
CHAPTER 7:

AUDITORS AND ACTUARIES

The efficacy of the SIS legislation really stands on auditors being independent and doing the right thing because after all members of superannuation funds only have an independent auditor to have an independent view - so that, what is said is being done, is being done ...⁴⁸

Introduction

7.1 This chapter addresses concerns raised by auditors about their role under the SIS legislation. The Committee has reiterated its views on the need to establish a register of superannuation auditors and a recommendation is made on the appointment and termination of auditors.

7.2 The Committee did not receive any submissions from the actuarial profession per se, or other interested parties, on the role of actuaries under SIS. The Committee understands that auditors will rely upon actuaries to issue certificates that the fund is fully funded. Under the Superannuation Guarantee legislation actuaries are required to provide superannuation funds with actuarial certificates under Part IX of the ITAA.

Auditors and Actuaries - Part 16

7.3 The Committee received a number of submissions on the role of auditors under the SIS legislation, namely:

- the responsibilities being placed upon auditors under SIS are too onerous;

⁴⁸ Andrew Skinner, evidence p 139

- auditors need some form of protection from trustees who may seek to influence their work;
- consideration should be given to appointing auditors for a set term; and
- consideration should be given to implementing a system of registration for superannuation auditors, although such auditors would not need to be registered company auditors but, as a minimum, show proficiency in superannuation.⁴⁹

Auditor's responsibilities

7.4 A number of submissions suggested that under SIS auditors would be placed in an invidious and overly-onerous position in that they would be expected to discharge responsibilities beyond reasonable professional expectations.⁵⁰ The Committee noted these sentiments but concluded that auditors will play a vital and critical role in maintaining the high standards of ethical and prudent conduct in the superannuation industry and that the SIS legislation should focus on this imperative. Amongst other things, this is predicated on the need for the auditor to have an ongoing interest in the conduct of the fund throughout the year and not be a 'mere visitor' after balance date.

7.5 The Committee stresses that superannuation audits should be conducted in accordance with the Australian Auditing Standards.

7.6 Under clause 126 of the SIS Bill, auditors are required to inform the trustee when they form the opinion that it is 'likely' that a contravention of the SIS Act or regulations 'may have occurred', 'may be occurring or may occur'. This requirement is the result of an amendment introduced into the House of Representatives on 27 September 1993, which amended the original requirement in the SIS legislation that auditors must notify the trustee if they form the opinion that a contravention 'may occur'.

7.7 The Committee believes that the amendment to ensure that the auditor forms the opinion that it is 'likely' a contravention 'may occur' will

⁴⁹ Andrew Skinner, SIS Sub No 27

⁵⁰ ICAA/CPA's

assist in alerting auditors to make findings about undesirable investments and accounting practices. In addition, it will provide a special focus for auditors to judge whether a superannuation fund is operating according to SIS standards.⁵¹

Recommendation 7.1:

The Committee recommends that the ISC monitor closely the appointment and termination of auditors in the superannuation industry and, if necessary, advise the Government that legislation be introduced to protect auditors from unjust or unreasonable termination.

Auditor protection

7.8 It was submitted that, given the 'expanded' and 'proactive' role of auditors as proposed in clauses 125-128 and the increased responsibility that these provisions entail, auditors should be afforded greater protection under SIS.⁵² Concern was expressed that the legislation did not protect auditors from the 'whim of trustee' change and that auditors who did not perform 'low cost' audits would have their services terminated. It was suggested that the integrity and independence of auditors could be strengthened by appointing them for 12 months or even longer periods.⁵³

7.9 The ISC informed the Committee that it would 'look again at the issue' but indicated that it had some 'practical difficulty' which centred on the nature of the auditor's task which could involve one or two audits, a single visit or on-going involvement in monitoring a superannuation fund.⁵⁴

⁵¹ Ms N Gallery, SIS Sub No 31, provided some interesting and noteworthy comments on the information that members need and the role that auditors should play in monitoring the quality thereof which the ISC could consider in developing regulations and guidelines.

⁵² Andrew Skinner, Evidence p 111
Robert Brown and John Gorsh, p 143

⁵³ *ibid*

⁵⁴ Evidence p 194

Register of auditors and auditor removal

7.10 Further to recommendation 4.11 in its first report, *Safeguarding Super*, the Committee again considered the proposal to establish a register of superannuation auditors. Although the Committee agrees with this proposal in principle it is concerned that, at this stage, given the large number of superannuation funds and the differing levels of skills required to audit the range of superannuation funds, a register of auditors would be difficult to establish and administer.

7.11 However, the Committee notes the call by the ASCPA/ICAA Joint Superannuation Committee to have the professional bodies manage their own internal affairs in relation to the removal of auditors and the proviso that the ISC Commissioner, if dissatisfied, can take appropriate action under the SIS legislation.⁵⁵ The Committee respects the rights and wishes of the professional bodies to be able to manage their own internal affairs but reiterates its position that it is in the public interest that superannuation auditors be disqualified should they be in breach of fundamental duties. The Committee believes that effective and on-going consultation between the ISC and the professional accounting bodies is of critical importance to the maintenance of high standards of superannuation audits.

Recommendation 7.2:

The Committee recommends that the ISC continue the practice of notifying the professional accounting bodies where it has cause to believe that an auditor should be removed.

7.12 The Committee noted the desire of the professional accounting bodies to have the SIS legislation address the duties of auditors and actuaries separately⁵⁶, however, this evidence did not establish conclusively any tangible benefits that would arise from such a distinction.

⁵⁵ Evidence p 143

⁵⁶ Joint ASCPA/ICAA submission

Recommendation 7.3:

The Committee further recommends that, in accordance with the Committee's first report *Safeguarding Super* (Recommendation 4.11), the Government, in consultation with the professional accounting bodies, again consider establishing a register of superannuation auditors and that the register consist of persons who have completed the training prescribed by the accounting professions.