owners of apartments 5 to 15 kilometres from the CBD experienced a doubling of vacancy rates from 2.3% to 4.7%. So think about that: just 5200 apartments caused a doubling of vacancy rates. What might happen when the 13,000 apartments currently under construction and due for completion in the next 14 months hit the market?"

The yield on an apartment with no tenant is zero so landlords will compete by offering lower rents. Any landlord that doesn't follow suit will lose their yield too. The outlook for many leveraged apartment investors will be lower yields. Investor appetite for apartments will be turned on its head in due course, putting further pressure on credit growth for banks.

Short-term problems will hit banks

Bank earnings over recent years have also been aided by the writing back of provisions for bad and doubtful debts. These provisions will need to be rebuilt and just in time for a peak in the property market. The October 2016 apartment approvals dropped by 23% and given approvals lead to commencements, commencements to construction and construction to completion, a drop in approvals today will mean lower construction activity and associated employment soon.

Much of the above, along with record credit card debt, and APRA's requirement that the banks increase their Common Tier 1 equity and reduce their mortgage risk weighting ratios, will conspire to render the banks' collective prospects less attractive than in the past.

I am not talking about the prospects for the next two decades, which are terrific given the Australian population will almost double, ensuring the banks will be much more valuable. I am looking at the next few years.

Using consensus forecast numbers for 2016, we believe current bank share prices are factoring in 4.5-5.5% EPS growth into perpetuity from FY18 assuming the marginal ROE is in line with the ROTE generated in FY16 (with adjustments for ANZ and NAB to reflect a shift in mix away from Asia and divestments respectively). So even if we adopt a benign regulatory outlook and no need to increase capital intensity from current levels, the banks need to grow earnings in line with nominal GDP growth ***into perpetuity*** to be fair value.

The recent share price performance of banks reflects first level thinking about their aggregate business performance to date. Second level thinking considers the cyclical headwinds to the loan book growth, non-interest income growth, the lower than mid-cycle level of bad and doubtful debt provisions that need to be extrapolated into perpetuity.

If successful investing requires second level thinking, then successful investing may also require caution towards the dominant position of banks in an investor's portfolio.

Roger Montgomery is Chairman and Chief Investment Officer at Montgomery Investment Management. This article is general information and does not consider the circumstances of any individual.

10 tips for winding up an SMSF

Jo Heighway

There are many reasons why an SMSF may need winding up, such as due to the death or incapacity of a member or lack of desire to continue with the administration, responsibility or expense. The process of winding up an SMSF can be complicated and trustees may not be aware of all the steps involved.

The following 10 tips will allow for a smoother audit process for SMSFs:

1. Ensure the decision and the date of the wind-up are documented. All trustees/directors need to be aware of the situation and this is usually recorded by drafting minutes of the decision and having all trustees/directors sign the minute.
2. Ensure no income or contributions are received after the date of winding up.
3. If benefits are being paid to the member, dispose of all assets including any fixed interest investments and ensure the bank account remains open.
4. In the case of an in-specie transfer, ensure that investments are transferred at market value. It is also important to ensure that valuations are obtained for any related party investments.
5. Pay any known SMSF expenses and provide for anticipated expenses, including any income tax payable, prior to winding up.
6. Calculate any income tax receivable and document as a receivable in the financial statements. Ensure the closing net asset position of the fund is nil as at the date of wind-up.
7. Document any benefit payments, including evidence of how a 'condition of release' was met.
8. Obtain a copy of the members' benefit statement and instructions for all benefits rolled over. For audit purposes obtain confirmation the rollover was received by the receiving superannuation fund(s).
9. Obtain a copy of the bank statements for the year of audit and up until the date the bank account was closed.
10. Ensure the notes to the financials document the fund as a not going concern for the year of wind up.

Jo Heighway is a Partner, SMSF Assurance & Advisory, at Deloitte Touche Tohmatsu. This article is for general information and does not consider the circumstances or investment needs of any individual.

ETF industry predictions for 2017

Alex Vynokur

The Exchange Traded Funds (ETFs) industry in Australia continues to evolve, as new waves of investors demand more sophisticated types of products.

With a new range of currency-hedged international funds and risk managed strategies, asset levels at an all-time high and more widespread use of ETFs, the Australian industry came of age in 2016. It continues to follow in the footsteps of more mature markets around the globe, now exceeding $25 billion in Australia.

In 2017, we believe this more mature version of the local ETF industry will be expressed in at least three clearly defined trends: 1) a growing audience of younger users; 2) the proliferation of active exchange traded managed funds; and 3) a broader range of smart-beta options.

These are our predictions to watch:

Prediction one: Millennials an important driver of growth of industry

Accounting for almost a third of the global population, the millennial generation (those born between 1980–2000) are entering into their prime earning years and will soon be the largest client-base in the financial markets. According to the Deloitte report 'Millennials and wealth management', millennials prefer self-directed options, and they expect seamless technologies that allow them to access investments quickly and easily throughout the investment cycle.

ETFs fit this segment. They are cost effective and allow investors to back their views across a number of asset classes and investment strategies.

In more mature markets, like the US, the figures prove that millennials are driving industry growth. According to the Schwab's 2015 ETF Investor Study, younger investors in the US are more likely than older ones to use ETFs: 41% of millennials use ETFs, compared with 25% of Gen Xers and only 17% of Baby Boomers. Furthermore, 70% of millennials see ETFs as the core investment type in their portfolio in the future.

The trend in the US of ETF providers developing ETF model portfolios with automated distribution solutions could also play out in Australia, which would continue to empower millennials with innovative wealth management tools.

Prediction two: Active exchange traded managed funds will proliferate

Active exchange traded managed funds became more common in Australia in 2016 and they will grow substantially in 2017, as both investors and fund managers recognise the benefit of the exchange traded product structure.

Despite representing only 9% of the industry's funds under management, the active exchange traded managed funds sector has generated strong flows with just under $1 billion invested to date.

Prediction three: More 'smart beta' products

ETFs have evolved from market capitalisation index trackers to investment solutions that answer a broad range of investor needs. Smart beta products –or those not market cap weighted– will be a product segment to watch in 2017 as more investors and advisers recognise the potential for these products to offer active-like returns for index-like costs.

A number of smart-beta products have performed exceptionally well in recent times, with many offering returns significantly above both market-cap indices while also placed amongst top quartile active managers.

Across all predictions, growth remains a consistent theme

The growth of the ETF industry in Australia has been phenomenal in recent years, and we predict it will continue on this strong trajectory in 2017, ending the year with $30-$33 billion funds under management and approximately 250 exchange traded products.

Alex Vynokur is Managing Director of BetaShares Capital Limited. BetaShares is a sponsor of Cuffelinks. BetaShares has introduced another new ETF this week, the Global Sustainability Leaders (ASX:ETHI).

A defining year for super requires your input

David Bell

This is a defining year for the superannuation industry. The year Australia's retirement system could begin to step up to a higher level and deliver better retirement outcomes. This opportunity comes through the Government's continued support for the development of post retirement solutions which focus on income, risk management and flexibility, known as CIPR's (Comprehensive Income Product for Retirement – see *CIPRs are coming and that's exciting* for more background).

Treasury has just released a wide-ranging consultation paper on CIPR's, one of the more pragmatic suggestions being to use the name "MyRetirement" rather than "CIPR".

This is your chance to contribute to an important development. If Australia gets it right, then we can really advance our retirement system from being accumulation-focused to one that effectively delivers good retirement incomes. If we don't, we could end up with a clunky retirement system providing highly variable outcomes to individuals dependent on which fund they are in, a system full of legacy issues which prove extremely difficult to unwind, effectively fastening our system into a lacklustre gridlock.

If we get it right, our retirement system can be one of the best in the world, not permanently middle-of-the-field.

If you, your firm, your industry body or your research department at university have insights or views to share, then you should make a submission. Put aside any feelings of change-fatigue or submission-fatigue and rise to the occasion, as there is a lot at stake.

From my initial read these are some important areas:

1. Should MyRetirement be integrated effectively with the Age Pension?

The proposed objective of superannuation set in the *Superannuation (Objective) Bill 2016* is *'to provide income in retirement to substitute or supplement the Age Pension'*. In contrast much of the modelling set out in the CIPR Consultation Paper does not seem to account for the Age Pension. Perhaps this is for simplification purposes given the means testing that accompanies the Age Pension. The *'supplement'* component of the objective suggests ignoring the Age pension will be inefficient and result in a large welfare cost. Put simply, a CIPR designed to provide a consistent income ignoring the interaction with the Age Pension would provide an inconsistent net income in practice.

2. Do people place a value on their residual account benefit?

One of the motivations of CIPR has been the observation that people deny themselves an appropriately high level of retirement income because they do not use mortality pooling products (such as life annuities) and, because they are risk averse, they spend down their savings too conservatively. There have been suggestions that retirement income levels could be 15% - 30% higher if retirement income products were better designed. This type of outcome analysis doesn't place any value on the residual benefit at death. I understand that people do not want to outlive their savings but I challenge the view that any residual benefit has no value. This is a critical issue which requires considered debate.

There is a lot of research which identifies that people do place a value on a bequest. Further, our system is built around the individual, not the household (something which itself creates large inefficiencies hence welfare cost – a previous submission we made to Treasury suggested the objective of super should be household, not individual focused).

Consider the case of a couple household with one primary income earner. If this person were to pass away first (half the time would be a sensible initial guess) then the residual benefit would fund the retirement outcome for the surviving partner. This issue comes through clearly when we talk to our fund members. Finally the residual benefit acts as reserve funds to meet unexpected expenses such as aged care, health care and family related expenses. To put no value on the residual benefit in the design of a CIPR, in sports parlance, is a huge call.

3. How will annuity pricing work in a CIPR environment?

Annuities have historically been a direct transaction between an individual and a life company, typically facilitated by a financial planner. Historically there has existed a bias whereby people who elect to purchase annuities on average live longer than the broader population. To protect themselves against this 'self-selection' risk, life companies may apply some loadings when pricing annuity contracts.

If super funds chose to direct members into life annuities through their CIPR's, then much of this self-selection issue will disappear. Maybe annuities embedded in CIPR's could be priced cheaper than life annuities purchased directly. If this were the case then it puts financial planners in a tricky situation – should they just recommend their clients to a well-designed CIPR?

There are many interesting issues around how life companies, super funds and financial advisors would interact in a CIPR world.

4. CIPR portability - will we be left with a collection of retirees left stranded?

Treasury's consultation paper rightfully raises discussion around CIPR portability. This is potentially a big issue as a simple example will illustrate. Consider a person, who at retirement, moves into their super fund's CIPR (CIPR1). CIPR1 contains 50% exposure to a life annuity and 50% to an account-based pension. For some reason the retiree is not happy with their CIPR provider and would like to switch to the CIPR of another fund (CIPR2), which we assume has the same product mix, but perhaps a different annuity provider. If the life annuity cannot be exited (at a good price) then what does the retiree do? They could transfer their remaining 50% exit proceeds into CIPR2 but their effective exposure is now 75% to life annuities and 25% to an account-based pension, a mix of products that neither super fund thought best when they designed their CIPR's. There is the possibility of CIPR exiles who can't really transfer to another CIPR.

These are just some of many issues which require careful consideration. A concern, opinion or a critique counts for next to nought if you didn't share it at the time when submissions were requested. Written submissions are due by 28 April 2017.

David Bell is Chief Investment Officer at Mine Wealth + Wellbeing. He is working towards a PhD at University of New South Wales. He asks any interested party to contribute on this important issue.

Looking behind the screens of ESG investing

Nigel Stewart

Interest in environmental, social and governance principles (ESG) has been growing among investors in recent years. However, in pursuing these preferences, they can severely risk compromising their investment goals. As the popularity of investing sustainably gains momentum globally, how do fiduciaries ensure sound investment outcomes are not compromised in pursuing ESG goals?

Naïve and simplistic screening processes, for instance, can leave clients with highly concentrated portfolios that reduce the chances of them reaching their goals.

Client preferences may also differ within the ESG framework. For example, some may care more about reducing the carbon footprint than about land use and bio-diversity. Preferences around social criteria can also vary.

Simple screening processes may not work

A simple, binary screening process may not be able to accommodate the broad range of issues investors really care about. This dilemma was highlighted in the 2016 Investor Report, a landmark survey on ESG investment, published by the independent group Impact Investing Australia in collaboration with the University of Melbourne. The survey of Australian investors, accounting for more than $300 billion of funds under management, found that while more than two thirds expect ESG to grow in significance, many are put off by inadequate investment solutions.

"There appears to be an unmet need from investors for financial services and advice that incorporate social and environmental impact," the survey found. "[But] lack of reliable research, information and benchmarks and no recognised investment framework are cited as key deterrents to investors entering the market."

Fortunately, many of those deterrents are gradually being resolved due to greater knowledge of sustainability topics and more availability of data on companies and their sustainability credentials. In terms of benchmarks, some providers have launched ESG indexes over the past year.

More attention is also being paid to clients' sustainability and social issue considerations, importantly without compromising long-term investment performance.

This means it is now possible to incorporate sustainability preferences in robust, broadly diversified investment solutions. If designed and implemented correctly, investors can simultaneously pursue their sustainability and investment goals.

It also means asset managers can report their portfolios' sustainability footprint, providing detailed metrics that give investors the transparency they have come to expect from investment performance reporting.

Growth in ESG is undeniable

The amount held in core responsible investment funds rose 62% last year to $51.5 billion, according to the Responsible Investment Association of Australasia's (RIAA) 2016 benchmark report.

The most popular strategy among the 69 asset managers offering responsible investing products was screening, both positive and negative. To ensure adequate exposure and not compromise on diversification, strategies are now available that shift capital within particular sectors from companies with the lowest sustainability scores to those with the best scores.

Using this scoring framework, issues such as land use and biodiversity, toxic spills, operational waste and waste management can be considered alongside the dominant metric of intensity of greenhouse gas emissions.

A simplistic screening method can also easily overlook potential emissions from fossil fuel reserves. So while companies with large fossil fuel reserves may not have high emissions, those stored reserves are nevertheless a source of future potential emissions and may face risk of devaluation due to governmental action or the increased availability of alternative energy sources.

A final consideration is that sustainability includes more than just emissions. Penalties can also apply to companies linked to intensive factory farming, cluster munitions and mines, child labour practices, and tobacco.

How should ESG work?

The ideal approach should systematically evaluate sustainability metrics among companies across all major industries, excluding or penalising those that rank poorly while emphasising those with higher sustainability scores.

At the same time, the strategy needs to be broadly diversified across countries, industries and companies, while targeting the sources of higher expected returns, minimising turnover and keeping a lid on trading costs.

For fiduciaries, this opens up an avenue of differentiation by allowing them to tailor solutions that satisfy client convictions around ESG issues while delivering on investment outcomes. The client discovery process is important in providing fiduciaries with a sense of each person's wealth aspirations and requirements, in addition to their non-material goals.

In the meantime, the RIAA has published a framework to help advisers judge best practices in integrating ESG in investment strategies. These include transparency of approach, the use of systematic processes and evidence of active ownership.

Aiding transparency on the company side are regulatory pressures to improve reporting around ESG issues. In November 2016, the Global Reporting Initiative (GRI) released its new sustainability reporting standards. More than 20 stock exchanges, including Australia's, now reference GRI in their listing requirements.

Sustainable investing has moved from a fringe to a mainstream consideration for many millions of investors worldwide. The challenge is on now for asset managers to deliver solutions that meet those non-material requirements while still meeting clients' long-term financial goals effectively.

Nigel Stewart is Executive Director of the Australian arm of [Dimensional](), a global funds manager with assets under management of around $600 billion, about 10% of which are in sustainability or ESG strategies.

Is the super withdrawal and re-contribution strategy over?

Stephen Lawrence

Much is being written about what a post-super-reform-world will look like. The impact in that world on the popular estate planning strategy, the withdrawal and re-contribution, has not been given much attention.

Here's how it works

Assume I am 63-years-old and retired, with $2.5 million in super. Let's say, in homage to one of the greatest acts of tax generosity in Australian history, $1 million is tax-free courtesy of a $1 million non-concessional contribution I made just before 30 June 2007.

If I die tomorrow and my entire superannuation balance is paid to my adult children, then they will have to pay $255,000 in tax ($1.5 million x 17%). The taxable component is subject to a non-dependant death benefit tax while the tax-free component is exempt from tax. Non-concessional contributions form part of the tax-free component.

A popular estate planning strategy is to withdraw $540,000 from my super fund which is tax-free as I am over 60 years of age. I could take this as a lump sum or as a part-pension which would not be subject to a maximum payment amount because I am over my preservation age and retired. Were I not retired, any withdrawals would probably be subject to a maximum 10% under the transition-to-retirement pension rules.

I then recontribute that $540,000 as a non-concessional contribution. I am allowed to do this because I am under 65-years-old so the three-year bring forward rule for non-concessional contributions is available. I am not subject to a work test, because I am under 65 years old. Maybe I will wait a month to undertake the re-contribution. Maybe I will do it in a couple of weeks. According to private ruling 1012443439489, the timing doesn't really matter and I won't offend the general anti-avoidance provisions contained in Part IVA of the *Income Tax Assessment Act 1936.* The conclusion in that ruling (bearing in mind that private rulings are only binding on the Commissioner to the extent that they apply to the specific rules in relation to those specific facts), is that because any payment from my super fund is tax-free in any case, the re-contribution strategy will not provide me with any tax benefit and my financial position, therefore, will not change and there is no tax benefit. So why bother?

After the re-contribution, the tax-free amount of my $2,500,000 superannuation balance becomes $1,540,000. The taxable component of my balance becomes $960,000. Upon my death, if my entire balance is paid to my adult children, they will have to pay tax of $163,000.

With a few clicks of the mouse, I will have saved my kids $91,800. Better than bank interest, as they say.

Why is it (probably) over?

Simply put: because I already have $1.6 million in super. Schedule 3 to the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 introduced the requirement that an individual must have a total superannuation balance of less than (currently) $1.6 million on 30 June of the previous financial year to be eligible to make non-concessional contributions.

Actually, saying "it's over" is probably a bit extreme. However, it's going to be available only to those with superannuation balances under $1.6 million. And it will only be available, to any significant degree, to those with balances under $1.4m due to the limits to be placed on the use of the three-year bring forward rule (which will now, of course, only allow $300,000 rather than $540,000) as summarised in the following table as it will apply in the 2017-2018 income year.

Total superannuation balance on 30 June 2017	Non-concessional contributions cap for the first year	Bring forward period
Less than $1.4 million	$300,000	3 years
$1.4 million to less than $1.5 million	$200,000	2 years
$1.5 million to less than $1.6 million	$100,000	No bring forward period, general non-concessional contributions cap applies
$1.6 million or more	Nil	N/A

What can we do in the lead up to 30 June 2017?

Not much really. It is what it is. Anyone in the position to undertake a re-contribution strategy might consider doing so because the opportunities to, and advantages of, doing it after 30 June 2017 are going to decrease. Even those who cannot take advantage of the three-year bring forward rule (that is, they are over 65 but still "gainfully employed") could potentially save their adult kids $30,600 by doing a withdrawal and re-contribution of the current one-year maximum of $180,000.

It's still better than bank interest and, who knows, depending on when you die that might even cover a year's worth of private school fees for one of your grandkids in Sydney.

Stephen Lawrence is Associate Lecturer, [Taxation and Business Law School, UNSW]. These views are considered an accurate interpretation of regulations at the time of writing but are not made in the context of any investor's personal circumstances.