

Parliament of the Commonwealth of Australia

**First Report of the
Senate Select Committee on Superannuation**

Safeguarding Super

THE REGULATION

of

SUPERANNUATION

June 1992

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PREFACE

A civilised society endeavours to ensure that its citizens can maintain a reasonable standard of living during retirement. Governments have a key role to play in formulating policies for the provision of retirement income through either the social security system or private means.

In Australia, the past decade has seen fundamental change in the retirement incomes debate. An increasing awareness of changing demographic structures and the likely impact of these on government outlays, increased longevity and higher expectations about the standard of living of retirees have meant that we as a community have had to rethink the way in which we provide for retirement.

Consequently, significant changes have occurred including the introduction of a minimum pension standard expressed as a proportion of Average Weekly Earnings, the introduction of award superannuation, the growth of major industry superannuation funds, the establishment of a rollover market and a plethora of legislation concerning the taxation treatment of superannuation. It was in the context of these changes that the Senate established a select committee to inquire into and report on superannuation.

This first report of the Committee, *Safeguarding Super*, addresses those terms of reference which have a direct bearing on the security of superannuation funds and the need for such moneys to be invested in a way which maximises retirement savings. In this context the Committee acknowledges the work of the Australian Law Reform Commission (ALRC) in its recently published report on *Collective Investments: Superannuation* and further acknowledges that an exchange of views and ideas took place between the Commission and the Committee during the preparation of both reports.

The Committee heard evidence which has led it to conclude that, whilst there has been a small number of superannuation fund failures, there does not appear to be widespread malpractice in this industry. However, the Committee is conscious that increases in superannuation savings will inevitably attract operators who will seek to use superannuation moneys for their own use. The Committee was strongly of the view that appropriate safeguards need to be put in place now to minimise the risk of fraud, misappropriation and bad management practices.

This report defines those areas requiring attention and makes a number of recommendations on the structure of the industry and its prudential framework. The Committee is conscious that the costs and benefits of regulation need to be carefully considered and fine judgements are often made on the optimal level of government intervention. We think that the right balance has been struck in our recommendations.

It is the hope of the Committee that the recommendations contained in the report will be the subject of informed public discussion on superannuation.

NICK SHERRY
CHAIR
June 1992



Members of the Senate Select Committee on Superannuation

Front left to right:

Senators R. Alston (Deputy Chair) N. Sherry (Chair), S. West

Rear left to right:

Senators J. Watson, C. Kernot and B. Childs.

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LIST OF ABBREVIATIONS

AAPBS	Australian Association of Permanent Building Societies
ABS	Australian Bureau of Statistics
ACM	Australian Chamber of Manufacturers
ACTU	Australian Council of Trade Unions
ADF	Approved Deposit Fund
AFCO	Australian Federation of Consumer Organisations
AIF	Australian Infrastructure Fund
AIIM	Australian Infrastructure Investment Management
AIRC	Australian Industrial Relations Commission
ALRC	Australian Law Reform Commission
AM	AM Corporation Ltd
AMP	Australian Mutual Provident Society
ARF	Australian Retirement Fund Pty Ltd (sponsoring organisations are the Australian Chamber of Manufacturers and the Australian Council of Trade Unions)
ASC	Australian Securities Commission
ASFA	Association of Superannuation Funds of Australia
ASX	Australian Stock Exchange Limited
ATO	Australian Taxation Office
AWE	Average Weekly Earnings
AWU	Australian Workers Union
BT	Bankers' Trust Australia
BUS	Building Unions Superannuation Fund for employer bodies and unions in the building industry, together with the ACTU
CFM	Commonwealth Funds Management Ltd
Corporations Law	The Corporations Law, set out in the <i>Corporations Act 1989</i>
County NatWest	County NatWest Australia Investment Management Limited
CPI	Consumer Price Index
DA	Deferred Annuity
DAF	Development Australia Fund
DIR	Department of Industrial Relations
DSS	Department of Social Security
EPAC	Economic Planning and Advisory Council
ETP	Eligible Termination Payment
GDP	Gross Domestic Product
HESTA	Health Employees Superannuation Trust Australia which administers the industry scheme for health employees
HOSTPLUS	Host Plus Pty Ltd. It is the superannuation scheme for persons in the hospitality and liquor industries
IAA	Institute of Actuaries of Australia
IFA	Investment Funds Association of Australia Limited
IOOF	Independent Order of Odd Fellows of Victoria
IOSCO	International Organisation of Securities Commissions

IR&D Board	Industry Research and Development Board (Department of Industry, Technology and Commerce)
ISC	Insurance and Superannuation Commission
ITAA	<i>Income Tax Assessment Act 1936</i>
Jacques Martin	Jacques Martin Pty Ltd
LIA	<i>Life Insurance Act 1945</i>
LIFA	Life Insurance Federation of Australia
Mercers	William M Mercer Campbell Cook and Knight
MLC	MLC Ltd
MMBW	Melbourne and Metropolitan Board of Works
MTIA	Metal Trades Industry Association
NML	National Mutual Life Association of Australasia Limited
Noble Lowndes	Noble Lowndes Superannuation and Consultants Limited
OSS Regulations	Regulations under the <i>Occupational Superannuation Standards Act 1987</i>
OSSA	<i>Occupational Superannuation Standards Act 1987</i>
PST	Pooled Superannuation Trust
RBA	Reserve Bank of Australia
RBL	Reasonable Benefits Limit
REST	Retail Employees Superannuation Trust (an industry superannuation fund primarily for employees in the retail and pharmacy industries)
RISA	Retirement Income Savings Accounts
Rothschilds	Rothschild Australia Asset Management Limited
SGL	Superannuation Guarantee Levy
STA	Superannuation Trust of Australia (whose Trustee is Employer Union Superannuation Pty Ltd)
Tasplan	Tasplan Superannuation Fund for employees and employers in the private sector in Tasmania
TCA	Trustee Companies Association of Australia
TPC	Trade Practices Commission
TPF&C	Towers Perrin Forster and Crosby, Inc
Westscheme	Westscheme Pty Ltd is the superannuation scheme for employees and employers in the private sector in Western Australia

GLOSSARY

Accumulation Fund	A superannuation plan where the employer and/or employees contribute a set amount that accumulates and earns income for the benefit of the members.
Allocated Pension	A pension where the member has his own account against which pension payments are debited and to which any investment earnings are credited. The pension will continue until the death of the pensioner, or until the account is exhausted. Upon death, any balance remaining in the account is paid to a designated beneficiary as a (taxable) lump sum payment, or is applied to secure a further pension payment to a surviving spouse.
Annuity	A private pension for a fixed term or for life usually bought with a member's Eligible Termination Payment (ETP). An annuity can be bought so that regular repayments are made back to the member in the form of a pension.
Approved Deposit Fund (ADF)	A tax-effective method of investing a member's ETP. The lump sum payment and the earnings on it remain tax free while in the fund. An ADF has to be withdrawn by age 65.
Arms' Length	A term which refers to the relationship between the employer company and the members of a superannuation fund. If the members of the fund are employees of the sponsoring company, an arms' length fund is said to exist.
Award Based Contributions (or Award Superannuation)	Contributions determined by an Industrial Tribunal paid by the employer to a superannuation plan for all eligible employees.
Beneficiary	The person who receives the benefit from a superannuation plan, annuity, pension, death or disability insurance.
Capital Guaranteed Fund	The original capital and sometimes declared investment return are guaranteed.
Capital Stable Fund	These funds have slightly more risk than capital guaranteed funds because, in addition to low risk fixed interest assets, they often include investments in low risk equities or shares.

Commutation	Term used to describe the process whereby one type of superannuation benefit is commuted (changed) to another type, for example conversion from a pension to a lump sum.
Deferred Annuity Fund (DAF)	Money held in an annuity until retirement, after which regular payments are made to the member.
Defined Benefits Fund	A superannuation fund that contracts to pay a member a fixed or defined amount of money that is linked to the salary level.
Dependency Ratio	Proportion of non-workers (defined as those under 15 and over 65) to those of working age.
Eligible Termination Payment (ETP)	The lump sum paid to a member on retirement, job termination or death. It includes superannuation contributions and accrued sick leave, but not holiday pay or long service leave. ETPs can be rolled over into approved rollover funds (ADFs and DAFs).
Equities	Stocks and shares not bearing fixed interest.
Family Fund	A superannuation fund which is a non-arms' length fund in which the members of the fund are owners of the sponsoring business.
Friendly Society	A society which by voluntary subscriptions provides for the relief or maintenance of its members and their families in sickness, old age, etc.
Fund Administrator	The person nominated by the fund trustees to receive contributions and on their instructions make payments to retirees and transfer assets to the fund manager for investment.
Fund Manager	The person nominated by fund trustees to invest assets of a superannuation fund.
In-House Asset	An investment made by a superannuation fund in the company sponsoring the superannuation plan, that is, the company which is employing the contributors to the fund.
Lien	The right to hold property or to have it sold or applied for payment of a claim.

Life Office	A firm which sells life insurance and other insurance products, for example, life cover, superannuation bonds, annuities and superannuation.
Life Policy	A contract of insurance agreed to when a person purchases life insurance.
Lost Member	The classification given to a member of a superannuation fund whose current postal address is not available.
Lump Sum Benefit	A benefit paid out in a single cash payment.
Master Trust	A trust arrangement which allows a single trustee appointed by the promoters of funds to administer and manage the superannuation funds of a number of employers.
Occupational Superannuation	Pension or retirement benefit arising from an employment contract.
Portability	Allowing a superannuation plan to be transferred from one fund (or one employer) to another.
Preservation	Maintenance of a member's entitlements in a superannuation fund until a specified minimum age (usually at least 55).
Prudential Controls	The measures instituted to supervise and control activities in the superannuation industry to ensure the security of contributor's funds.
Reasonable Benefits Limit (RBL)	The maximum limit on the amount a member can receive from superannuation, ADFs or DAFs, with preferential taxation treatment. The limit can be calculated from a member's highest average salary.
Repatriation of Surplus	The act of transferring surplus assets in a superannuation fund to the sponsoring employer.
Rollovers	When a member changes jobs and takes an ETP from a superannuation fund, ADF or DAF, this lump-sum can be transferred to other schemes without losing the tax advantage.
Securities	Financial instruments which are evidence of debt or of property. Bonds, certificates of stock and shares are documents which indicate the existence of a security.

Surplus	Those assets of a superannuation fund that represents the excess of accrued earnings and contributions over the fund's accumulated liabilities.
Superannuation Fund	Fund designed to produce retirement benefits for members. To attract tax concessions, it must have these characteristics: (a) be indefinitely continuing, and (b) be maintained solely for following purposes: provision of benefits for fund members, or for dependants of each member in the event of death, or any other purpose allowed by the Insurance and Superannuation Commission in writing.
Trust	A fiduciary relationship in which one person (the trustee) holds the title to property for the benefit of another (the beneficiary).
Trust Deed	Formal document setting out rules governing how a fund operates.
Trustee	The person or persons responsible for carrying out the rules of a Trust Deed.
Unfunded Superannuation	A superannuation plan where no fund has been established but superannuation benefits have been defined; and the employer meets the costs of benefits as they arise.
Vesting	The established entitlement of a member to his or her own contributions to a superannuation fund, the employer's contributions, and accrued interest.

LIST OF RECOMMENDATIONS IN RELATION TO:

(Chapters 1 and 2 do not contain any recommendations)

– CONSTITUTIONAL ARRANGEMENTS

Recommendation 3.1:

The Committee recommends that the Government seek wider counsel on its powers over superannuation and, following this, legislate directly for the regulation of superannuation, relying on a combination of its constitutional powers over taxation, corporations and pensions.

Recommendation 3.2:

The Committee recommends that the Government explore the possibility of obtaining a referral by the states, either formal or de facto, of their power over superannuation.

– REGULATION OF SUPERANNUATION FUNDS:

Recommendation 4.1:

The Committee recommends that the ISC become the sole regulator of superannuation products to give certainty and clarity to the operation of the industry.

*However, the Committee acknowledges that the RBA and ASC may consider it necessary to impose some additional requirements on institutions which fall within the ambit of their regulatory responsibilities. If this is the case, there is clearly a need for greater **effective** co-ordination between the regulatory authorities than occurs at present.*

The Committee recommends that the RBA, ISC, ASC and TPC liaise both formally and informally on a regular basis.

Recommendation 4.2:

The Committee recommends that an independent review of ISC resources be carried out following tabling of the Government's response to this report so that ISC resources are compatible with its increased regulatory responsibilities. The Committee endorses the 'user pays' concept as a means of supplementing budgetary allocations.

The review should include analysis of improvements required to procedures to ensure that the ISC is able to provide figures on the superannuation industry for the previous financial year at the time its Annual Report is tabled in Parliament. The Committee believes that it is unacceptable that statistics produced by the ISC are up to four years out of date.

Recommendation 4.3:

The Committee recommends that the Government introduce legislation to give a greater degree of statutory independence to the ISC by appointing a panel of commissioners with proven expertise in superannuation from a wide cross-section of the community.

Recommendation 4.4:

The Committee recommends that the Occupational Superannuation Standards Act (OSSA) be amended or replaced so that the duties and responsibilities of trustees and directors of corporate trustees are clearly spelt out, including a duty:

- to maintain a diversified portfolio unless members advise to the contrary;
- to maintain an appropriate level of liquidity;
- to limit the level of in-house investment (see Chapter 7);
- to keep proper accounts;
- to ensure the equitable treatment of members of superannuation funds;
- to inform members about matters materially affecting the fund;
- to seek independent legal, auditing, and actuarial advice;
- to avoid conflicts of interest; and
- to be personally responsible for the administration of the trust.

To facilitate consumer understanding of trust deeds, the Committee recommends that the legislation prescribe the wording of these provisions in trust deeds.

The Committee further recommends that neither the original trust documents nor any amendment of them can authorise a departure from any of the statutory requirements.

Recommendation 4.5:

The Committee recommends that all trustees should be Australian residents and be required to pass a 'fit and proper person' test analogous to that required under the Corporations Law.

Recommendation 4.6:

The Committee recommends that legislation prescribe that an industry fidelity fund be established to protect members in the event of fraud. Levies would be determined by reference to size of assets.

Recommendation 4.7:

The Committee recommends that OSSA be amended or replaced so that:

- the ISC can impose a range of civil penalties and institute criminal proceedings against trustees and directors of corporate trustees;
- the ISC has power to remove trustees and directors of corporate trustees and appoint judicial managers where it suspects that trustees/directors are not fulfilling their fiduciary obligations. Such powers would need to have appropriate safeguards for individuals who were subsequently found to be innocent of any wrong doing; and
- the ISC be given power to institute civil proceedings against trustees and directors of corporate trustees on behalf of members.

Recommendation 4.8:

The Committee recommends that sufficient resources be given to ISC staff retraining development and recruitment so that it can discharge its increased responsibilities as envisaged in this report.

Recommendation 4.9:

The Committee recommends that OSSA be amended or replaced so that the rights of members are clearly identified in legislation including:

- the right to seek recovery of loss from trustees and directors of corporate trustees;
- the right to information about financial statements, auditors and actuarial reports, investment strategy and change in ownership of the corporate trustees;
- the right to information about proposed changes to the trust deed;
- the right of access to an alternative dispute resolution process; and
- the right for benefits to remain unencumbered, i.e. the employer cannot place a lien over actual or emerging benefits.

Recommendation 4.10:

The Committee recommends that the ISC, in conjunction with union, employer and industry groups, examine the practicalities of OSSA giving members the right to requisition a meeting for the purpose of:

- giving directions to the trustees or directors of the corporate trustees which are consistent with the terms of the deed; and
- removing the trustees or directors of the corporate trustee provided that any trustees appointed subsequently maintain the requirement for equal employer/employee representation.

Recommendation 4.11:

The Committee recommends that:

- *OSSA be amended to require the fund's auditor to be independent of the sponsoring employer(s), union(s) or promoter;*
- *A Board of Superannuation Auditors be established and that only auditors registered with the Board be able to sign the audit certificates on superannuation funds' annual returns;*
- *registered superannuation auditors be required to audit anti-fraud internal controls within the fund and report to members on the fund's procedures for:*
 - *regular reconciliation of accounts*
 - *regular supply of statements from investment managers*
 - *checks on benefit entitlements, proof of identity etc. before benefits are made*
 - *authorisation of payments to members, investment managers and creditors*
 - *custody procedures for share certificates, bonds and stocks etc.*
 - *signatory procedures;*
- *where the registered superannuation auditor believes internal controls are inadequate, the auditor be required to advise the ISC if the scheme has failed to take action to rectify deficiencies identified in the audit within two months;*
- *registered superannuation auditors be required to report on the assets and liabilities of superannuation plans, including the level of in-house assets and if the fund is a defined benefit fund, whether the fund is underfunded and/or its capacity to meet promised benefits;*
- *registered superannuation auditors be given powers to audit the decision making process of the fund's investment managers for the selection of asset categories, sectors and securities;*
- *registered superannuation auditors be required to advise the ISC of any qualified finding on the superannuation scheme; and*
- *relevant details of the actuarial report be incorporated in the audit report following each actuarial review.*

Recommendation 4.12:

The Committee recommends that high priority be attached to the ISC developing an effective random audit program.

Recommendation 4.13:

The ISC should be required to create and maintain a national database along the lines of the ASC companies database so that the financial press and industry experts can report independently on superannuation funds with arms' length members; that is, funds with five or more members. The information available on the database should include:

- financial information;
- names of trustees, fund managers, fund administrators, auditors and other advisers;
- proposed amendments to trust deeds;
- proposed repatriation of surpluses;
- performance against benchmarks.

The Committee recommends that financial information on the database should be available within six months of the end of the financial year or at the time the information is made available to members if this is earlier.

– TRUSTEE REPRESENTATION:

Recommendation 5.1:

The Committee recommends that the requirement for equal employer/employee representation should apply to all funds with arms' length members; that is, funds with five or more members.

Recommendation 5.2:

The Committee recommends that a list of persons willing to serve as trustees be maintained by the ISC which would be authorised to provide both employee and employer groups with details of the list to assist in the selection of trustees.

The Committee further recommends that in the event that employer or employee groups were unable to agree on a mechanism for selection of their nominees, the ISC be given arbitration powers (provided the matter is not under consideration by the AIRC) and that the ISC's determination be binding on all parties. Where such determinations are made by the ISC, they should operate for a period no longer than three years.

Recommendation 5.3:

The Committee recommends that employer-sponsored and industry funds have no mandatory requirements for independent trustees and that this be left to individual funds. However, to lessen the possibility that trustees could be pressured or coerced by particular interests associated with the fund, the Committee recommends that trustees be provided with legislative protection against action which would unfairly disadvantage them. For member trustees, this would include protection against unfair dismissal and discrimination in career advancement.

Recommendation 5.4:

The Committee believes that trustee education is essential for the long term viability of the industry and recommends that such education be given high priority by both the Government and the industry. Recognising that the structure of the superannuation industry is still evolving, particularly with respect to trustee representation, the Committee recommends that prescribed courses and training should not apply for the time being.

The Committee further recommends that the ISC should require details of the educational qualifications and/or superannuation-specific training or experience of

persons nominated as trustees. If the educational qualifications or superannuation-specific experience of trustees as monitored by the ISC have not shown significant improvement after three years, compulsory education standards should apply. The Committee commends the establishment of the Australian Institute of Superannuation Trustees Inc, and recommends that nationally accredited courses in superannuation be available in all states within five years.

Recommendation 5.5:

The Committee recommends that all master trust arrangements, including those offered by life offices, be required to have an independent public trustee.

Recommendation 5.6:

The Committee recommends that each individual plan or sub-plan with arms' length members in master trust arrangements be required to have a policy committee comprising equal representatives of employers and employees to advise the trustee.

Recommendation 5.7:

The Committee recommends that Regulation 13(e) of the OSS Regulations be amended to require all plans nominated in industrial awards to have equal employer/employee representation.

– SURPLUSES AND INACTIVE ACCOUNTS:

Recommendation 6.1:

The Committee recommends that the Government conducts an investigation to determine whether surpluses are being used for the purposes that are intended; that is, to act as a reserve against investment fluctuations. Following this review, the Committee recommends that the Government re-examine the 1995 timetable for removing the tax deductibility to the fund of a repatriation of surplus to the employer.

Recommendation 6.2:

The Committee recommends that OSSA be amended so that for defined benefit schemes:

- all trust deeds be required to include clauses outlining the methods by which a surplus can be repatriated to the sponsoring employer, and that any changes required to give effect to this requirement be submitted to members for approval beforehand;
- members be given at least three months' prior notice before a surplus is repatriated;
- members must be supplied with a summary when such notice is given which includes the financial status of the fund, including the accrued retirement benefits index;

- *members upon request are entitled to a copy of the original trust deed and all amendments and dates of amendments up to the date of the proposed or actual repatriation of any surplus or transfer;*
- *a minimum funding standard be satisfied immediately after repatriation – this minimum standard to be at least 110% of accrued retirement benefits;*
- *the amount of surplus that can be held in a fund is restricted – the level to be an amount not more than 20 per cent of the liabilities of the fund; and*
- *where members are to be transferred from one scheme to another, members must be advised of the clause(s) in the deed under which the transfer is being effected;*
- *where members are to be transferred from one scheme to another, that members be given two months' prior notice so that they have adequate time to seek advice on the implications of the transfer.*

Recommendation 6.3:

The Committee recommends that the fund's actuary be required to report on the level of employee and employer contributions in the context of members' RBLs.

Recommendation 6.4:

The Committee recommends that the Government investigate the nature and extent of reserves in accumulation schemes and whether reserves are being maintained for their proper purposes. The Committee further recommends that the status of reserves in accumulation schemes be clarified in the OSS Regulations.

Recommendation 6.5:

The Committee recommends that:

- *a central fund be established for lost member accounts so that all funds can be swept periodically, say every six or 12 months, in order that administration charges on such accounts be minimised;*
- *the accounts could be identified either by tax file numbers or by a superannuation number;*
- *an appropriate Commonwealth agency should tender out the administration of such a fund on a fee for service basis, on a long term contract (for example, five years) and that arrangements be made with the Australian Tax Office so that information on the balance of the account could be forwarded to individuals; and*
- *where the person is in irregular employment or changes employment frequently, the person should have the option of rolling over contributions in the central fund into an appropriate industry or employer scheme.*

– IN-HOUSE ASSET RULE:**Recommendation 7.1:**

The Committee recommends that funds which do not have arms' length members be subject to the same rules as other funds. The Committee considers that to do otherwise would provide scope for tax avoidance.

Recommendation 7.2:

The Committee recommends that the in-house assets rule be reduced from ten per cent to five percent.

– REGULATION OF FUND MANAGERS:**Recommendation 8.1:**

The Committee recommends that trustees who act as investment managers of superannuation funds be required to have a dealers licence. It is intended that such licensing requirements would operate in conjunction with entry requirements for trustees as outlined in Chapter 4. Trustees whose only investments were bank deposits would be exempt from the dealers licence requirements.

Recommendation 8.2:

The Committee recommends that a 'fit and proper person' test be introduced to all investment managers similar analogous to the conditions under the Life Insurance Act (LIA). The Committee further recommends that the need for capital adequacy be examined by the ISC and ASC. The Committee considers that a minimum level of capital adequacy expressed as some percentage of cash flow is desirable for funds managers, as are minimum educational qualifications, but is anxious that any such controls do not discourage niche marketing and that Australian practice is consistent with that overseas.

The Committee further recommends that the need for formal industry-specific educational qualifications be examined by the ISC and the ASC and investment competency measures, similar to dealers licensing requirements, be considered by the ISC in its review of the Life Insurance Act.

Recommendation 8.3:

The Committee recommends that the TPC monitor the funds management industry to ensure that it remains open and competitive.

Recommendation 8.4:

The Committee considers that the 'bundling' of services by the actuarial firms warrants further examination by the ISC and TPC, particularly as actuarial advisers to superannuation funds are not subject to any regulatory oversight.

Recommendation 8.5:

The Committee supports legislation requiring trustees to establish investment targets and for investment managers to report against those targets. The Committee recommends that trustees be able to seek compensation from fund managers where the latter have failed to fulfil the conditions of the management contract.

Recommendation 8.6:

The Committee recommends that the ISC, the Institute of Actuaries, the Australian Institute of Trustees Inc and other professional bodies devote resources to improving public awareness of long term returns, as well as improving the ability of funds managers to focus on those long term returns.

The Committee further recommends that trustees be required to explain to members the strategies being employed to achieve a real rate of return over a given period, preferably at least five years.

– INVESTMENT BY SUPERANNUATION FUNDS

Recommendation 9.1:

Given the attractiveness of infrastructure investment for superannuation funds, the Committee recommends that the anomalies in the Income Tax Assessment Act (ITAA) which discourage investment in infrastructure by superannuation funds be removed.

Recommendation 9.2:

The Committee recommends that no investment controls be placed on superannuation funds to compel them to invest in particular areas such as development or venture capital or infrastructure.

The Committee further recommends that trustees should have to report to members and to the ISC on investments in new asset classes such as development and venture capital and infrastructure investment.

Recommendation 9.3:

The Committee recommends that the issue of directing investment of superannuation moneys be re-examined by an appropriate Senate Committee within three years.

Recommendation 9.4:

The Committee recommends that no special restrictions be placed on superannuation funds investing overseas.

– INSTITUTIONAL COMPETITION:**Recommendation 10.1:**

The Committee recommends that the existing legislative differences between ADFs and superannuation funds be removed.

Recommendation 10.2:

The Committee supports the entry of new entrants into the superannuation industry as this will widen consumer choice and introduce more competition to the industry.

The Committee recommends that cross-subsidisation of the administration costs of bank superannuation products and other banks products be legislatively prohibited under the Banking Act and that this be monitored by the Reserve Bank.

The Committee further recommends that legislation require consumers to be adequately informed about the implications of a low risk profile for bank account superannuation in terms of retirement benefits, and that the ISC and the industry conduct an education campaign to explain to consumers the importance of risky assets in an investment portfolio.

Recommendation 10.3:

The Committee recommends that the annuity market be opened up to firms of sufficient size and financial strength. Such funds would be required to meet special solvency and reporting requirements as evidence of their ability to provide indexed income streams.

Recommendation 10.4:

The Committee recommends that the Government introduce legislation to regulate the provision of allocated pensions and other flexible retirement income products as soon as possible.

The Committee further recommends that unit trust arrangements meeting solvency and reporting requirements be allowed to offer term-certain annuities.

The Committee notes that if the Government does not address broader socio-economic issues in this context, such as the preservation age, there could be a substantial cost to revenue from such arrangements.

– DISPUTE RESOLUTION MECHANISMS:**Recommendation 11.1:**

The Committee recommends that the ISC produce simply worded, descriptive literature on superannuation, suitable for distribution to all existing and prospective fund members through the individual funds.

Recommendation 11.2:

The Committee recommends that, as a matter of high priority, the OSS Regulations be amended to require that, as a condition of compliance, each fund should:

- develop and publish its policies relating to dispute resolution;
- nominate a person or persons to whom queries and complaints should be addressed;
- undertake that, if that person cannot resolve the matter, it will be referred to the trustees, who should be required to make a decision within 90 days of referral to them and to provide reasons for that decision in writing; and
- notify full particulars of these procedures to members on entry and annually thereafter.

Recommendation 11.3:

The Committee further recommends that these provisions should be fully implemented within two years of their promulgation and that the ISC should monitor their introduction and operation.

Recommendation 11.4:

The Committee recommends the establishment by legislation of an external disputes resolution mechanism, at the earliest practicable date, with the following features:

- a management board comprising nominees of the Commonwealth and participating state governments, industry bodies and representatives of the unions, women's and consumer groups;
- a review authority chaired by an ombudsman, who would sit with two other members drawn from a panel of fund trustees and other people with appropriate experience. The ombudsman and panel members would be appointed by the Minister from names submitted by the board;
- staff and supporting facilities arranged by the board and financed equally by participating governments and industry groups;
- the functions of the existing superannuation review mechanisms conducted by LIFA and the participating states to be transferred to the new authority;
- the authority should not have power to review cases on their merits but should be confined to ensuring that the trustees' powers have been exercised properly and that all relevant evidence has been considered;
- decisions of the authority would be final and binding on all parties; and
- the ombudsman and the management board should publish annual reports.