CHAPTER 9:

SUPER SAVINGS ACCOUNTS

Background

9.1 Whilst a number of banking groups presently offer superannuation savings accounts, these products are provided through an interposed trust structure, usually via the bank's life company subsidiary. Advocates of superannuation savings accounts (SSAs) seek the removal of the requirement for an interposed trust structure and the introduction of a separate regulatory regime with lower obligations for supervision and disclosure.

9.2 Whilst differing somewhat from the banks' proposal, the following script from a submission by the Credit Union Corporation (Australia) Limited (CUSCAL) provides an overview of the nature of SSAs:

- SSAs would operate using portable savings accounts for balances below say $5,000;
- balances in SSAs would be capital guaranteed and there would be no administration fees and no entry or exit fees;
- once an account reached the $5,000 threshold, the account balance would be transferred to the award superannuation fund, or if there is no nominated fund, to a fund nominated by the member;
- contributions to SSAs could be made by employers, employees or by people up to 2 years after leaving the workforce;
- interest would be credited periodically to the accounts, and would be concessionally taxed, in line with existing superannuation fund earnings;
- contributions to SSAs would attract existing tax benefits where they satisfy existing requirements for tax benefits;
- a reduced disclosure regime would apply, involving quarterly statements to members, indicating contributions, interest and the preserved and vested account balance; and
- credit unions would conduct regular, member authorised sweeps to consolidate SSAs.[1]

1 SGCREV Sub No 89

Existing Government policy

9.3 In his Statement of 28 June 1994 the Treasurer announced that the Government has decided against the introduction of a special tax and regulatory regime for SSAs. In justifying the Government's position, the Treasurer maintained that:

> the present arrangements ensure that superannuation products offered by banks are subject to the same rules and conditions as for other providers of superannuation... this prevents any one sector gaining an unfair advantage over competitors in the superannuation market, and ensures that members of all funds enjoy similar regulatory protection.[2]

9.4 In response to claims from banks and credit unions that a major benefit of introducing SSAs would be their contribution to resolving the small amounts problem, the Treasurer provided that 'the package of measures we are announcing today [which did not include SSAs] provides a comprehensive solution for small amounts'.

The Case For SSAs

9.5 The two major proponents of SSAs are the Australian Bankers Association (ABA) and the Credit Union Corporation (Australia) Limited (CUSCAL), both of whom submitted to, and appeared before, the Committee.

9.6 In response to the Treasurer's Statement, Mr Alan Cullen, ABA, advocated SSAs to the Committee as a solution to the small payments problem, saying that:

> Our view is that that [the Treasurers' Statement] has solved nothing but has merely disguised the way in which the costs and the benefits will operate, by enforcing cross-subsidies in the industry and really providing no choice to superannuants... when we talk about the group to which you are directing attention, would it not be easy for someone to have a simple superannuation savings account that they take from employer to employer?
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> The employer, by paying into that account, would discharge his obligations. The person concerned would know precisely the amount they have in that account at any given time, whereas they would not normally know the value of the various superannuate amounts they have. They would at least have all

2 The Hon Ralph Willis, MP, *Treasurer, Statement on superannuation policy*, 28 June 1994

> their accounts consolidated at that time and, indeed, if they hold more than one superannuation savings account with banks, the building societies or credit unions, we would have the tax file numbers.[3]

9.7 When asked by the Committee why he thought the Treasurer had disregarded the ABA's proposals, Mr Cullen replied that:

> one of the reasons the Treasurer advanced for not proceeding with the bank proposals was that the unions would never agree that superannuation savings accounts would be complying funds for the purposes of the awards. Therefore, given that the award was quite extensive, it would not solve this problem [the small payments problems].[4]

9.8 In regard to the 'level-playing-field' argument, Mr Cullen was critical of the way in which banks are presently required to offer superannuation products, claiming that:

> it is true that banks offer superannuation savings accounts or simple products through their life subsidiaries but the banks are putting it [SSAs] forward because they see that they carry a cost burden which need not be carried in terms of the needs of particular superannuants. Therefore, they would offer both. The level playing field is an argument that has no merit whatsoever.[5]

9.9 In support of this argument, Mr Cullen claimed that the use of a trust structure amounted to 'a cost burden which need not be carried in terms of the needs of particular superannuants'. Mr Cullen elaborated to the Committee by saying:

> The point is whether or not one is interested in the benefit to the superannuant or one is interested in the benefits to the providers. We have said that there is no need for a trustee, no need for a prospectus, no need for the type of reporting requirements you have if you are investing in a bank deposit which is prudently supervised by the Reserve Bank...
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> We have no problem with the superannuation savings account being offered by life offices and superannuation funds if they can meet the requirements [of the Reserve Bank of Australia].[6]

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3 Evidence, p 160

4 Evidence, p 161

5 Evidence, p162

6 Evidence, pp 161-162

9.10 Of particular interest to the Committee was the claim by the ABA in their submission that SSAs offer a means of consolidating multiple accounts.[7] Mr Cullen explained that this could be simply achieved by utilising the bank clearing system, providing the banks were given legislative authority to use Tax File Numbers for this purpose.[8]

9.11 Having had time to further analyse the ATO collection system, the ABA forwarded a supplementary submission to the Committee on 28 November 1994 outlining their views on that system, which can be summarised as:

- the costs of the ATO system are likely to well above the estimated $7 million per annum estimated by the Treasurer;
- the member protection rules are likely to significantly increase the cross subsidies inherent in the system; and
- the Treasurer's Statement does not attack the cause of the small amounts problems, being the $450 SG threshold.[9]

9.12 Also in favour of SSAs was Mr Chris Gration, of CUSCAL, who reiterated to the Committee that the credit union movement wishes to offer a product for amounts up to $1,200 in any year, and not exceeding a threshold of $5,000. Once the account balance reaches the $5,000 threshold it would be transferred into the appropriate award fund or, in the absence of an award fund, a fund nominated by a member. The SSA product would offer a capital guarantee with a guarantee of growth at rates similar to those of term deposits and, importantly, with no fees or charges.[10]

9.13 When questioned by the Committee as to why CUSCAL chose $5,000 for the threshold, Mr Gration replied that 'there was no particular science involved... we would be quite happy to consider a similar administrative framework with a $2,000 or $3,000 limit'.[11]

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7 SGCREV Sub No 80

8 Evidence, p163

9 SGCREV Sub No 80 Supplementary

10 Evidence, p 442

11 Evidence, p 450

9.14 Mr Gration did not present SSAs as the be-all-to-end-all for solving the small amounts problem, but rather suggested:

> You are not going to have one single solution to this small amounts problem. It is a big problem, it is an ongoing problem and what we are saying is, we think superannuation savings accounts of the sort we are offering could be part of that solution.[12]

9.15 In support of this claim, Mr Gration expressed doubts to the Committee that the measures outlined by the Treasurer would provide the total solution to the small amounts problem because:

> the member protection rules will protect a balance from erosion but it will not provide for growth... and... the Government cannot guarantee to pay interest for balances below $1,200 and has explicitly stated that balances that reach $1,200 and remain with the tax office will not be paid interest at all.[13]

9.16 Mr Gration also highlighted concern that:

> the tax commissioner will, under the government's proposals, write to the worker to tell him that the balance has reached $1,200 and will suggest that he nominates a fund to which that amount is to be transferred. If the worker does not do that, the amount just sits there. That person can keep contributing and will earn no more interest. The amount could sit there for 15 years and earn absolutely nothing at all.[14]

9.17 Mr Dave Taylor, of CUSCAL, claimed that credit unions proposal to establish SSAs should be considered on its own merit as there are distinct and vital differences between credit unions and banks. Mr Taylor claimed:

> in the Treasurer's Statement, only two reasons were put why SSA[s] should not be permitted. One was that industry funds pay for their own supervision and banks do not. The second was that industry life and super funds are there to protect their members' interests and banks are not necessarily there to do that; they are there to derive income for their shareholders. On both points credit unions, of course, are somewhat different from banks. Credit unions do pay to for their own supervision and credit unions are there for one reason only, and that is to provide services for their members.[15]

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12 Evidence, p 452

13 Evidence, p 445

14 Evidence, p 450

15 Evidence, p 440

9.18 When asked by the Committee to comment on the comparative long term yields of SSAs, Mr Taylor emphasised that they are not intended to be long term investments and that credit unions would be happy to have SSAs transfer to a traditional trustee based superannuation fund once the balance reaches a certain amount. Significantly, Mr Taylor said 'I think it is the fear of other institutions and banks wanting to compete directly that has caused such a strong reaction (against SSAs) from life and superannuation funds'.[16]

9.19 As with the ABA, CUSCAL forwarded a supplementary submission after further analysis of the ATO collection system.[17] In their supplementary submission CUSCAL maintained:

- there is good reason to believe that a large number of Australians will continue to generate small superannuation balances as small contributors are often part-time workers with broken work patterns, low pay and high mobility;
- part-time workers represent a growth sector of the economy;
- the Government appears to have chosen to force an inferior product [the ATO collection system] on low income earners;
- unlike SSAs, the proposed member protection rules do not guarantee capital growth;
- it will be difficult for funds like REST that have large numbers of small contributors to implement member protection;
- SSAs are a better safety net than the ATO because:
  - (a) they pay interest where the ATO will not,
  - (b) workers can save using their SSA even when they are out of work, and
  - (c) SSAs are highly portable and easily accessible;
- existing trust structures are simply too cumbersome for small irregular amounts;
- to work properly, SSAs would need the same light disclosure regime that will be extended to funds implementing member protection;

16 Evidence, p 449

17 SGCREV Sub No 89 Supplementary

- the 'competitive neutrality' or level playing field argument against SSAs does not serve low income earners well;
- C+BUS pays a maximum of $14,000 per annum for supervision by the Insurance and Superannuation Commission, whereas, a credit union with comparable assets would pay $400,000 for supervision by the AFIC;
- SSAs would be subject to the Superannuation Complaints Tribunal; and
- Credit Unions have a widespread distribution network.

9.20 In its submission to the Committee, the Australian Federation of Consumer Organizations Inc (AFCO) was generally supportive of SSAs but stipulated that 'bank operated superannuation funds should have the same prudential and consumer protection rights as other superannuation products. This must include appropriate information, monitoring and redress for complaints'.[18]

9.21 In giving evidence to the Committee, Ms Jenni Mack of AFCO reiterated their support of SSAs, saying:

> we think that, in many instances, a SSA would be a lot more user friendly to some groups of consumers... at least they will get interest paid if they are in a bank.[19]

9.22 However, Ms Mack went on to express some reservations about complaints arising from the SSAs being dealt with by the Bank Ombudsman vis a vis the Superannuation Complaints Tribunal, an issue which CUSCAL addressed satisfactorily in their supplementary submission.

Arguments against SSAs

9.23 The Committee was given a detailed account from Mr Greg Smith, of Treasury, of the Government's justification for its policy regarding SSAs. Mr Smith said:

> It was proposed that that instrument [SSA] be an account which can be the subject of a withholding tax - not the tax that we now have on superannuation funds - on credits to that account and that those accounts not be part of a trustee structure.

18 SGCREV Sub No 20

19 Evidence, p 572

> They wanted to get away from being required to establish a trustee with a fund and rather simply offer an account, just like an ordinary bank deposit account. The government would then have to pass special taxation laws to impose taxes on those accounts of a withholding kind. So that was what was being proposed. It was a completely different regime both as regards the administration of the system and the taxation of the system.
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> An attempt, of course, would have been made to make it as close as possible to the existing taxation and administration of superannuation funds which are separate entities. But in fact it would have been a separate system.
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> The reason the government did not agree to that was that it felt that it could not get sufficiently identical and therefore equal treatment of those accounts with the current system and that there would therefore be a competitive issue, noting that all institutions are free now to establish those types of accounts through the existing arrangements, which some banks have already done.[20]

9.24 In a joint appearance before the Committee, Ms Susan Ryan, of the Association of Superannuation Funds of Australia (ASFA), and Mr John Maroney, of the Life Insurance Federation of Australia (LIFA), were generally supportive of the measures proposed by the Treasurer for dealing with the small amounts problem, including the policy of not allowing the introduction of SSAs. Their position was summarised by Ms Ryan in saying:

> despite those differences [from their proposal], we strongly support the Government's package... it will make millions of members better off and it will begin the process of improving confidence. Many media reports on the statement have commented that banks have been frozen out of the superannuation system. Nothing could be further from the truth. All major banks currently offer superannuation products under the same rules as every other commercial superannuation provider.[21]

9.25 Of interest to the Committee was that ASFA and LIFA do not differentiate between the claims made by the banks for SSAs and those made by credit unions. In addressing a question from the Committee about the relative claims for SSAs by credit unions and banks, Ms Ryan simply advocated the importance of the role of trustees and the need for maintaining a competitive level playing field for all participants in the superannuation industry.[22]

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20 Evidence, p 601

21 Evidence, p 78

22 Evidence, p 78

9.26 Similarly, Mr Ray Stevens, of William M. Mercer Pty Ltd, argued that banks and credit unions have to cover their administration costs just the same as anybody else and said he was certainly against allowing anyone to offer superannuation outside of the trust regime.[23]

9.27 Also opposed to the introduction of SSAs was the ACTU, with Mr Ian Court taking issue with the claim that credit unions would not 'make any charges' for SSAs. Mr Court put to the Committee that:

> they cannot really have a margin between deposits and earnings that is less than the banks... The cost is not actually going to be deducted from balances: it is going to be deducted off earnings. The credit unions simply cannot compete either with their technology in their systems to deal with these sort of accounts [SSAs], or with cost.
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> If you compare a credit union with its three or four per cent margin as against a member protected superannuation fund which is effectively charging - in the case of C+BUS - nothing up to $500 and about 0.6 of one per cent for up to $1,000, they simply cannot compete. They simply are not a competitive product.[24]

9.28 Mr Court objected to SSAs being permitted to operate outside the existing superannuation prudential framework. He believes member representation and trustees of superannuation funds are beneficial 'both in scrutiny and in ordinary people getting involved in managing their money'.[25]

9.29 Mr Court also questioned the appropriateness of CUSCAL's proposed $5,000 threshold saying that 'it is not a small balance. The average balance in C+BUS is $3,000 after ten years'.[26] In response to a statement by the Committee that CUSCAL would be flexible with regards to the $5,000 threshold, Mr Court replied:

> I will put it to you, Senator, that they have not done their numbers and there will be an amount below which they will not go, because of the cost associated with it.[27]

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23 Evidence, p 202

24 Evidence, p 709

25 Evidence, p 709

26 Evidence, p 709

27 Evidence, p 726

9.30 In response to Mr Court's evidence, CUSCAL reaffirmed in a supplementary submission that credit unions would provide a 'fee free retirement savings account, yet at the same time offer a "market rate" of interest'. They maintain they will do so by utilising an existing 'sophisticated computer systems network'. [28]

9.31 Having considered the preceding evidence, the Committee is confident that the member protection rules, in combination with the ATO scheme and transfer protocol, will assist with the problems associated with small superannuation balances.

9.32 The Government members of the Committee are of the view that all participants in the superannuation arena should come under the same prudential supervisory regime and the introduction of SSAs is an unwarranted complication to the superannuation scheme.

9.33 The Coalition and Democrat members of the Committee are of the view that there is a role for other financial intermediaries in alleviating the small amounts problem.The development of SSAs should be allowed providing:

- they come under the jurisdication of the Superannuation Complaints Tribunal;
- consumer protection is further enhanced by additional funding for Consumer Credit Legal Services to provide representation and advice in the absence of trustees. This is consistent with the Committee's recommendation in its Ninth Report that the Government consider supporting the establishment of an independent superannuation advisory service;
- accounts are not subject to entry or exit fees;
- the rate of return is comparable to that of long-term deposits; and
- there is a maximum amount for such accounts of $3,000 beyond which balances are transferred to a managed fund (although the account can then be re-opened with a balance of zero).

28 Supplementary Sub No 89

9.34 The Government and Democrat members question banks' capacity to provide SSAs, given their apparent inability to handle the issue of small bank accounts.