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SELECT COMMITTEE ON SUPERANNUATION

Reference: Choice of superannuation fund

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SENATE

Friday, 20 February 1998

SELECT COMMITTEE ON SUPERANNUATION

Members: Senator Watson (*Chair*), Senators Allison, Conroy, Evans, Ferguson, Hogg and McGauran

Senators attending the hearing: Senators Conroy, Hogg, Watson

Matter referred by the Senate for inquiry into and report on:

The introduction of choice of superannuation fund and the need for education of employees and employers about the implications of choice, including investment choice.

The Committee's inquiry is to include, but not be limited to, the provisions of the Government's legislation on choice of fund.

For the purpose of the inquiry the Committee will take evidence from the public, superannuation providers, employer and employee organisations, consumer groups and Government agencies, and conduct public hearings as appropriate.

WITNESSES

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BUN, Ms Mara, Policy and Public Affairs Manager, Australian Consumers Association, 57 Carrington Road, Marrickville, New South Wales 2204	337
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SYLVA, Ms Louise, Manager, Public Affairs, AMP Financial Services, GPO Box 4134, Sydney, New South Wales 2000	352

Committee met at 9.01 a.m.

BLANCHFLOWER, Mr Christopher Geoffrey Edward, Executive Director, Investment Strategy, Australian Portfolio Management Limited, Level 9, 80 Alfred Street, Milsons Point, New South Wales 2061

MORROW, Mr Graham Vincent, Managing Director, Australian Portfolio Management Limited, Level 9, 80 Alfred Street, Milsons Point, New South Wales 2061

PETERSEN, Mr Peter Martin, General Manager, Technical and Actuary, Australian Portfolio Management Limited, Level 9, 80 Alfred Street, Milsons Point, New South Wales 2061

CHAIR—I welcome members and guests to this fourth hearing of the Senate Select Committee on Superannuation into the question of choice of fund. I briefly remind the witnesses that you are protected by parliamentary privilege in terms of what you say here today and in terms of the submission that you have put to the committee. If there is any intimidation or any implication from that, you are protected, of course, by parliamentary privilege and all that is associated with it.

I refer my colleagues to your submission, which they have already read, submission No. 15. I have much pleasure in asking Mr Morrow to speak briefly to the submission. If any of your colleagues wish to comment or add anything to what you say, Mr Morrow, I would be appreciative of that. We generally ask witnesses not to read the submission, because we have all read it, but please highlight the features. What you might be interested in doing is speaking about issues raised by other witnesses or matters raised by other people in their submissions.

Mr Morrow—Thank you, Mr Chairman. I realise you have got our initial presentation but there are some slides at the back of that, some graphics which we may refer to. It has some pretty colours on it.

APML appreciates the opportunity of meeting with you and your colleagues today. You have asked for some brief background as to who we are and what we do. We are a small company, we employ 16 people only. We are about 3½ years old as a company, but we have a lot of experience.

Chris Blanchflower has 25 years investment experience with Westpac, Equitilink, and for the last eight or nine years with Prudential. Chris heads up our investment strategy process. We are very fortunate to have Chris. We are, I think, the only asset consulting firm in the country that has people who have actually managed money, which we are quite proud of. I know that sounds strange.

Peter Petersen, who I often refer to as my right-hand brain, is an actuary. Peter has also been in the industry for 25 years. Twenty-two years of those have been with MLC in various senior actuarial roles. Peter does a lot of our quant work, a lot of our research, and all of our computer work. Peter is a very valuable person for us. He has also had a lot of experience in member choice. One of Peter's colleagues, Michael Rice, is an actuary who you may have

heard of. Michael is very well known and highly respected, I think. Peter has done a lot of member choice work with Michael and his team. So Peter's experience is quite valuable to us in that area.

I have also been in the business 25 years—the three of us have all had 25 years. I have done a lot that I am rather proud of to change working practice in this industry. I will leave you with my resume which describes some of the things that have happened in my 25 years in the industry. At the back of this is a paper that we presented on the productivity case back in 1986. It is old but I will table it to the committee because, even though it is old, a lot of the ideas in that are still relevant today and may help you with your research.

In terms of people, we have a main board, an investment board. The chairman of the main board is a Mr Phil Harry, who is fairly well known in New South Wales but maybe not in other states. He has several major directorships. His major one is that he is President of the Australian Rugby Union, for those of you who are sporting types. Phil is a very good businessman. The deputy chairman is Mr Ric Charlton, who was previously chairman of Shell. He is on the boards of Coles Myer and Fujitsu, he is chairman of the national basketball league, he is on the boards of the VRC and the Moonee Valley Race Club, he is Chairman of the Victorian Arts Foundation and he is the Chancellor of Newcastle University. Ric is an interesting guy and a very good businessman. We have a retired Supreme Court judge, Justice Paul Toose, who had 13 years on the bench of the New South Wales Supreme Court. He is our legal counsel and a very valuable man to us.

Our investment board is chaired by Mr Norman Bay who was a funds manager with Citibank in London and Rothschilds in London. He is about our age also and has been in the business all his life. He has a masters degree from Oxford. He was managing director of Fidelity, the world's largest fund manager, in Hong Kong. He is in private practice in Melbourne now. He has managed many billions of dollars over his lifetime. Dr David Clark is on our investment board. He is a well-known economist. Some people would say he is an academic economist because he still teaches at the University of New South Wales. He is very practical and has not got it wrong yet.

We rely very much on David's views from an asset allocation point of view. His views on Asia and just where the world is going from an economic point of view are very important to us, so we have an idea how much money should be in various asset classes and whether we should change or recommend to our clients that we should change. Peter, of course, actuarially quantifies any changes that might come out of the investment board structure. Also on that board is Mr Barry Bicknell who is a director with Wilsons in Brisbane, a stockbroking firm. He is at the coalface from a share market point of view. He has a lot of experience and brings a lot of depth to our investment board.

Chris, Peter and I are also on that board. I think we have some excellent people. Our process is that in what we do for our clients we spend a lot of time on the economic situation; we apply the processes of that to the asset allocation process; and then, from there, once we know how much money should be allocated to each of the asset classes, we use specialist managers for each of those classes. Our view is that no manager is good at every asset class and if we get time today we will prove that to you. That is the way the world is going. Australia is lagging at the moment. One of the problems that we are concerned about

is education. Most Australians just do not understand that managers do not have skills in every asset class. But we will come to that.

CHAIR—With your experience you might like to comment to us later about the impact on Australia of the Asian meltdown.

Mr Morrow—We would be very happy to do that.

Mr Blanchflower—That sounds like a question coming in my direction.

Mr Morrow—We spent an hour on it yesterday at our investment board meeting.

CHAIR—Just three or four minutes.

Senator HOGG—We want quick solutions.

Mr Morrow—On to solutions. The reason we are here today is that we would like to help and share some ideas with you and your team. We are not here to debate the pros and cons of member choice. We think that is going to happen, so I assume that you have had substantive argument over the last three days as to whether funds choice and member choice should or should not happen.

Senator CONROY—Tragically, no.

Mr Morrow—We think there are some problems. The investment area particularly is badly in need of reform. As yours is such a major project, for your decision—whatever it is—to be implemented properly, there will be more problems unless we appreciate some of the problems. If we do not address them, some of those problems could undermine some of your good work. We are quite concerned about that.

We do not propose simply putting a problem without suggesting a solution. What is the solution? What we would like to see is that the industry, the regulatory body, introduces an accountability index and that should be legislated. An accountability index would work like this. The index would rank the performance of fund trustee boards on a merit system, like an aircraft making a landing. All pilots are disciplined. They have a check list; they check off the various things they have to do to make the aircraft land successfully.

We believe there should be a similar range of ingredients of a check list type nature in funds management. They should all be checked off and ranked. The rankings should go from, say, AAA down to minus C, and when members get their annual statement their fund is ranked on their statement. It sounds complicated, but it is not and could be done very easily. There has to be some type of accountability in the industry.

CHAIR—Who does it?

Mr Morrow—The ISC.

Senator HOGG—Is there a de facto system?

CHAIR—For every fund?

Mr Morrow—For every fund.

Senator HOGG—Is there a de facto system currently?

Mr Morrow—No. There is no control at all at the moment.

Senator HOGG—I am not saying is there a control, but is there a de facto system out there in the marketplace that uses a quasi rating at this stage?

Mr Morrow—Not really.

Mr Petersen—There are two sorts of systems out there. There is a big company that does something and therefore people say they are big, they are safe, they are secure; and there are all these surveys that come out from every man and his dog that say that so and so was number one over this three-week period or that Wednesday last week this company was really terrific, or that there are others that are a lot better but look at three months, six months, three years or perhaps five years.

Senator CONROY—I think it is a great suggestion. Have you had a suggestion on the practicality of asking the ISC to look at thousands of funds in terms of how they get their reports out in time and have to go through that process?

Mr Morrow—Yes, we have a solution to that too. Some people might not like it. The industry has \$350 billion under management at the moment. We would like to see a levy of 0.01 of one per cent. Now 0.01 of one per cent on fund assets would raise \$35 million and we believe that \$35 million would more than cover the cost of expanding the ISC's operations to employ and train. They would have to train the people also who had investment experience, because you just do not pick them up off the street, and those people would audit funds every year. You would start with the funds that are ranked down the bottom. You would not bother initially checking the funds of the AAA ranking because the ranking system speaks for itself.

If you turn to frame 16 in section 4 in our presentation, you will see some components we are concerned about. I will talk about some more practical things in a minute. For instance, the ISC audit result would qualify for points in trustee competence in terms of the things that they are doing. They would get a competence rating from the ISC, member communication material, custodial material, insurance arrangements, administration arrangements and investment performance. They would all rank. It sounds complicated but, once you put it all together, it would work. It needs some work and it needs some structural development. It needs people to put it together, but it could happen quite easily.

CHAIR—Could you give us a check list of components? We would be interested in it.

Mr Morrow—Yes, there are just those ones of the IC audit: trustee competence, member communications, custodial—some funds have custodians, some do not—insurance arrangements, administration arrangements, investment performance. Just break down investment

performance versus benchmark, for instance, in the last three to five years, with it subdivided by funds offered, asset sectors, consistency of performance, whether asset allocation benchmarks are being achieved, changes in asset allocation, and how often and why they are happening. Why are there changes in managers? What are the qualifications and experience of staff? That is very important. What are the track records of the sector managers? It would be easy to put it all together, so that there would be a check list.

Mr Petersen—The closest thing to it really is a pink slip for a car to make sure it is roadworthy. You have a governmental body that is in charge of cars being roadworthy and you implement it by having a pink slip. It does not mean that every car has to go to the testing station. It does not mean that every fund has to go to the ISC. The ISC can nominate various other organisations or consultants that could actually go through and look at the results and come up with that pink slip for the fund. Every so often one has to go across.

Senator CONROY—Looking at your components, and having spent nowhere near 25 years within the industry, one of the things that I could foresee happening with so many categories is that we finish top in member communications and use that to make a play when you finish bottom of every other category. With so many categories, there is the capacity to confuse.

Mr Blanchflower—If you look at frame 16 again, you will notice that 65 per cent of the weighting is investment performance.

Senator CONROY—I understand that. It is a question of leading people away from looking at that, by saying, ‘We finish first, second and third in these three categories.’ It is just a question of marketing. You are not doing anything deceitful. You are just emphasising the positives. But if the positives are only in the two, three or five per cent as opposed to how bad you have gone in that 65 per cent there—

Mr Blanchflower—If we get an overall rating, it would be an overall rating which depends on individual scores in that area and that is one of the problems. Certainly it has to be addressed. Give a marketing team an opportunity and they will sell anything.

Senator CONROY—Absolutely.

Mr Morrow—Which is one of the problems.

Mr Blanchflower—But we deliberately put the emphasis on investment performance of 65 per cent. It comes down to the fact that investment performance pays for everything else. What we are trying to see in these other areas are really good cost-effective decisions in the insurance arrangements, administration and member communications, making sure that the trustees really are educated and familiar enough with what they are doing and have enough incentives to do exactly the right thing purely for the financial benefits of members. It is really a question of ensuring that everyone has a real incentive to make arms-length decisions on the basis of members that are best for members. Investment performance generates the returns, but these other areas drain off the cost. What you have left is what the member has to live on in their time in retirement.

Senator CONROY—I would have thought administration should have been a bit higher, given the wide variety of charges. Sometimes they are as low as \$32; others are hundreds and hundreds of dollars. How do you express that on a rating of one to five? You would have to go A to Z.

Mr Morrow—This needs a lot of work.

Mr Blanchflower—It is a framework to look at.

Senator CONROY—No, I am just fleshing it out with you.

Mr Morrow—It is a framework, because we are concerned. Maybe I could just continue and come back to that, because I would like to talk to the subcommittee about some of the problems that we are seeing in the marketplace.

Senator HOGG—Could I ask one question on this, please. Is there an appeal mechanism against a rating that you are given? Do you see an appeal mechanism being necessary?

Mr Morrow—No, I do not think so, because I think you would find that if we put the work into the rating system, it would be rather automatic and the components would just add up to the rating. The problem, of course, is that the majors will not like it. We have done quite a lot of work here, which I would like to talk to you about later, in terms of the power of compounded interest. What we are all here about is how much money we are going to put in members' pockets at the end of the day.

Senator HOGG—Yes, fair enough, that is all I wanted to pursue.

Mr Morrow—I will come to that in a minute.

CHAIR—What worries me about this is that there is so much emphasis on the investment performance at 65 per cent that you almost need two indexes. You need one in terms of the administration, where the costs are, because the investment performance speaks for itself. We already have indices, haven't we, about performance over five-year rolling periods?

Mr Morrow—Yes.

CHAIR—What I am concerned about is that there is such a strong component of the investment performance that your custodial might be minus five or minus 10. The security of your assets in terms of the potential for fraud might be appalling, yet you have a good investment performance because you are in high risk of something, that the managers might be able to skim off the assets.

Mr Blanchflower—As we have suggested, this is really just a framework for thinking about it.

CHAIR—Yes, it is a good idea.

Mr Blanchflower—It is possible to have certain areas that carry relatively low weightings and accountability, where you can get the equivalent of an auditor's qualification, if you are not satisfactory in that area, which overrides anything else. I believe that, certainly, custodial arrangements are a critical area. When it comes down to it, if you have a custodial arrangement that does secure the assets against fraud, that is it. If you have not, you have a major problem, and that should flag, like in qualified accounts, a thing from an auditor. But when it comes down to it, once you have that, it does not drive member benefits very much further.

Mr Morrow—We feel that something needs to be done because there is too much loose practice out there.

CHAIR—Yes, I agree with the point, and you are the first person who has raised it.

Mr Blanchflower—This is really a discussion paper type idea.

Senator CONROY—It is stimulating much discussion.

Mr Blanchflower—Yes.

Mr Morrow—Let me just go on for a few minutes, if I may.

Mr Petersen—Hold on a second. The other concept that is important with that is that you can have a floor for each of these areas. In other words, unless your score in custody reaches this level, you do not get a score, period. So you are only going to rank funds or trustees that reach a suitable level all the way through. In the same way, a trustee now has the responsibility to say, 'If I am offering this as one of the funds that you can invest in, it has to be a good fund.' I do not think we rank them unless they are a good fund, so you have to reach a minimum level in each area.

Mr Morrow—Let me, if I may, just highlight some of the problems we are seeing out there which an accountability index would address because these areas would be components of the index and they would get points. So they would have to be addressed; otherwise the fund is going to get a ranking of C minus, or C, or B minus or whatever, and members will not wear that. If you go out into the western suburbs of Sydney and members get their annual report and it has C minus on it, at the moment they might not care less but, if they see that, the trustees are going to have to answer some questions. We will not have to worry about it; the members will look after it, and that is really where we have to get the responsibility, down to that level.

Some of the problems include frequency of meetings. We can name many \$100 million-plus funds who have trustee meetings only quarterly. I think that is ridiculous. How many \$100 million companies have board meetings quarterly? None. Therefore, why should a superannuation fund, which is a \$100 million asset, have only quarterly trustee meetings. That is not on, but that is what happens.

CHAIR—But they have subcommittees, like investment, administration and audit, which meet in between.

Mr Morrow—Yes, that is true, they do, and a \$100 million fund has a secretary who is probably more active than one is, say, for a \$10 million fund. But then he generally has autonomy and control, and everybody does what he says. The level of management and the level of trustee education is generally woeful. I cannot name it, but a \$300 million fund that we are aware of—

Senator WATSON—Don't name names, will you?

Mr Morrow—No, I would not do that. A \$300 million fund that we are aware of has six trustees. Not one person on that trust—this is one of Australia's major public companies—has any financial experience. The chairman is the HR manager—he is not even the director. They have an HR director. That fund has got 3,500 people in it.

Senator CONROY—Presumably this is a case where the secretary of the fund is effectively running it with mid-level accountability?

Mr Morrow—Yes, that is right. To me, that is just not on. I can rattle off dozens of cases where that is happening.

CHAIR—Wouldn't it be contracted out to specialist managers?

Mr Morrow—Yes, that is true. There is no risk in terms of the assets. That is all perfectly above board. They are using reputable companies—there is no problem there. But it is in the structure of the fund and the design of the fund, et cetera where you find problems. One of the real problems is the lack of education, which we are very concerned about. I do not see any improvement in it and I see it getting worse. For instance, in the old days—

Senator HOGG—Could you pinpoint the lack of education? Is it lack of education for trustees, is it lack of education for members? Where is the lack of education?

Mr Morrow—Trustees.

Mr Blanchflower—It is actually both.

Mr Morrow—That is right, but the trustee role is really all powerful because most members could not care less. They rely on the recommendations of the trustee board. So the trustee board needs to be highly qualified and most of them are not. We get questions. For example, six months ago I was asked at a morning tea-break, 'What is a franked dividend?' You get questions like, 'How could bonds lose money?' 'What is a convertible note?' They are pretty basic questions that you would expect people, trustees, who are looking after funds—it does not matter whether they are \$5 million, \$50 million or \$500 million funds—to be able to answer, because the trustees are making decisions to appoint investment managers and to decide on where the asset classes are invested vis-a-vis where the economy is going. It is just not happening.

For instance, if we go to section 3 in our report, have a look at the asset allocation there for Australian fixed interest. We have figures there that span 10 years. You will notice that with the weighting—these are all funds in Australia—about 20 per cent of a fund is invested

in bonds for Australian fixed interest. Look how much it has changed over a 10-year span. The answer is that it has not changed. I think that is a great indictment on the industry because, over that 10-year period, interest rates went from 18 per cent to five, to eight, down to six. So interest rates have gone through a full cycle and yet on average—there will be exceptions; there will be funds that have moved—the industry has not moved its weighting to Australian bonds. Most people do not understand that. We think they should understand that. We think that there should be pressure on the managers to say, ‘Why are you overexposed to a particular asset class when the economy is at this particular stage?’

Senator CONROY—Without wanting to defend their performance, which I think you are drawing a lot of very good points about, is it a bit unfair to criticise the property aspect? What you are suggesting is, obviously, that they have too much property. The problem with property is that it is not liquid and, when interest rates go a long way in a day, you are stuck with it. You have to ride it out or you go belly up. So it is hard to judge over that 10-year profile, even though the points you are making are absolutely valid. Everyone would try to get out of it at the same time.

Mr Blanchflower—Yes. You have got to treat untradeable asset classes as core asset classes. There are a lot of people who believe that the benefit of property is that it does not go up and down in price. It only does not go up and down in price if you do not value it at market, which nobody does. So to say that property is non-volatile is not true. If you try to sell a city office building at a wrong stage, you will find that it has moved quite a bit in price.

The point Graham is making here is really about the quality of the investment management. There are some really good manager talents out there. We would like to see some incentives to lift the game in the investment management industry in Australia so that everybody does things a bit better, and to bring this home, particularly in the area of member investment choice. Probably the most important decisions that this committee will ever make are about how member choice is introduced and what is involved in it. For the first time, people are going to have a say about the money that they are going to have to survive on and about the risks associated with that.

Take somebody who has accumulated 90 or 98 per cent of the retirement benefit, is two years from retirement and basically is in a position where they are starting to plan to live on that quantum of assets: to say that the investment needs of that investor are exactly the same as the investment needs of somebody who has joined the work force six months ago and possibly has 40 years to go until preservation is, to me, crazy. But the old system, before member choice, puts both of those members into the same fund structure.

What I hope I see coming out of member investment choice is the education of members to realise that, if they are only 20 or 25 years old and their benefit is going to be preserved till age 60, they should not treat it as if it is the deposit for a house that they are going to have to settle on in six months time. Yet the attitude of trustees, quite rightly, to the management of funds before member choice is, basically, that we have got ‘one size fits all’: everyone is in there, and so we are going to have to worry about very short-term things, because there are going to be some members who are close to retirement.

The great thing about member investment choice is that, for once, members are going to have a chance to make a decision about a sensible type of investment vehicle. In that area, I think quite honestly that member investment choice is vastly more important than member fund choice.

Mr Morrow—Can I still stay on these problems? This is really the thrust of what our presentation is all about. Education was talked about a little, but we could go for ages about education. One of the solutions that might overcome the education problem is that trustee boards should, by legislation, have paid external professional advice.

CHAIR—And you also say they should be licensed.

Mr Morrow—Yes, trustee boards should be licensed so as to ensure the checks—

Senator CONROY—So you would not have a full-time fund secretary employed by them?

Mr Morrow—Yes, you should still have a full-time fund secretary, because somebody has to put it all together. But I am talking about external advice: a chartered accountant, a fund manager or somebody else that understands funds management or financial management. Many of these boards do not have anybody with financial experience on them. Believe me!

Senator CONROY—I am shocked.

Mr Morrow—It is quite serious. When we had defined benefit funds, in those days, if the fund did not perform, that was a liability to the company. What happened was that you had the managing director, the finance director and the company secretary, and those guys ran the fund to make sure that they were not incurring any liabilities that would affect the shareholders, and fair enough. Now, defined benefits are in demise, and we have the accumulation fund. Fine. But now, for the boards of most funds, I do not think that we have a client that has a chief executive on the trustee board. There may be one or two finance directors, but mostly they are not interested anymore, because they are putting in—

CHAIR—The risks are probably too high.

Mr Morrow—Yes; but they are running their business. Business is so hard these days that they are spending all of their time—

Senator CONROY—As you said, it is now the employees who are bearing the risk of it, rather than it being the companies, which were previously bearing the risk.

Mr Morrow—Yes. So the financial expertise that was previously on the board is now lacking, and that has been replaced with the HR function. HRs are very powerful; there is a need for that.

Senator CONROY—Are you seeing among all these companies the desire to just get out of it altogether?

Mr Morrow—Yes.

Senator CONROY—A lot of company funds that were set up are going to walk, and say, ‘We will go into a master trust; we will do something else; we are not interested any more, and not just to the extent of being on the board: let us just punt it. We do not need to waste a single dollar on it.’

Mr Morrow—Look at the growth of master funds. That is why it is happening: they do not want to know.

Senator CONROY—Would that solve the problem in terms of the financial expertise that you were describing?

Mr Morrow—At least the master funds are well managed, and so that lifts that responsibility off the shoulders.

Mr Petersen—Except that there is no guarantee. At the moment, we are lucky, if you like. Most master funds are well managed; they have got good trustees. But there is nothing that guarantees to members that they will continue to have competent trustees and that they will continue to be well managed. That is our worry.

Mr Morrow—We think that there must be some paid staff. It was interesting to see that for one of the major funds in Sydney, a \$2 billion fund, the chairman is on a salary of about \$90,000 and the deputy is on \$60,000, and all the trustees are on about \$40,000. That fund got a lot of flak but it is professionally managed, and that takes time. So they are recognising the time and recognising their responsibilities. We are in agreement with that. That board has substantial access to investment and financial advice, but there is a cost. I do not see a problem with that. But, whilst we have the HR dominance of trustee boards, we are not going to have the financial expertise on trustee boards, and we think that is quite serious.

Mr Blanchflower—Yes. The shift of the controlling person in trustees to the HR function really does reflect an attitude by the company that it is no longer a particularly important area for them and that they will leave it to the HR people, as part of the sort of things that HR people are supposed to be concerned with. It really has become sidelined.

Mr Petersen—But also it is people power, is it not? You are saying that superannuation is now about members controlling their future. So I, as an employer, do not really feel I should still be trying to control those members. I should let them do their own thing. So I put some resources in—my HR people—and you elect some other trustees, and we expect those trustees, with not a lot of support, to do quite a complicated task.

Mr Morrow—We would like to wrap all of this up into our accountability index. That is our name for it, but I am sure smarter people could think of another name. The principle is solid. The index consists of all the component areas that will protect the members’ interests,

so that the trustees are accountable for the performance of the fund to the members. They can understand a ranking system—AAA down to C minus is very easy to understand.

But the other very important thing that we would like to see is the ISC's role expanded, as I mentioned earlier: somebody has got to pull all of this together. At the moment, the ISC is doing a good job with field audits in the compliance, administrative and consulting areas, implementing SIS. We see trustees almost living in fear of the ISC knocking on the door; but it is working. Funds are complying and they are getting their act together.

But, in the investment area, it is not happening. There is no management overview at all. We think the ISC's role should be expanded so that that overview is there. I guarantee that, if the trustees know that they are going to be facing an ISC investment audit, they will not make conflict of interest types of decisions: they will put a lot more effort into the way they make management decisions concerning the fund's investments. That is just not happening at the moment, in our view.

To finish off, I noticed during the week that you guys were getting some flak about starting dates. We would like to see the date of 1 July implemented. We think that, if you defer it, more uncertainty will prevail. Business people will know there are changes coming, and it is very hard to manage when there is an air of uncertainty. We would like to see 1 July happen. We think the major components of what you are trying to achieve could be implemented.

The policing and the mechanics that we are trying to introduce could be developed over the next 12 months, say, in committee. A committee of industry specialist could get together to work with you guys and with the secretariat. Our accountability index, for instance, is just one idea. With some of those components, we have put down that there is a 65 per cent weighting relative to the importance of investment; it may be 70 or it may be 60 or 50. There needs to be some work on that.

Senator CONROY—Have you put these ideas to the ISC directorate? They are working on the regulations, and we will not get to see them at all. It is the regulations which may set out these sorts of things, and they will bypass this committee completely.

Mr Morrow—I see.

Senator CONROY—We will get to look at the legislation and then the regulations will come before parliament, but they will get tabled and then there are 14 days. The committee will not actually get a chance to have any hearings or discussions about the regulations. In terms of how to further what you are seeking to achieve, I suggest you take it up with the ISC—and with Tax, as well. They could be interested. I know they have a couple of working panels that are looking at these sorts of questions—which, unfortunately, will bypass this committee.

Mr Morrow—We were not sure what your role was in terms of working with the ISC—how closely you worked with them, or whether they did their own thing.

Senator CONROY—They do their own thing!

Mr Morrow—We will talk to them. But we do think that they have to get involved. For instance, if they expanded their policing across the country, that would cost a lot of money. Who proposes the legislation to put a levy on funds?

Senator CONROY—That would come back to the parliament. As legislation, it may then come through this committee.

Mr Morrow—Right.

Senator CONROY—It will be recommended by the ISC or Tax and it will then come through Treasury, presumably, to the Treasurer.

Mr Morrow—Somebody has got to do something; and I think the ISC is in the perfect position. The administration audit function is working—maybe not as well as the ISC might like it to be, because of resources, but it is working. At the moment, there is just nothing in the investment area. They seem to be the natural body to do it, and so we will talk to them.

Mr Petersen—Then there is the whole education concept: you can go to the members and you can try and give them education so that they can understand the basics of investment; but, if each member then has to go and try to analyse 100 different funds, that is an unreasonable ask. What we have to do is go behind those 100 funds and somehow make that decision a lot simpler—which was the concept of the index: ‘If you want a AAA fund, fine; you have a choice of three, and you do not have to consider the other 97 funds.’ It was integral to the idea of limiting the amount of education you have to provide members with, so that members get to solve a simple problem, rather than having us try to make every member capable of solving a very complex problem.

Mr Blanchflower—We have spent a lot of time today concentrating on the investment aspects, because they really are pretty critical. For instance, take a high-growth investment vehicle over 40 years: the difference between good management and poor management is probably the difference between a final benefit equivalent to 82 per cent of final average salary or one of 31 per cent of final average salary. That is a big change in standard of living.

Mr Morrow—This is in frame 10.

Mr Blanchflower—We think that, when it comes down to member investment choice, all they really need to do is decide what type of vehicle they need to be in at the right time. In other words, for the first 20 or 25 years of membership, there is absolutely no reason why they should be in, for instance, an RSA or a capital-stable vehicle that will deliver something like a 15 per cent retirement benefit over 40 years, when they could be in a balanced fund that would with a good manager give an average of about 30, or maybe up to 40, per cent. From the member point of view, it is really important that they now get out of this idea that one size fits all. At the least, all funds should have a label: ‘We are an A, B, C or D type of fund.’

That is really where the member makes his decision. If they want to make a fund choice decision, because they want to be in the union fund, the important thing is that, within that

union fund, they be offered or be able to get a high growth, a balanced capital stable or an RSA type choice. The other important thing is that they should not be switching every year because a friend was in the other fund and it did better. What they should be doing, instead of trying to mark time, is understanding the sort of vehicle they should be in for particular periods towards retirement, and getting more and more conservative as they get there. They do not want to take risks once they have accumulated the benefit.

Senator CONROY—I was just explaining, John, while you were out of the room that we will not get to see the regulations that could possibly recommend some sort of index before they get put before parliament. I am suggesting they might want to go direct to the ISC on—

CHAIR—Obviously that would be much more a long-term thing for government to pick up.

Mr Morrow—Yes. It is not your short-term problem.

CHAIR—It is an issue that we would obviously refer to in our report, I would say, as a concept.

Senator CONROY—We do have some Tax and ISC people down the back; you might want to say hello to them on the way out.

CHAIR—Thank you for appearing before the committee. We will read the latest presentation with a great deal of interest. You have certainly raised some new matters and we wish you well.

[9.55 a.m.]

BUN, Ms Mara, Policy and Public Affairs Manager, Australian Consumers Association, 57 Carrington Road, Marrickville, New South Wales 2204

KELL, Mr Peter, Senior Policy Officer, Australian Consumers Association, 57 Carrington Road, Marrickville, New South Wales 2204

MIKULA, Mr Christian Valdemar, Solicitor, Civil Litigation, National Legal Aid, 323 Castlereagh Street, Sydney, New South Wales

SLADE, Mr Ben, Manager, General Law, National Legal Aid, 323 Castlereagh Street, Sydney, New South Wales

CHAIR—Welcome. I refer my colleagues to submission No. 7 from the Australian Consumers Association. All four witnesses this morning have appeared before the committee on previous occasions. You are aware of the rules and the protection afforded you. This committee always values the contribution made by consumer groups, and in particular by your group. While we seldom ask you the very technical questions, we are very concerned about the consumer impact on change. This is one of the most momentous matters raised, changes in relation to superannuation. Therefore, we value the contribution made in your submission and in what you are about to present today. The usual rules apply. Speak to your submission and we will then ask you questions.

Ms Bun—Thank you very much, Mr Chairman. I might make a brief introduction and then pass over to Peter Kell, who actually wrote the submission, to take you through it. Thank you very much for the opportunity to address this committee. You are very open to consumer views and we appreciate that.

I thought I would start by asking the very fundamental question: what is the single criterion which mostly defines the retirement savings program that we have? It is difficult to answer but from our point of view it is compulsion, the fact that consumers must provide money into superannuation. That is clearly one very important such criterion.

In asking that question we ask ourselves: how can education about the superannuation system serve to really correct in anticipation some errors that might result from a very important move into greater consumer choice? Ask yourself: will education greatly correct these problems? Perhaps the answer is yes. Then ask yourself: will education, in the absence of compulsion, deliver sufficient retirement savings? I think that answer is a bit different.

Can we afford not to have underpinning safeguards in a greater, more competitive superannuation system? We really think the best system for superannuation is quite straightforward and has two components. The first component is that the employer has a responsibility for those members of staff who do not choose to move funds to provide an alternative that meets basic criteria. Why is this important? Peter will walk you through the actual figures but in our calculation it can mean the difference between a \$200,000 retirement

income and a \$400,000 retirement income. So we are talking here about substantial financial matters.

What is a responsible choice for an employer? We have lessons from around the world which help shed light on this great question. Those lessons teach us that there must be minimum standards of performance for funds that are eligible to have that default characteristic.

We also would point out that we too are concerned that employers not have too much of a burden when it comes to introducing choice. One substantial burden is the liability that their recommendation may go south. If we have standard, minimum guidelines for a default fund, they will serve to minimise the employers' liability.

What then is the second element of that system? It is that the consumer should get to choose what they like. There is no reason in a country such as ours where salaries are automatically deposited straight into bank accounts using electronic mechanisms, where even benefits of very large volumes are also electronically deposited into accounts, that we should not have the facility to very straightforward electronic funds transfer of superannuation. There currently is no incentive for individual companies, or individual industries, to provide this kind of facility, and we think it must be done.

If the consumer gets to choose and chooses a fund that does not work out, so be it. That is the market mechanism. If the consumer does not, they should have protection, as we have pointed out. The three actors who must bear responsibility for that protection are those who sell superannuation products, the companies and the funds that provide superannuation products, and the government itself.

For those who sell we would point out—and I will leave it to these folk to shed light on advisers and agents—that consumer protection measures and initiatives from government have been taken to correct what we already know has been a very damaged market in terms of selling practices. Those initiatives really must now come to the forefront. In addition to that—

CHAIR—It is improving a lot in recent years.

Ms Bun—It is improving but we think that the consumer protection bill and the disclosure measures attached to it to deal particularly with commonplace problems like twisting and turning really do require a legal response. Indeed, your government already has put out a press release recently saying that is the intended direction, so we just wish that to go forward.

The final issue is the government's responsibility. In addition to a consumer protection bill, the government has to include leadership on electronic funds transfer to open the market and make it more efficient and to define minimum default standards. I will conclude by saying that this kind of approach will facilitate performance. It will force those who sell, provide and regulate these products to consumers, to drive fees down, to drive performance up, and in the final analysis it is in the interests of both the supply side and the demand side.

Mr Kell—Before going on, can I just check how long you anticipate this session lasting?

CHAIR—Morning tea is scheduled for 10.30 but you can go a little over.

Mr Kell—Okay, just so that we allow Mr Slade and Mr Mikula to have their two bob's worth.

CHAIR—We would like a little bit of time for questioning though.

Mr Kell—Okay. As Ms Bun has noted, in a compulsory system we are going to have people who do not actively choose and so we have to protect those people. The introduction of superannuation choice allows us an important opportunity to introduce protective mechanisms. We are also going to have people, and hopefully a lot of people, who actively choose, and we have to educate and ensure that they are able to make informed choices.

Starting with the people who do not actively choose because we have a compulsory system, what can we introduce to protect those people? In our view, the most important protective mechanism is a standard for funds that are default funds. Under the bill as it currently stands it says a default fund can be :

. . . any complying superannuation fund, complying superannuation scheme or RSA to which it is possible for the employer to contribute . . .

The same issue potentially also exists for other arrangements. Under Australian workplace agreements there is nothing stopping an RSA being the fund chosen under those sorts of arrangements.

The problem with this system is that there are no minimum standards specific to default funds. There are basic minimum standards applying to all funds such as reporting requirements, but the appropriateness and quality of superannuation investments for large numbers of people will effectively be the arbitrary outcome of where they happen to work. They may work somewhere where a high quality, appropriate default fund is in operation. They may end up working somewhere where, to put it bluntly, a dog of a fund is the one they end up in. There is nothing in policy that prevents that sort of outcome. What we are trying to suggest here, in similar fashion to the UK Office of Fair Trading recommendation, is that we introduce some very basic minimum standards for funds that want to operate as default funds. Why is this important?

CHAIR—Is it just the standards that you like?

Mr Kell—I will articulate why it is important then move on to standards. Is that okay?

CHAIR—Right.

Mr Kell—Let me present very briefly to you a conservative scenario of the sums of money that might be in question. Firstly, let us assume that just over one per cent of the work force, 100,000 people, end up by default in funds that are inappropriate for their

objective, long-term investment needs in that the growth of these funds is very low, capital guaranteed or something like that. You can envisage that.

Let us assume, secondly, that the average loss through lower earnings is around \$20,000 per person. As you will have seen in the credit unions' submission, and in our previous submissions to this inquiry, that is a very conservative estimate. For people on average wages, the difference between a few percentage points in earnings may easily exceed \$100,000 in end benefit. So we have assumed 100,000 people—just over one per cent of the work force—and \$20,000 difference. The absence of a default fund standard would therefore result in lost retirement income of \$2 billion. And that is a fairly conservative estimate.

We do not know how many people are going to end up in inappropriate funds. We do not know how many people are already. I would say it is a minority, obviously, thankfully. But the question is: why not put in place a simple system, which you should be able to do under section 32H, which specifies some minimum criteria? The first and foremost criterion should be that default funds are funds that offer long-term capital growth. Rather than going into detail now, I will just say that that is the first and foremost issue that you want to have addressed by a default fund standard. Secondary criteria would be a basic level of death and disability insurance coverage and a maximum limit on certain types of fees, in particular, exit fees. If you had those two or three basic criteria, I think you would, under even the most conservative estimates, save Australians in retirement billions of dollars.

CHAIR—But that does not pick up one of your big problems with inappropriate choice, whereby, in a crash, people will tend to go out of your growth funds at an inappropriate time, and, at times of high results, go into growth types at times of high cost. Can you address that issue?

Mr Kell—This is for people who do not choose in a compulsory system. Indeed, the reason we have a compulsory system, the reason we are here today, is that we think that people putting money towards their superannuation is something that they will not choose to do adequately on their own.

Ms Bun—Could I just make crystal clear here that, in a sense, we are having the same discussion we had about RSAs last year. We are having it in a different and very important context. Now we are having it when, potentially, companies can redirect savings pools into cash based investment vehicles that have the potential, over the long term, to cost a lot, not in terms of performance but in terms of not having appropriate risk.

CHAIR—I appreciate your points there, but we have also got to cover the inappropriate timing of choice, such as in a crash or a time of high results, et cetera. I want your formula for overcoming that problem, too, in terms of education.

Mr Kell—What our suggestion outlines is that for people who do not actively choose—in a compulsory system, that will be a lot of people; and that is what this standard is trying to address—ideally they would be shifted, perhaps a few years out from retirement, into a lower risk fund, a la the UK designated personal pension model. So it is not unheard of; in fact, some funds are already offering that sort of system. We just think it should be a standard across the system. It would not reduce competition. You could then compete on the

additional features that a default fund offered, such as costs, additional insurance cover—that sort of thing.

So this is a mechanism designed to cater for those people who do not actively choose in a compulsory system. That is bound to be, at even the most optimistic estimates, hundreds of thousands of people; I would say probably millions.

Senator HOGG—What percentage of the population do you think that will reach?

Ms Bun—That is the big question, isn't it? We do not know.

Mr Kell—How many people do you think will end up with RSAs in default? That would be my question back.

Senator HOGG—I was not going to go down that path. I just thought you might have some idea.

Mr Kell—No.

Senator HOGG—I have heard the figure that 40 per cent of the work force will go into a default fund.

Mr Kell—I think that would be a conservative estimate, especially in the short term. We will leave you, for your reading enjoyment, some more details on our default fund suggestion. But I do think that we have a golden opportunity to introduce some standards that will cater for the financially less sophisticated and, indeed, financially illiterate people that are forced to participate in superannuation. They are forced to do so for good policy reasons; but they are, nonetheless, forced to do so.

Moving on to consumer protection regulation, we are now talking about introducing mechanisms to protect people and to ensure that people who do actively choose get good value and good quality products and do not get ripped off. We have catered for the people who do not actively choose; now we must look at consumer protection regulations for those who do. We think that expanding choice and giving people greater flexibility, greater portability, with their funds is very important. Unfortunately, the government model does not expand the ability for people to have portable funds to the extent that we would like—and we might talk about that in a moment.

CHAIR—It will in time, won't it? That is the intention.

Mr Kell—If we are looking at someone who has a fund that they like, that is appropriate for their circumstances, and they are one of the 20 per cent of people that change jobs every year, can they take their fund with them? It depends on where they are going to work: employer A, maybe yes; employer B, who may have a different arrangement, possibly no. So it will be, again, not an outcome of a system designed to make things more flexible for employees, but the arbitrary outcome of what the employer that they are moving to happens to have decided is the type of choice they want to offer.

Ms Bun—I would like to make a quick comment in response to your previous question, Senator Watson. Who does the funds manager market to? Is it the company or the individual? Where is the incentive for that marketing activity? If you argue that there is a lot more return for convincing the company, because of that pool of money that is going nowhere but your fund, then there is a relationship to your education agenda because, yes, at the moment we have a very robust stock market. We do not know when that is likely to take a downturn. We know what happened in the bond market the last time it did. If it crashes again, and if consumers do not have a high level of understanding or sophistication, because decisions are being made on their behalf, it cannot be in the right interest of the economy overall.

CHAIR—The investment manager markets to the trustees.

Ms Bun—Investment decisions, absolutely; but fund decisions—different question.

Mr Kell—To cover some of the issues in consumer protection regulation, if we want choice to be informed choice, choice that works for the employees and consumers, and we want to avoid the mis-selling scandals that have occurred both here and abroad, then we have to have a set of basic consumer protection provisions. We are all aware of the experience here and abroad. In the UK, there are 570,000 identified cases of mis-selling, with redress of around \$10 billion at stake. Australia, of course, had its own mis-selling fiasco in the personal life and super area, described in the Wallis inquiry, the financial systems inquiry, as one of the disappointments of deregulation. As I have said before, I have had a lot of consumers describe it to me as something considerably more than a disappointment.

CHAIR—I can assure you it happened well before deregulation.

Mr Kell—Yes; it certainly expanded, though, in a period during the 1980s and early 1990s. We need, then, several components to a consumer protection regime, some of which are not there at the moment. The first is some consumer protection legislation. I have attached to the ACA submission the media release from Minister Kemp, from October 1996, announcing the intention to introduce a consumer protection bill that would cover this industry and that would prevent things like twisting and churning and deceptive conduct.

Senator CONROY—I understand the concept of churning. I have not heard of twisting before.

Mr Kell—They are often used interchangeably.

Senator CONROY—Just a different phrase for it?

Mr Kell—Yes, a different phrase for the same thing. We are still waiting for those essential consumer protection provisions to be introduced into parliament—the provisions that would prevent the sort of pcerblems that we have experienced in this market in the past.

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I think it would be inappropriate to implement choice prior to the introduction of the consumer protection bill and we will be putting that forward as a reason for delaying the implementation of choice. The second point is that many of the disclosure provisions—if you like, the disclosure regulations—hang off that consumer protection legislation. Disclosure will work more effectively if it is accompanied by that overarching legislation.

The third issue is that we need a regulator which is going to be able to effectively do its job. It is one thing to have appropriate regulation but the problems overseas were as much a problem with regulators as regulation. It will be the ACFSC—currently the ASC—that will take on this role in the near future, that will inherit some of the ISC's responsibility and that already has responsibility for financial advisers. I note that the ASC has had funding cuts in recent years and has a raft of other complex policy proposals and reforms on its agenda, such as the managed investments bill and the set of recommendations arising out of the Corporations Law process. So it has a lot on its plate already.

I note that the ACCC, which has the best track record of any regulator when it comes to ensuring proper behaviour in this industry, is being taken out of financial services regulation under the government's corporation law economic reform proposal. It certainly concerns the Australian Consumers Association as to who is going to be regulating the most dramatic change in the retail financial services industry for many years and where they are going to get the resources to do that. I think it would warrant the committee's attention to perhaps consider asking the ACFSC some of these questions.

CHAIR—Would you like to give a comment on how you view the split in responsibilities of the ISC?

Mr Kell—In terms of prudential versus consumer protection?

CHAIR—Yes.

Mr Kell—One of the points that the Australian Consumers Association made during the Wallis inquiry was that you can come up with the nicest and neatest regulatory structure in the world which says that for the prudential regulator the dividing line stops here and over this other side you have the consumer protection regulator. What we have found in the real world is that some degree of overlap, some degree of coordination, is always appropriate. That is why we always thought the ACCC should have a role in this area. As to the exact bits of the SIS legislation that should go one way or another, I have not got any comments at this stage but we are certainly aware it is an issue. Finally, on complaints resolution and the Superannuation Complaints Tribunal, everyone knows we have run into problems there in recent days. We would like to see that issue fixed prior to the introduction of choice.

CHAIR—How? That is the question?

Mr Kell—I might refer this question in more detail to Chris and then Ben, but I would say that whatever scheme we come up with it should be a scheme that all superannuation funds in one way or another have to participate in even if it is an industry run scheme and an industry funded scheme. There are precedents for this in other areas. The government has decided to its credit that participation in a dispute scheme will soon be a requirement for

holding a financial adviser's licence. The government is not going to fund the scheme, the government is not going to dictate what scheme you should be in, but it will make that a condition of holding a financial adviser's licence. I do not see why with a bit of inventive legal thinking we cannot come up with something similar for the Superannuation Complaints Tribunal.

CHAIR—That is the first constructive comment we have heard on that area. It is a major problem at the moment because it involves a constitutional issue in its present form.

Mr Kell—The final point before flicking to Ben and Christian is that the education issue is very important. The point we would make is that we do not believe the resources devoted to that campaign are at this stage adequate.

My very rough calculations suggest that over a four-year period the government has allocated roughly \$1.60 per member for education. That is my generous estimate. That assumes that the ATO will be running the campaign in a costless fashion. So it is likely to be considerably less than \$1.60 per member, spread over four years, to educate them about the most important decision they can make regarding their retirement income. Put it in those terms and I think you see that there is a more substantial role for government in this area.

Ms Bun—Finally, there is also a difference between education and public relations. We have all been through the money growing on trees response, and we are not quite sure that that is the right response. There is a conflict there between selling a policy and educating end users. Consumers really need that basic tool set at this stage.

Mr Slade—I might just introduce both of us and hand over to Christian, who is our expert. My name is Ben Slade. I am Manager, General Law at the Legal Aid Commission in New South Wales. We are here today representing National Legal Aid, which is an informal coalition of eight legal aid commissions. I am the appointed person to be the spokesperson for civil law issues. Christian Mikula is a civil litigation solicitor in the New South Wales Legal Aid Office and specialises in insurance and superannuation.

Mr Mikula—Our submission is on behalf of the National Legal Aid, rather than the ACA, and we thank them for making this time available. The submission basically comes out of our experience advising individuals who come to us with their particular problems, so it comes from a casework background, but it is not as broad ranging on some of those other issues and is more specific in the matters that it deals with. There are therefore only a few issues that I would particularly like to draw to your attention. The first issue is in relation to dispute resolution and consumer protection. The background at the moment, as has been pointed out, is that the life insurance conduct and disclosure bill has still not been introduced in parliament and has been kicking around for several years. That denies remedies to individuals for unfair selling practices in relation to life insurance policies.

The Superannuation Complaints Tribunal certainly faces an uncertain future. At the moment, therefore, there is a clear gap and individuals do not have access to a low cost, informal tribunal designed to try to resolve their matters quickly. This creates problems for individuals, bearing in mind that you can educate people but if they have a dispute they still

need to get it resolved somewhere else. The problems that arise from this gap can be illustrated by looking at the position of Mr Bishop and other Mr Bishops out there.

Mr Bishop was the unfortunate person who was hauled from the tribunal to the Federal Court and then to the Full Federal Court in relation to a death benefit. The Full Federal Court found that the tribunal did not have power, but found that it had made the right decision. He was entitled to that death benefit because the insurance company and the trustee had adopted an interpretation of the insurance policy which they said was incorrect. They said they should have looked at the matter in more detail. Essentially, in shorthand, the insurance company said, 'You're employed up to the last day of your employment, the last day that you actually worked,' and then insurance continues for 60 days after that. Whereas Mrs Bishop had never left, had never been terminated and had not resigned, and there was an expectation that if she got better she might then return to work. So she was still employed at the time of her death and entitled to the death benefit. I do not know whether the insurers actually paid Mr Bishop but, in view of the comments that were made in the decision, you would hope that he would not be forced to go off and sue in another court.

Senator CONROY—So she was on sick leave, presumably?

Mr Mikula—She was a casual employee so she did not have paid sick leave, as such. Within the relationship, it perhaps would be characterised as unpaid sick leave. I think it is likely that Mr Bishop will get paid in view of the comments in the decision but, at a more general level, we would assume that that insurer and that trustee have adopted that interpretation previously. There may be other people out there whose claims have been incorrectly denied, who have got no remedy. There is no mechanism in place for pursuing that. It is essentially up to the goodwill of the trustee.

Another issue that is likely to arise which, again, would come from choice in superannuation is that it is clearly going to be seen as a marketing opportunity for financial planners. Therefore, there need to be certain protections in place. In the submission I refer in more detail to an individual case that has come to the attention of legal aid. This particular case does not deal with superannuation funds but there seems no reason, in practice, why it could not also apply to that situation. That is the case of a person called George Balos who was encouraging people to invest money with him. He used as corporate identities the British Maritime Bank, which was not a bank, and Commodities International, which was not a commodities trading organisation.

CHAIR—It was not for superannuation though; it was a collective investment of something else, was not it?

Senator CONROY—He already said that.

Mr Mikula—Yes, but it is the issue about financial planners. What happened was that he did not market himself to individuals but to financial planners. It was not that he was selling these investment products to the public generally; it was done through financial planners. A conservative estimate is that \$12 million was invested with him and he has now gone overseas. Before going overseas, he was holed up in the Crown Casino for a little while.

Senator CONROY—Lloyd needs the money!

Mr Mikula—Yes, someone does. This was a case where the financial planners, and they are the ones who ideally should have known better because it did promise very high rates of return, 21 per cent, were the ones who invested money on behalf of their clients. That also raises the question, which I do not know the answer to, of what sort of investigations they made and what sort of commissions they may or may not have been getting to encourage them to put that much money with something that was essentially just names.

I suppose those things indicate that one aspect of an education campaign, and particularly with superannuation, is that people want to know where to go to get advice not only at the time of investment but when they have a dispute and when they have a problem. The proposal contained in the submission is for the funding of a number of education and advice services which would have a proactive role in that they would be able to provide independent advice about investments and would also be able to provide advice when there was a dispute. So those two functions could be married.

The more I think about what an education campaign could do, the more it is clear that any general campaign can only get across the most simple message, that these sorts of models could, as has happened in other areas, run individual campaigns targeted at local communities and make contact with those communities. There is an example in the consumer credit area of the sexually transmitted debt campaign, which has been very effective in alerting, particularly, women to the problems of signing guarantees and joint loans with their partners.

Finally, in relation to dispute resolution, I think it might be helpful to outline in more detail what has happened in the general insurance and life insurance industries. The actual legal mechanics are referred to on page 3 of the submission. What has happened is that the government has required both general insurers and life insurers to be members of an improved ADR scheme. The ADR scheme was actually in place before these legislative provisions were introduced.

In fact in the general insurance the problem arose because you had the voluntary scheme. There was one particular insurer who decided they were getting out of the consumer market, and was refusing to pay awards and there was no basis for enforcing them. So, in 1996, the Financial Laws Amendment Act 1997 made it a requirement that general insurers had to be members of an ADR scheme, which essentially meant Insurance Inquiries and Complaints, and imposed a penalty of \$20,000 a day if you were not a member of that scheme to deal with that particular problem that arose through a recalcitrant insurer.

It would seem that a similar model could well apply in the superannuation area. If that is the case, it may be a way of sidestepping the legislative challenges that are going to arise to any statutory tribunal, and it would also have additional benefits perhaps of being more informal and quicker. Certainly, the fact that it is a legal tribunal—

CHAIR—Can they make quasi-judicial decisions?

Mr Mikula—The decisions are not judicial, I suppose, in the traditional sense. They are determinations so they look at the facts, and would look at evidence and make a decision but the decision is binding through a contract or an agreement between the ADR scheme and the fund rather than through an order of a court.

CHAIR—Do you think that ultimately the lawyers can challenge the constitutional validity of empowering a body such as that with these sorts of decisions?

Mr Kell—It is a challenge of contract.

Senator CONROY—Lawyers will try anything once.

Mr Mikula—There has been no challenge to either the general insurance or life insurance schemes.

CHAIR—Not yet. But, given what has happened in the complaints area, is there a possibility it could be challenged under our constitution?

Mr Kell—Could we take some of these questions on notice and put in an additional submission to you.

CHAIR—Yes, it is a big issue and we are interested in trying to resolve it. That is the only problem that I see with it. It is quite attractive otherwise.

Mr Kell—I think we would like to provide some additional information on the operation of a dispute scheme to the committee. That would be valuable.

CHAIR—You will appreciate our report might be issued before we receive that and are able to comment on it.

Mr Kell—Sure.

Mr Slade—The essence of what National Legal Aid is saying is that we have thousands and thousands and thousands of inquiries annually from people who want help in relation to their superannuation. We so far can afford to employ a few people in New South Wales. In other states, they have no people giving advice. The community legal centres have a few people giving advice. There is one solicitor in Victoria who gives advice to consumers of superannuation products—that is, fund members.

There is very little assistance provided to the Australian population. There is more than \$270 billion of Australians' money in superannuation funds. There are thousands and thousands of funds to choose between. Superannuation choice is a good idea if people have any idea what the options are in that choice. They do not and they will not without some sort of assistance that has to be provided by the government to the Australian people. The assistance must be independent.

We have now got retirement savings accounts. We have got superannuation choice and now the Superannuation Complaints Tribunal has collapsed as a result of the recent Federal

Court decision. Christian Mikula's suggestion in relation to an alternative dispute resolution option—whether it be voluntary or whether it be imposed upon superannuation funds by government regulation—is one essential option that people are going to need to go to, to resolve disputes. But before they enter into these contracts, and so they can get advice afterwards, they will need to have some form of independent advice.

National Legal Aid is saying, 'We can with some funding,' and we say, 'With only \$3.5 million, we will be able to set up 10 advice services around the country,' which is a start. We are not saying that we want the money. If it is seen as a bid by legal aid for more funds from the federal government, then fine, but do not give it to us; give it to the Australian Consumers Association if they are willing.

Certainly, the Australian Council of Social Service has this submission and has looked upon the submission as a good thing—except, of course, that the infrastructure and the financial and management abilities to set up such a scheme need the infrastructure that legal aid has got. We are willing to do it; the community legal centres might do it. It does not matter who gets the money. There does need to be some independent advice service for the Australian people.

Ms Bun—Thank you, Mr Chairman. Just to sum up, we think there is a good opportunity here of offering a greater choice for people in superannuation, and we do support that direction. However, there are some risks. We know that people may end up in the wrong fund and we know that is not a small problem. In the UK, it has been a \$10 billion problem, and so we have to anticipate it. We are not entirely optimistic that education, in its own right, will fix the problem; that regulatory solutions, given lack of funding and lack of structure, are likely also to solve the problem; that the competence of advisers as a whole is sufficiently robust to solve the problem; that the goodwill of employers vis-a-vis their employees is sufficiently intact and forward thinking. They may not be able to anticipate the likely problems down the road. Of course, the good value of the products being offered by all kinds of financial institutions has also yet to be confirmed.

So we would recommend, firstly, that the timing of implementation of this package of measures be delayed until 1 July 1999, and this is so that education programs, consumer protection legislation that is quite clear and addresses the problems, a complaints handling scheme that again can deal with the problems, and disclosure provisions that are already being recommended by the government may be put in place.

Secondly, we recommend that a default fund absolutely be a requirement of moving forward. Minimum standards must be developed for this fund. It need not be black-letter law or entirely prescriptive and, more importantly, we must offer long-term capital growth that is a fundamental requirement of a superannuation default fund.

Thirdly, employee choice is very critical. Open-ended choice from the employee's point of view will only be possible once we have sophisticated electronic distribution and connection systems like we have had for many years as consumers deposit their salaries into their bank accounts, and we think the government must provide leadership because it certainly is not in the interest of the companies to do so.

Consumer protection is a fundamental requirement and we do recommend that the consumer protection provisions for the life and super industry as a whole be introduced immediately. This is a set of reforms which truly has bipartisan support and consumers very much need this introduced. ACA does in fact gravely oppose the removal of the ACCC from consumer protection provisions affecting this part of the industry, particularly in this time of enormous uncertainty, when, as Peter has pointed out, funding and other problems may in fact emerge with other regulators.

ACA recommends that the ACFSC—and this, of course, is the new and grand ASC under the Wallis reforms—has adequate resources to adequately address these issues; recent cuts, of course, do not give us great confidence that we are moving into this great experiment at the right point in time.

ACA recommends the establishment of a complaints handling organisation and this must be done as a matter of urgency. Finally, ACA also recommends that the resources available for education and information programs be substantially increased and that consumer and community voices be part of the formulation of the kind of educational approaches that are likely to come forward. Thank you.

Senator HOGG—The first question that I would like to take you to is on the issue of education. What form of education and what level of education are you looking at?

Mr Kell—We have had some initial involvement with the Australian Tax Office's campaign. It is very initial at this stage. I suppose the most obvious point to make—and I am not sure how helpful it is—is that there is no one type of education that is going to address all the problems.

Perhaps it is worth starting with what should be the objectives or outcomes that education is trying to meet and then to consider what different sorts of education could address that. I would emphasise again that we are talking here about education. There is a distinction between education as we see it and advice about what fund to choose. There is a distinction between education about how to plan for your retirement savings and simple information on where to go to get particular products or answers.

We think education should make sure people understand the following sorts of issues: why choice may be important for their retirement income; whether they have a choice and if so what sort; how and when they can exercise that choice—they are listed here in our submission; what happens if they do not choose; and why a default fund, if we have a default fund standard, may be appropriate.

I think it is important that people do not get the impression from an education campaign that they must suddenly switch funds. That would be a damaging message if people ended up believing that was the case. They should be aware that they have the option but they do not necessarily have to be switched.

They should obviously address the particular problems of defined benefit funds or particular issues there and, in each case, the campaign should do that. It should be such that

people know where to go for further advice or information and where to go if they have complaints or problems.

This is something that no one source can address, but it is going to have to be done through general campaigns through the media, including the electronic media, which of course is more expensive, alerting people to the issue. It should be also partly be done through the provision of brochures, very short and sweet, that address some of these issues. It should be done by helping to educate employers about their responsibilities and educating them about how they can best help employees make a choice, so there is a dual structure here, educating the employers and employees. There should also be a role in the longer term. Given that superannuation is a long-term product and we have another group of people entering the work force each year, there is possibly a role for something at the school level to look at broad financial management issues for younger people. I think there is a raft of things that need to be in place there.

We have a core message, and let me quote from the UK Office of Fair Trading pensions inquiry. It says:

Consumers need access to a source able to deliver unbiased information on all types of pension, in particular to enable them to make at least a preliminary assessment of the adequacy or otherwise of their own pension arrangements.

We see the core of any education campaign as being an independent provision of information and advice, and other things, so that industry has a role—consumer groups, all stakeholders, unions and employers have a role. But that core of it has to be independent.

Senator HOGG—We have had evidence before this committee, from numerous sources now, saying that the members should be in the position whereby they can make an informed choice. However, we have also had evidence that the ABS have done a survey which shows that 48 per cent of Australians have poor literacy and numeracy skills. They are at level 1 and level 2 in a five-ranking system.

Mr Kell—I will quote you another 48 per cent statistic which is in here, which is ironically nice. This is the finding from the UK survey on consumers' understanding of pension material. It says:

Nearly half (48%) of respondents to our survey indicated that they agreed or strongly agreed with the following statement that 'I have found all the information I have seen, and advice I have received, on pensions very confusing.'

That, to us, is a situation that probably applies here as well. We have to make sure that an education campaign does not simply address, say, the 25 per cent or so of people who are quite financially sophisticated, but also caters for those people who are not.

Senator HOGG—That is the point of my question. It seems to me that we are embarking on a very wide ranging, far-reaching campaign which will not necessarily be done overnight, given that it has to have specific targeting and that we are trying to equip those who are least capable of making a value judgment on the material before them with at least some sort of defence mechanism by which they can.

Ms Bun—There is no magical answer to that question.

Senator HOGG—I know.

Ms Bun—However, I think it is important for us to remember that the very same companies who are trying very hard to increase their market share in this business have extremely sophisticated consumer research and marketing arms. It is possible to step up with a cross-sector group with various stakeholders and understand who we are trying to reach. Is it young women, old women, regional Australia, urban Australia? How do we do that? What is the message? Does it vary? What are the methods of communication? Let us do that genuinely.

Senator CONROY—It is not necessarily in those companies' interests though to educate in a compulsion system. That is probably the difference between where they are going out to a certain sector—it is not necessarily in their interest to do that.

Ms Bun—That is exactly correct, Senator. Therefore, it is really very important to have a very neutral source of advice and information that can be informed through those various sectors. We are not talking here about the sophisticated 401K plan pitching that sends spreadsheets to the shopfront floor and Fidelity.

Mr Kell—That is why we think that, whatever the best intentions of whatever education campaign is put into place, a lot of people will still not actively choose. That is why we need those default standards. The second point is that, whatever we are talking about here, it is going to cost more than \$1.60 per person over four years.

Senator CONROY—Our last witness, Mr Morrow, who I think is still here, had a number of proposals in terms of trying to find some standard systems to allow people to make an informed choice with apples for apples, if you like to use that simple phrase. I know you are very busy. His submission might be of some interest in terms of your suggesting an index. I would be interested in your comments if you have the time, but not right now.

CHAIR—An index of trustee performance?

Senator CONROY—Yes, an index of performance so that people could go, 'This is a AAA fund on the following basis.'

Mr Kell—Is that in his submission?

Senator CONROY—Yes, all of that is in his submission.

Ms Bun—That is terrific. We have a telephone service now that allows you to rank loans according to average interest rates and incorporate fees and charges. We have found it is exciting, it is growing. It is not a mass marketing tool. It is certainly not going to address market failure right across the population, but it is an important step forward.

CHAIR—Thank you very much. We have run considerably over time, which indicates the interest in the submission.

Proceedings suspended from 10.48 a.m. to 11.21 a.m.

CASEY, Mr Kevin Lawrence, Manager, Technical Advisory Services, AMP, 1 Alfred Street, Sydney, New South Wales

SYLVA, Ms Louise, Manager, Public Affairs, AMP Financial Services, GPO Box 4134, Sydney, New South Wales 2000

CHAIR—Welcome. I refer my colleagues to the AMP submission, No. 59. Both witnesses have appeared before the committee before and they understand the rules. Thank you both for coming. I invite you to make an opening comment. I will also give you the opportunity of commenting on matters raised in other submissions or matters raised before the committee today or at previous hearings. We always welcome the contribution from the AMP, and we thank you for your submission.

Ms Sylva—Thank you, Senator Watson. I will make a brief opening statement and then we will be more than happy to answer any questions the committee might have. AMP understands the government's intention through the introduction of choice of superannuation fund is to add to competition and to enhance people's control over their superannuation entitlements. In AMP's view, the government's legislation and its intended start-up date of 1 July 1998 can be supported. AMP believes that early passage of the legislation would provide the market with certainty. AMP is working towards providing products, services, education and support to our client base from 1 July, on the basis that there is certainty as a result of early passage of the legislation.

AMP has made, and continues to make, a significant investment in the capacity to deliver choice in the superannuation market in which we operate. A change of this magnitude inevitably raises concerns, particularly as the benefits of the new environment will only be achieved over time and after 1 July 1998. There will be problems to overcome. Our submission addresses these concerns.

AMP believes the most important issue is the necessity to inform all participants in the market of their new obligations and opportunities. This involves the education of superannuation providers, advisers, employers and employees. While AMP is preparing an information campaign based on the proposals as they stand, we cannot proceed any further until there is certainty provided by the passage of the legislation. Clearly, education is an ongoing responsibility for the industry and for government, if the community is to gain the full benefits of the government's initiative on choice of fund.

Because of the inevitably short period between the passage of the legislation and the intended starting date, AMP would support a six-month, penalty free period. In the initial six months, some employers may inadvertently fail to comply with the legislation. The six-month grace period would allow employers to work with the choice of fund obligations and to assess their responsibilities.

The new choice environment will not be achieved without some additional costs, and superannuation providers may need to address how to prevent the erosion of some existing benefits that arise from the current structure of the market. For example, the widespread availability of low cost insurance cover through group insurance arrangements may no longer be feasible. In addition, some costs may be incurred with information disclosure, marketing

and education. We would urge the government to work with the industry to minimise compliance costs and regulatory costs.

There are concerns about the coverage of the choice of fund legislation. Employees under state industrial awards will not be covered by the legislation. Further, some states have introduced their own versions of choice of fund that are not compatible with the federal government's measures. This adds to the cost and complexity. AMP believes that harmonisation is necessary but acknowledges that it is a long-term policy objective. AMP believes that the government's initiative on choice raises concerns about future developments in the superannuation market: in particular, portability of superannuation balances and funds.

In summary, the benefits of choice of fund will flow over time and will be critically dependent on how the industry and the government meet the challenges of creating an informed market. We would urge that if choice of fund is to be offered from 1 July, then passage of the legislation early in the next parliamentary sitting is critical. We would welcome any questions that you might have.

CHAIR—One of the key features—if I may use that term—in this inquiry is the commencement date. I must say that the majority of witnesses have expressed concern about getting in place the systems, along with the required educational program. As one of the largest providers of superannuation, are you confident that you could have all your systems in relation to choice up in time?

Mr Casey—We are working towards that, Senator. We are working on the basis of a 1 July 1998 starting date. This is the reason for us stating that the early passage of the legislation and a certainty of the environment are necessary for us to be able to provide the services and support, particularly for the employers, as they need to make this decision during the coming months. The certainty of the legislative environment is vital in that sense.

CHAIR—What would be the downside of putting it off till 1 July 1999?

Mr Casey—It is a matter of whether the legislation itself would still be in a state of uncertainty during that period of time. If, indeed, the legislation were still in the process of debate into the 1998-99 year, then all you are doing is extending the problem.

CHAIR—Let us assume that we can get the legislation through in a timely fashion, maybe subject to amendments—and I think that question of amendments is foremost in the minds of a number of people. They feel that to get a proper educational program up and running for the whole community may present a number of problems. As you are one of the largest superannuation providers, we are interested in your reaction to this massive program. One witness indicated to us that choice is perhaps one of the most significant things that has ever happened to superannuation.

Mr Casey—I would agree with that opinion in terms of being one of the most significant. It has been a very difficult concept for people to get their minds around. It is not just an issue that affects the superannuation industry itself. It is one that affects very much the way in which the employers provide superannuation for their employees under a compulsory environment, so there are a very large range of issues which need to be addressed, and they

will take time to address. The ongoing educational campaign will take a very long period before people actually get to the stage where they are genuinely able to understand the choices that they make. However by delaying this process, it is only just pushing those problems out into the future.

CHAIR—The Institute of Actuaries indicated to us that it is not going to be easy to get in a single key features statement all the various requirements in terms of an RSA and the other products that can be available. They believe it is possible over time. They believe it will require some negotiation and consultation between their members, the industry, the ISC, and others. Do you think that we can get a comprehensive key features statement up in time to get all the brochures printed by 1 July?

Mr Casey—It will be a very tight schedule, but I go back to the original point that we were making: the earliest possible time that we can get certainty on these issues means that it shortens the delivery time. We have already had negotiations with the ISC regarding the key features statements. Those negotiations are continuing and are reasonably advanced.

It is not the ideal situation by any means. It will take time for us to develop with the regulatory environment a key features environment which will be able to be understood. But there are two prongs to it. There is one enabling us to get a format and a structure of a key features statement which is relatively straightforward, simple and concise. And, secondly, having presented this information in a concise statement, how do you actually get the public to an informed point of view so that they can understand the information that is contained in those key features statements?

CHAIR—Given the importance of this timetable, can you give us any time by which you would like the legislation through? We have got to have regulations. If the legislation is not passed by a certain time with amendments, in your mind what would that deadline be?

Mr Casey—We would be looking at passage of the legislation by the end of March at the latest. Given the legislative timetable and given that your report is not due to be scheduled until towards the end of March, that would make it extremely tight.

CHAIR—Would your opinion change in relation to the commencement date if the legislation was not through the parliament by 31 March?

Mr Casey—No, it would not, if we were able to have a period of grace there where employers were not subject to a penalty. We believe that is the earliest possible time in which to get the environment stable—and that is the important issue—so that the industry can work to provide information on a firm basis. Until the legislation is actually finalised we cannot do that. If the legislative process were to delay for a period of six or eight weeks, we would still favour a 1 July start date to enable employers, as they are able to make that decision, to come on stream, but for them not to be penalised if they are unable to meet that timetable, say, before 1 January.

CHAIR—Can you really have a provision, if you have got legislation, that the regulatory authorities not penalise people for not complying?

Mr Casey—The penalty for non-compliance in this is a financial penalty. Because this has been incorporated as part of the Superannuation Guarantee Act and based on the taxation power, then the penalty is a taxation penalty. I believe that it would be quite reasonable and possible to have a discretion in the Superannuation Guarantee Act to allow contributions which are paid outside the choice environment in that first six months to continue to be counted for SG purposes.

CHAIR—That would require a legislative amendment, wouldn't it?

Mr Casey—Yes, it would most likely require a legislative amendment.

CHAIR—That is a solution. Thank you very much.

Senator HOGG—On the point of the passage of the legislation, as Senator Watson alluded to, it is not just simply the legislation but the regulations as well. They are a disallowable instrument. I think we agree amongst ourselves that it would be roughly May at the earliest that the time for the disallowance of those regulations would pass. How does that change your view, if at all?

Mr Casey—I suspect from the structure of the legislation that there will not be a great deal of regulation required. The information in terms of disclosure is being handled by an ISC circular and we have already started to negotiate the draft on that. That and the choices which the employers must put in place by 1 July are the keys to the implementation of this in terms of the information flow. I suspect most of the regulation would be relatively technical legislation in terms of the actual penalty provisions, et cetera for non-compliance.

Senator HOGG—How do you reconcile your view on the implementation date with the view you have stated on the need for people to understand what the issue of choice of funds is about when it may well force some people into the situation where they make uninformed choices, whereas the information that seems to be coming across to this committee is that people should be in the position to make informed choices? How do you reconcile that?

Mr Casey—If there is this reasonable period of time between the passage of legislation and the implementation date, I believe that individuals will be in a position to at least make a comparison between the various funds with the supporting information for key feature statements.

Senator HOGG—What reasonable period are you looking at?

Mr Casey—Three months is the sort of time frame that we are looking at. That is why we would be looking for the passage of the legislation by about the end of March.

Senator CONROY—Even with goodwill on all sides, an optimist.

Mr Casey—I have not worked in this industry for 30 years without being an optimist.

CHAIR—There is a lot of legislation before the Senate and it is up to the government in terms of priority.

Mr Casey—We recognise that.

CHAIR—There are a lot of issues involved.

Senator HOGG—But given that the legislation is due to proceed and that this committee is due to report, I understand the context in which your comments are made. That is the context in which my questions to you are framed. That raises the issue that I have raised with numerous witnesses now: how does one inform the vast mass of people out there, who are going to now have to make a choice, when we have had evidence before us from a recent Australian Bureau of Statistics survey that up to 48 per cent of them are not literate or have numeracy problems?

Mr Casey—Senator, we are not seeking in any way to diminish the problems associated with education of the Australian public in superannuation and financial decisions, but we have to start somewhere. At the moment the level of account balances is relatively small compared to where it will be in five to 10 years. If we introduce this now, at least people will have the opportunity to start to take control. If they make some errors, and there is no doubt that there will be some inappropriate decisions made by individuals, the penalty for that will be less than if that decision was delayed for a number of years.

The introduction of choice in superannuation will always cause problems until you have a genuinely educated public, and that is a generational type situation. We are not going to be able to magically come up with a formula to educate the public to make an informed choice in three or six months. All we can do is start to establish the framework for this.

Senator HOGG—Could one of the ways of minimising any of the difficulties that arise out of this legislation be to have a default fund which has minimum standards that must be met? That was put to us by the Australian Consumers Association.

Mr Casey—Certainly, we believe that a high proportion of people will finish up in a default fund. I do not think there is any doubt about that in the initial stages. I think that to have some form of minimum standards is not inappropriate. However, you would need to be very careful in terms of what those minimum standards were. For instance, to try and establish an investment strategy for these sorts of people is very difficult.

Senator HOGG—You might like to take this on notice, but would you be able to provide us with what your organisation would consider to be the minimum standard?

Mr Casey—Yes. With our submission we will furnish further supporting papers on a product AMP has on the books which we consider would satisfy reasonably the sort of minimum standards for a default fund.

CHAIR—That is excellent. That is one of the problems that the committee is facing: the default option and what should surround it.

Senator HOGG—In respect of the insurance cover, death and disablement have been raised as a major problem by a number of witnesses. How does one overcome that problem in that there are 28 days? There is a gap there.

Mr Casey—Ultimately, the market will probably come up with a solution. One of the methodologies which we use at the moment in providing insurance cover is that, when somebody is leaving a fund, there is a period of 30 or 60 days after they leave when they continue to be covered.

If you can do it at the back end, you can do it at the front end. That does not mean to say it is a matter of magically waving the wand and it is there. There are certainly fairly detailed actuarial and underwriting calculations and considerations in all of that. There are possibilities which the industry is already starting to think about in terms of—

Senator HOGG—Could you take that on notice and supply us with an answer on that as well, because that is another key issue that is looming in this piece of legislation. If that cannot be addressed, then it may be cause for an amendment or for a delay in the legislation until it can be addressed.

Mr Casey—We have expressed concerns in our submission in terms of death and disability, which at the moment is available on a very cost-effective basis in group arrangements. When you move to a choice situation, then you get down to more of an individual underwriting, so access to these low cost arrangements might be limited.

CHAIR—Senator Conroy?

Senator CONROY—I am interested in following up on Senator Watson's comments on key feature statements and trying to compare apples with apples, which is a second part of public education. I am interested in whether you want to expand on what you see are the minimum requirements in a key feature statement to try and make them comparable.

Mr Casey—I think conciseness is one of the keys to it, which means that if you have to try and define what the key features of a fund are in the space of two pages, then it is going to have to be very highly summarised information. Certainly I think you need to be able to provide information such as whether insurance cover is provided and what forms of insurance cover are provided under an arrangement; the sorts of levels of contribution which would be payable; the access to payment of contributions via that arrangement; certainly the investment strategies which are available to the individuals; and special features of a particular fund.

All of that makes it very difficult to get into a concise format, but I think we have to look at trying to get that into some form of tabular format to allow a direct comparison, and to keep out of the key feature statement what I would call the general waffle which is important to an individual in terms of the superannuation environment—for instance, taxation on benefits, et cetera. Yes, that is important, but it would be the same for each key feature statement. So, if we could in fact separate out from the KFS those things which are general blurb and have that in some separate documentation which must be provided to individuals, then we could have the key feature statement just purely on information which was relevant to the comparison of the features of the funds.

Senator CONROY—I ask that because we had a witness yesterday—and you might want to get the *Hansard* on this one—who was a woman with 17 years experience, I think,

in the industry. She undertook to compare just two key feature statements. One, unfortunately, was an AMP product, and one was an Asgard product. She said that, after some hours of trying to draw a comparison backwards and forwards looking at what was in them, it was very difficult and she basically could not.

Mr Casey—Without seeing the documents, I would say that I am not surprised at that reaction. The key feature statements which are provided at the moment across the board do not come anywhere near what I have just described in terms of their conciseness or indeed the sort of information that they provide. I think that there needs to be a great deal more work done in various submissions to the committee to include recommendations that, yes, whilst at the moment we are negotiating with the ISC in terms of the disclosure information, we need to step back from the whole thing and look towards developing a longer term proper disclosure regime.

CHAIR—A number of witnesses, particularly the consumer witnesses, have drawn our attention to the problem that occurred in the United Kingdom in the mid-1980s. From your experience, is that likely to occur and, if so, to what extent in Australia?

Ms Sylva—We actually think the risks of that being replicated in Australia are relatively low because there are significant differences between the Australian regulatory environment and the UK regulatory environment at the time that this occurred. For instance, when that situation arose, the UK government was heavily promoting individuals leaving their occupational schemes and setting up their own individual, personal schemes.

There are other differences too. For instance, in the UK, personal pensions operate under different regulated occupational pensions. So, from a regulatory angle, there was less oversight in terms of seeing both sides of the market. So I think there are significant differences between the two markets. Also, in Australia, we have robust disclosure and selling practices like the code of practice which ensure that people get sufficient disclosure to make an informed decision, and there are guidelines in terms of advising customers about products that best meet their needs. I think when you look at the differences between the two markets the risk is relatively low.

Senator CONROY—Would you support the licensing of service providers to—

Ms Sylva—The sorts of changes that are likely to occur in the future, you mean?

Senator CONROY—In terms of just making sure everybody is agreed to work within a set sort of industry standard and licensing to the ISC so that, before you can run around to small business presenting the four limited choice options, you have got to be licensed. Would that be a way of perhaps—

Ms Sylva—I think that the structures we have in Australia to ensure that people give the advice they are authorised to give are really quite different from the situation that prevailed at the time in the UK. So I do think those sorts of licensing measures ensure that people, when they get advice, are getting it from advisers who are equipped to give that sort of advice and that that assists in protecting consumers from finding themselves in the same situation that occurred in the UK.

CHAIR—I have another question. As part of the education program, how are you going to effectively discourage people from exercising inappropriate choice at particular times? For example, with choice, people might be encouraged to withdraw their investment, say, in a growth orientated fund as a result of a share market crash or decline, which I think would be one of the worst times to pull out. On the other hand, there might be lots of enthusiasm for some of the aggressive growth funds to move in at the top of the market. Is there an education program that could be designed to affect behaviour or action in those sorts of circumstances?

Ms Sylva—I think a key part of the education is giving consumers information about the risk-return relationship so that they understand the relative risks of different sorts of investments and at what stage in their lives and what sort of investment horizon they need to have for particular investments to be appropriate. I think that has to be a key part of any generic education for consumers about investment and choice of fund.

CHAIR—And not to panic.

Mr Casey—This is a problem which is exacerbated by choice of funds but already exists now that you have started to get choice of investment options into funds. We have sought to provide some supporting information, albeit at the very embryonic stages, to try to educate people into investment decisions—where there is investment choice in our funds—by providing individuals with a diskette which gives them a run down on risk and the sorts of investments that are available to them under this particular fund so that they can start to feel a little more comfortable with the decisions they are making through a little bit more education. But this is something which is a much longer term problem that we have to address, and something which I personally believe needs to start to be built into our education system. It is not something that you just pick up as part of the superannuation system. I think it is something that needs to be brought more fundamentally into the education system.

CHAIR—How can that operate? That is a new idea in the industry, is it?

Mr Casey—I guess that, as we start to take advantage of technology, we are able to provide these things which can provide them with information in a pictorial form in order to enable them to do some ‘What if?’ situations regarding the different forms of investment, the expected risk return and the profile that is within each of the investments. It is a starting step in the process of trying to educate people to make informed investment decisions—as this ultimately will be the major investment that the majority of people will have.

CHAIR—That can information be fed into any home computer?

Mr Casey—Yes.

CHAIR—So you do not have to go down to an AMP office?

Mr Casey—No, not at all. You can feed this into any computer—home, office or whatever. We can furnish you with a copy of that, if you like.

CHAIR—Yes. Do you think risk should be included as part of the key features statement?

Mr Casey—In terms of looking at the investment strategy, there should be some sort of an idea in terms of the risk profile: whether it is a low, a medium or a high risk. But, until such time as we start to develop a common level of terminology in all of this, it makes it very difficult to get something which is genuinely comparable across various disclosure documents. But, yes, I believe that that should form part of the information that is made available to members.

CHAIR—Thank you. An earlier witness indicated the desirability of looking at the possibility of assessing trustees in terms of getting consumer confidence in the fund and in the way it was managed, in that there would be a ranking for investment performance, custodial performance, the reaction of the ISC audit and a number of other features—there may be up to a dozen. Do you see the adoption of that as desirable? Is it practical?

Mr Casey—I think it could be implemented. Yes, you could have a set of parameters which would rate trustees. To a certain extent, the ISC already has to do that in terms of its prudential supervision. However, one of the things that you would need to be very careful of is that that sort of information can at times be very misleading. One of the things that we have constantly had to try and battle against and get people to understand is the investment pop charts, the ranking of investment managers. The fact that an investment manager ranks in the top quartile for the past three months is certainly no indication of where they will be in 12 or 18 months time. So you would need to be careful of promoting a trustee shopping type of arrangement.

Superannuation trustees are charged with the caretaking of the funds. They are all subject to the same prudential requirements, with some differences with public offer funds. I personally do not think it would necessarily be a good idea.

CHAIR—I take your points in relation to management investment performance. Could an index be applied on a costs side?

Mr Casey—Costs are not necessarily the only indicator that you would need to look at. One of the things that we need to ensure is that, when people are making choices, they do not make their choice purely on the basis of cost. It really should be made on the basis of what they need, what they are looking for in terms of their superannuation investments, savings and security—all of those things. Cost is an important input to that decision, but it should not be seen to be the primary decision.

CHAIR—Somehow, within that program, the authors would suggest that perhaps cost minimisation would not be the only criterion on which a ranking would be made. It would involve the audit and custodial arrangements as well. Anyway, thank you very much for those comments, Mr Casey and Ms Sylva. It is good to see you again.

Mr Casey—Thank you very much. Unfortunately, you will see me again this afternoon, Senator, in about an hour and a half.

CHAIR—Very good. You have an influential position in the industry. Thanks, Ms Sylva, for your presentation on behalf of the AMP. It was very good.

Ms Sylva—Thank you.

[12.01 p.m.]

O'LOUGHLIN, Ms Sally, Assistant National Secretary, Community and Public Sector Union, PSU Group, Level 5, 191-199 Thomas Street, Sydney, New South Wales 2000

SPEERS, Mr Noel Evan, National Industrial Officer, Community And Public Sector Union, PSU Group, Level 5, 191-199 Thomas Street, Sydney, New South Wales 2000

CHAIR—Welcome. I draw the attention of my colleagues to your submission No. 37. Thank you very much both for your submission and for agreeing to come before the committee this afternoon.

Ms O'Loughlin—Thanks very much, Senator. I would like to make a brief opening statement, and then Mr Speers and I would be very happy to answer any questions. We are speaking on behalf of the PSU Group of the Community and Public Sector Union, but the other side to both Mr Speers and me is that I am an employer-nominated trustee of the CPSU staff superannuation scheme, and Mr Speers is the staff-elected trustee of the same scheme. So in fact we have got almost a twin perspective on the legislation.

The CPSU PSU Group is not opposed to the concept of choice. In essence, we think that it would be very hard to be opposed to choice. However, we are deeply concerned about a number of the aspects of the proposed legislation. We do not believe that the legislation is being introduced in response to any perceived demand that we have seen in the community, either from employers or employees, to make this major change to the superannuation arrangements.

Indeed, I have just come from a superannuation choice seminar conducted by one of the major superannuation administration providers, where there was a roomful—and I do mean a very large roomful—of the employers who have to implement the choice arrangements. It was clear to me from the tone of those employers that they wish this would go away. From some of the comments that I have no doubt you would have heard, you would have understood that also. We believe that these major changes are being made in a way that could easily undermine the capacity that Australia's superannuation system currently provides to workers to provide for themselves a reasonably decent outcome in old age. But we also believe that it has the capacity to undermine to some degree Australia's necessary capacity to have a major savings mechanism, and we are concerned about that.

CHAIR—You will enumerate those reasons later on, will you? We would be interested in them.

Ms O'Loughlin—Most certainly. We are also concerned at the separate but related proposal to remove superannuation as an award matter. We believe that, in conjunction with the choice legislation, the removal of superannuation as an award matter will do a whole range of things, as far as the protection of workers is concerned, but we are particularly concerned about the possibilities of a repetition in Australia of the UK debacle that was referred to previously in evidence given.

We also think that the cost for employers is very significant. As I said earlier, I am the employer-nominated trustee to our scheme. We are finding that the costs of superannuation administration are becoming extremely high. They are certainly moving well outside anything like CPI, for example. As a major cost element to our employment situation, it causes us great concern to see what are very complicated and expensive new procedures that we will have to follow in order to comply with the legislation, if it is passed in its current form.

Finally I would say most particularly that the union is outraged by the connection made by the government, and the use of the introduction of choice by the government to close down the public sector superannuation scheme. This proposal by the government—that, as part of extending choice to its workers, it will close down its industry scheme—we find not only illogical in the extreme but also an outrageous breach of promise. We have documentation here, and we have referred to it in our submission, where the current Prime Minister made a written, rock solid guarantee. I am not too sure whether that fits with a—

Senator HOGG—Core or non-core?

Ms O’Loughlin—Core or non-core. It is hard to describe really when it is a written ‘rock-solid guarantee’. He promised not to:

. . . cut and destroy

—

and I have copies here for those of you who would like to have a look at it—

public sector superannuation schemes or the entitlements of existing and prospective Commonwealth Government employees.

Minister Fahey’s press release that announced the closing of the PSS says as its heading ‘Implementation of choice’ for public sector superannuation. So, I believe it is quite apposite that this matter also be raised in our submission.

CHAIR—Thanks very much, Ms O’Loughlin. Mr Speers, would you like to comment on aspects of the presentation?

Mr Speers—Just briefly. It is rather interesting in terms of my involvement in public sector superannuation matters, but also as a trustee of our superannuation fund where I am a member elected. At the moment that is to the forefront because from an employer’s perspective, we in our organisation also have to deal with the July 1998 start. So, we are putting resources and time into that aspect of the situation.

Overall, the education role is important. Choice itself is obviously very difficult to be against in principle. I think, given time, if everything is properly implemented, it will be okay. But in the short term there will need to be quite an extensive program of education aimed at improving people’s comprehension of it. As a national industrial officer, but more pertinently as a trustee—and we are going out next week on a national tour—I am finding that people are certainly searching for information. However, the overall level of comprehen-

sion and awareness about the superannuation system and what underpins it certainly worries me.

I guess as you increase in age your attention turns a little more to superannuation. That is certainly something that I have detected. That is the other thing that would need to underpin any changes. The system has a very strong commitment to education and raising awareness about the issues.

CHAIR—In terms of the information that is provided, it has been suggested to the committee that we should insist on a health type warning so that before people make a change they should consider the following A, B or C points, including life cover. Would you like to comment on that?

Ms O’Loughlin—The whole issue about people’s information base is one that is absolutely essential. There is a whole range of different types of people who are going to be affected by this legislation. Noel’s point about superannuation coming more to the fore as people get older is dead right. Certainly, when you are in your early 20s, the experience of most of us was that we are not even cognisant of superannuation, let alone particularly interested in it. There is that question about youth versus age, if you like. There are questions also about levels of education. There are questions about people’s capacity to be able to deal with the complicated information that goes hand in hand with being able to make a well-informed and reasonable choice about superannuation.

I have been a trustee of our fund since 1992. In five years of attending trustee meetings and being very diligent about it, I still find it extremely complicated, extremely difficult, and requiring a lot of my time and attention for me to be a part of a decision making group about the sorts of ways we will invest our fund. How any 20-year-old who might be in their first job is in a position to be interested enough to go into the information seeking mode that they need to be in to do that properly, I do not know.

There are plenty of 20-year-olds, I am sure, who are very interested in making money and doing the best for themselves, but think about the average 20-year-old. There are people whose educational background will preclude them from being able to do this and so on and so on. You can think of all the circumstances

There is another issue I would like to raise. I was particularly interested in listening to the AMP speakers earlier on and hearing about the way they saw that it is vital that there be a broad education campaign. They were saying, ‘We can get this stuff onto computers. We can make it available in people’s homes through computers. We can make it very easy for people to understand.’ I am not sure what the uptake of home computers is in Australia, but it is not 100 per cent; I am confident of that. I am also confident that, again, there is a large range of people—and this will not change much over time—who are not prepared to sit down in front of their home computer and spend a couple of hours going through material to try to work out which superannuation scheme they ought to join.

There is a further question. Even if you are not precluded by a lack of interest or incapacity, why should people be put in a position where they are having to take a level of responsibility in a very complicated area when, up until now, there has been a very good

system in Australia that has provided decent superannuation arrangements for people? If this was being done in response to a demand by Australians that they want a more open system, they want a system where they are much more in control of making choices, I could understand that, but the truth is that this is not in response to such a demand. Certainly, there is no broad demand for it.

To put people who have not asked for it into a position where they are effectively either going to have to leave it up to their employer or have to put a lot of time and energy and responsibility into making their choices when they did not really want to, I find a questionable outcome of such legislation. I think it is a point that should be raised.

As senators you are very busy people. You are lucky, you are in a nice scheme that has very good benefits associated with it—

CHAIR—At the moment.

Ms O’Loughlin—Yes, like my members, I might say. However, just think about very busy people. Why should they be in a position where they have to spend a fair proportion of their time working out all of this. How many of them, even well educated people who understand the importance of it, have the capacity to sit down and do this properly? They are going to be in the hands of their employers to a large degree, and I think this goes to the heart of supposedly extending choice to employees. It is a question that will leave most employees in the hands of their employer’s choice. That is of grave concern to me too.

CHAIR—Earlier witnesses put it to the committee that education must also extend to trustees. They pointed out that they are very concerned about the low level of understanding of super by a great number of trustees around Australia. They went even further by suggesting that all trustees of super and regulated super funds should be licensed. Would you like to comment on those two aspects?

Ms O’Loughlin—There would be wide variation between trustees. Industry fund arrangements in particular have meant that there are now trustees of the very large funds who are highly skilled, highly educated in superannuation matters and very much accountable for what they do. In a way, that is part of the confidence that can be put into the current system of superannuation. You have very large numbers of people in those funds and often, particularly with the industry funds, they might be people who would be considered, if you like, most at risk from bad decisions by trustees, and also bad decisions on their own part under a choice regime. That is one end of the spectrum where trustee arrangements currently are extremely good.

At the other end of the spectrum, perhaps in the smaller company funds where there is much less accountability for various reasons, perhaps there is a work force that is not particularly pursuing what is happening with their fund; it may be that some trustees are not operating effectively. I would say that the regime under the ISC attends to that. Our fund has been audited by the ISC very well, I thought. I think there are enough regulatory provisions to ensure that in almost all cases the trustees are really being kept honest and being compelled to be accountable for what it is they are doing.

There are also plenty of resources available to trustees through organisations like AIST and so on to train themselves. So I doubt that a licensing system would be particularly beneficial.

Senator HOGG—On the issue of demand, have you done any survey of your own membership to find out if there is a demand for choice of fund, or have you done a survey to see whether there is a demand for choice of investment, which can be two different things?

Ms O'Loughlin—Yes, that is right. I cannot say that I have done a survey, but as the industrial person with responsibility for superannuation and the elected official, I have probably spoken over the last 18 months or so to thousands of our members about superannuation, generally, and about this issue, particularly recently.

It is clear to me from those discussions that from the members' point of view they regard the choice legislation with grave concern. Some of that concern is about its attachment to the intention to close the PSS, but from a more general perspective as employees, they find it hard to understand what benefit it will bring to them. And my view is that you would have in any sort of ordinary group of workers perhaps two or five per cent who will be interested in pursuing this and who would be satisfied by choice of investment, as opposed to choice of fund if there were more flexibility in their own fund about choosing. For example, some of the younger people would choose a higher risk, higher return path than the fund offers, and so on.

So I think that the overall view, certainly from our members, is that they do not understand why this is being introduced. They have not asked for it and they do not want it, particularly. Of the numbers of people who are going to be interested in it, on average I would say there are two to five per cent who will pursue it and want to take it up.

Senator HOGG—So in your estimation the rest of the people then would go into the default fund?

Ms O'Loughlin—Yes.

Senator HOGG—So the role of the default fund is very important. Should that default fund have minimum identifiable standards?

Ms O'Loughlin—Yes. I think the issue of the default fund is that the standard it sets ought to be the prevalent standard in the industry or employment category. And, certainly from our perspective within the Australian Public Service and related areas, we would expect the default fund to be the current fund arrangements. So when you say a minimum standard, yes, minimum, but relative to the industry or the employment sector that we are talking about.

CHAIR—What happens if that fund does not have death and disability cover?

Ms O'Loughlin—As I understand it death and disability cover is actually, if you like, voluntary by the employer. It is not required by legislation—certainly not by the superannua-

tion guarantee legislation—but it is a very common concomitant of superannuation systems. I would see that this legislation has the capacity to encourage any employer who wants to move people away from a current company scheme that has as part of it an insurance arrangement to offer them universal choice and not provide them with either replacement insurance arrangement or the cost of it.

So I think the issue related to death and disability cover is a very significant one. It is almost the sleeper in this issue and, if I can put my employer hat on for a moment, it is of grave concern to our staff as workers. They are concerned that any new arrangements might mean that they are left uncovered, and they would see that as a real disbenefit.

Senator HOGG—Let me ask a question about your own fund because I think that of all the witnesses we have had before us, you are the first to be trustees of your own small fund—and I presume it is a small fund by nature.

Ms O’Loughlin—Three hundred members,

Mr Speers—About \$13 million.

Senator HOGG—Right. And how would you, as trustees, deal with this piece of legislation with your own fund—not with your members now—

Ms O’Loughlin—Yes, sure, with our own fund.

Senator HOGG—How would you deal with the difficulties that it may pose and the pluses that it may give to your members?

Ms O’Loughlin—We have a very well funded scheme. We provide 13 per cent employer contributions and flexible employee contributions. It is a scheme that has death and disability insurance associated with it and all the employees are in it.

For us as the employer—and I am sure that Mr Speers will want to speak on behalf of the employees in a moment—we find that facing up to this legislation is very difficult. Firstly, the time allowed for us to deal with these matters is just not enough. I was amazed to hear the AMP say that they thought that three months from the passage of legislation at the end of March to 1 July was sufficient. Clearly they have not had to talk to real people lately. I should not be so dismissive, but I am really concerned.

Our members, our staff, in the main are white-collar workers, obviously, above average, well educated. They are people, particularly the industrial staff, who are used to dealing with superannuation as an issue. Late last year we went through a process of meetings with all staff to describe superannuation in general, as well as the likely impacts of the superannuation choice legislation.

Senator HOGG—Because this is now getting down to the practical application, could you give us some idea of the frequency and the length of those meetings and what you have to put into the process?

Ms O'Loughlin—We have employees in all capital cities around Australia. I flew around the country last year—because I am the expert—to meet with all of our staff to go over superannuation with a basic explanation about what it is because many people do not even know what it is. Then I explained our scheme and how our scheme differed from superannuation guarantee. Then I described what was at that stage our understanding of the government's proposals from the budget statement and I started talking to people about what we might do as an employer in relation to that. There were, I think, three-hour sessions at each site run a couple of times to make sure everybody could attend. There was some written material that I wrote to give to those people.

If I thought about the cost of it, it was expensive for us as an employer to do that. I think these superannuation discussions have to be done in person. It is very difficult to do these things, if you like, by telephone hook-up or some other mechanism. You really do need somebody physically there to answer questions and to go over it with people.

That was last year. Noel and I now have a very similar process this year because now we know what the legislation could look like. We are now going through the same process of discussing with staff on a more defined basis what we believe the employer's response ought to be. If you like, we are consulting with staff to see their view on what the employer should do in response to the legislation. At the same time we are explaining to them from the employer perspective what we think our options are. That, again, is going to be quite an expensive exercise and it is taking up a lot of my time. Actually I am supposed to be a union official, not a superannuation expert.

Senator HOGG—So who meets the cost of that?

Ms O'Loughlin—The employer does.

Senator HOGG—So it is not a cost in your case being met out of the funds of the superannuation.

Ms O'Loughlin—We find it hard to understand why the fund would pay for what is essentially an industrial discussion between the employer and the staff. This is one of the concerns I have got if you are talking about education generally in relation to the superannuation side. If you are in a company scheme, the trustees of that scheme, in my view, have an obligation to meet only the information needs of members of the scheme in relation to that scheme. They have no obligation, as I understand it, to explain other options or schemes to people more broadly. That is the employer's responsibility. The cost has got to be paid by the employer who has to arrange all of that.

If I think about our organisation as an employer, the people who are expert about these matters are the people who are related to our company scheme. There is nobody else really who is particularly expert. But strictly speaking, if we are going down the path of choice of four menu, somebody else would have the responsibility of going out and doing the key feature statements, or giving people advice if we decide to go down the universal choice route. That is quite strange because in most small organisations you would have one or two people who are expert in superannuation and most likely they would be trustees of your fund, if you have got one.

Senator HOGG—Given that you are dealing with a group who should be more aware of the whole superannuation issue, what sort of response has this generated for demand for choice?

Ms O'Loughlin—I might ask Noel to answer that.

Mr Speers—In the series of discussions that we have had so far we are finding that, in effect, people want the status quo to remain. Staff within the organisation are very happy with what they consider to be a very reasonable corporate company fund, and that is the feedback that we are getting. There are queries about the timing, and certainly there are queries about the discrepancy between new employees and existing employees. I understand the employer—in this case the union—has to deal with that but people see that as a bit incongruous.

If you see choice as theoretically a favourable thing—and I think that is 'debatable'—the two-year discrepancy seems quite amazing; if you see it as a positive thing, then you are rewarding new people coming in. I have had a bit of feedback to me saying, 'I do not necessarily see it as a favourable thing, but try and explain that two-year differential to me.'

The other thing that we are moving on to now is the practicalities of dealing with the draft legislation—knowing full well that the committee reports at the end of March. If we decide, as a staff group dealing with our employer, that we would like the company fund to continue, it seems to us that there are two routes. There is the informal agreement route, but there is not a massive amount of detail about that. We are wondering if there is an ability to have a collective decision, because that is the way we normally operate, rather than an individually signed letter from Bill Smith in Perth and Jenny Smith in Melbourne—just what the practicalities of the informal agreement route are.

Also, I see a wider hat in terms of how things could be done out in the other sphere, because it seems to me that the unlimited choice might also emerge as the de facto company fund type of thing. I am not suggesting it is for the CPSU. In terms of the unlimited choice, you make the employees very aware about all the attractions and the good things about the company fund, but basically you just say, 'The rest of it is up to you. We're not providing any more information.' So you are really, de facto, making that as the vehicle.

What I am finding from staff feedback is: 'If we want to continue with the status quo, how do we practically now deal?' I guess we are looking, first of all, at the informal agreement route, but also at the unlimited choice thing, so it is the vehicle about how we react now to the legislation. The timing is just incredibly short, but we understand that the employer has to make plans because 1 July is looming upon us.

CHAIR—Not every employee is in the fortunate position of having a good fund like you have. I suppose choice can help some; it can add to some costs for others. No doubt you might be in that latter position. I congratulate you on going round and meeting all your members face to face. In an environment of choice, where it may be construed that you could be offering advice as to investment because people want to know, 'Where do I go?' do you believe you might have to have a dealer's licence under that new environment?

Ms O'Loughlin—If I thought I was being put in a position where I would have to give that sort of advice and would need a dealer's licence to do it, I suspect I probably would not be a union official for very much longer; it is not my chosen career path. I think there is a very real concern for employers about what level of advice we need to give to people and whether that puts us in some sort of de facto financial advisory capacity. Clearly, it is not any employer's wish, I would have thought, to be in that capacity. You have this terrible conundrum.

Universal choice is very attractive to an employer, because we do not have to go out and do the hard work of getting into four key features statements and making decisions that I think have a huge moral implication to them. You might be very tempted by offering universal choice. Then you are leaving your employees almost stranded, in my view, or certainly alone, on their own resources, unless, as an employer, you are prepared to come in and maybe buy in some sort of provider.

But why should the employer be paying for that? We are prepared to put decent money into the pockets of our staff through superannuation. Why do we also have to put decent money into the pockets of the advisers so that they can come and tell people which choices to make? I do not find that very beneficial to me as an employer, because it is not helping my staff decide that they like to work for our organisation because there are good benefits. What is happening is that instead of money going into workers' pockets it is going into the industry. I do not think that is really what we should be about. It is not what we are interested in doing.

Senator HOGG—How would you believe your experience with your membership would be translated out into the real world? Do you have a view on how that would be translated with your membership? How would the employer there go about undertaking a similar exercise?

Ms O'Loughlin—We are lucky because we have a work force that is still reasonably small—only 300 people—and we have the capacity to communicate face to face. Our employees benefit from that fact. If we were a much bigger organisation, or an organisation that was not quite so committed to ensuring that our staff hopefully do as well out of this as they can, there is the issue of employers washing their hands of it because it is complicated, expensive and time consuming. I think many employers will do that. They will simply either outsource it or they will go the universal choice route.

The other thing that is of concern is that if we wanted to, as an employer, we could effectively make the decision on behalf of all of our staff—I know that some employers are contemplating this—where we would continue to pay our 'above the SG' into our own fund but say to everybody else, 'You've got universal choice, but we'll only pay super guarantee to anything else you might care to go to, and we won't give you your insurance, and we won't pay your admin costs.' Those are ways that employers could—

Senator HOGG—The thing that I was really wanting you also to look at was how it would roll out amongst your membership. Would you see a similar sort of exercise to what you have been able to undertake with your membership being undertaken by the appropriate authorities out in the real world? And what sort of time frame would be involved?

Ms O'Loughlin—Let me go back to our 100,000 members, who are in the public sector. They are a very big work force. There is no way there is anything like an understanding of the implications of this legislation in most of the managements of the public sector organisations that we deal with—no way. We are talking to many public service departments, for example, in industrial terms about trying to shore up superannuation benefits in the light of the proposed closure of the PSS. We talk to those people about what we say must be put in place. They do not even know what the arrangements are going to be for them. So there is a very large work force whose managements do not really know what is going on, and I would be amazed if they have any plan. As far as them talking to their employees—our members—about the implications of this, it is not happening. And that is just one very big work force.

Senator HOGG—So what sort of time line would you think would be needed for the education process for those people?

Ms O'Loughlin—We need a year. This should not come in until 1 July 1999. If you do that, you overcome the problem Noel was speaking about, where you can cut back the differential between new starters and general staff. You can say, 'We'll start everybody from 1 July 1999,' and that would give sufficient time. If the legislation and the regulations are completed by May—and I think that might be optimistic—then you give people a lead-up time of almost a year, because you want people prepared in about May next year with everything absolutely set in place and ready to go from 1 July 1999.

Mr Speers—The committee may have taken evidence on this, or will be aware of it, but I would like to follow up on an earlier question about the trustees and education of trustees, which is very important. But the broader Australian community has a regulatory structure that underpins it. I think Australia has a quite good regulatory structure that underpins it. We would be hoping that the transition to new agencies is something that the committee is aware of in terms of the financial systems inquiry.

The organisation that I am dealing with in a wage bargaining process at the moment is the Australian Securities Commission. I previously had an involvement with the Insurance and Superannuation Commission. Those two agencies are to become new organisations and the aim is for them to lift off on 1 July. All I am saying is that there has to be a commitment to, hopefully, a very good transition so that those organisations, and particularly the prudential organisation, retain the confidence of the broad Australian community. They are scheduled to lift off on 1 July, although I think there are some doubts with the legislative progress. But I do see it as an important adjunct to the overall issue.

CHAIR—Coming back to your problem about giving advice, is it your belief that the advent of choice may inadvertently lead to people offering investment advice without any understanding of the implications of doing so in terms of needing a dealer's licence?

Ms O'Loughlin—Absolutely.

CHAIR—Maybe we should take this one up with the ISC when we meet them next week.

Ms O'Loughlin—Yes; but I think you are right. If you take the example of an employer trying to do the right thing by their people, a fairly small employer trying to help their staff, it is very easy to get caught up in the fact that you are probably the only person in the organisation who has the time and responsibility to look into these matters.

You sit down with a group of staff. You might not be sitting down formally to speak about superannuation matters—you could just be having a chat with staff—but you are the boss. These people listen to what you say about the arrangements that you are looking at and they would take that as advice.

One of the things we see as a union often is where two people are having a discussion. One person thinks it is an informal chat and another person thinks they are doing a formal disciplinary counselling. You could translate that into giving financial advice. I think there is a real concern there. People do not understand the implications of what they could be doing with staff, even unintentionally. It is a real concern to me. I would hate to be in that position.

CHAIR—We say good luck.

Ms O'Loughlin—Thanks very much.

CHAIR—Thank you very much, Sally and Noel.

Proceedings suspended from 12.36 p.m. to 1.32 p.m.

CASEY, Mr Kevin Lawrence, Manager, Technical Advisory Services, AMP, 1 Alfred Street, Sydney, New South Wales

CHADWICK, Ms Lisa Marie, Member, Retirement Savings and Incomes Forum, Investment and Financial Services Association, Level 14, Landmark Building, George Street, Sydney, New South Wales

CHILD, Mr Stephen, Member, Retirement Savings and Incomes Forum, Investment and Financial Services Association, Level 24, 44 Market Street, Sydney, New South Wales

MARONEY, Mr John Leo, Acting Chief Executive Officer, Investment and Financial Services Association, Level 24, 44 Market Street, Sydney, New South Wales

CHAIR—We have before us this afternoon representatives from the Investment and Financial Services Association, and it will be led by the Acting Chief Executive Officer, Mr John Maroney. I also welcome Mr Kevin Casey, Ms Lisa Chadwick and Mr Stephen Child. I think you all understand the rules, the protection that is afforded to you by appearing before the committee. We invite you to make an opening statement. I understand Mr Maroney will be the principal spokesman, but it is free to anybody to add to what has been said. Mr Maroney, you might like to comment on matters raised by other witnesses in addition to what is in your own submission. You come from a wide and varied background and thank you for coming before us today.

Mr Maroney—Thank you very much, Mr Chairman. If I could make a few introductory remarks, that would be much appreciated. We very much appreciate the opportunity for the Investment and Financial Services Association to appear before the committee. Our association is a new association, formed only last month officially, representing companies offering retail managed investments, investment management, superannuation, life insurance products and other financial services. While it commenced only in January, it has a long history going back as far as 1890, which was the first time that some of our member companies first joined in collective industry activities to try to assist the policy process.

We are busily pulling the membership together from the three previous associations of the Australian Investment Managers Association, the Investment Funds Association and the Life Investment and Superannuation Association. The sector that those three bodies represented collectively managed more than \$400 billion, of which around \$300 billion was superannuation moneys.

The choice of fund is a very key issue for our association and IFSA supports the introduction of choice of superannuation fund into the system along the lines as proposed by the government. Without the introduction of choice, there is little pressure on funds to become more competitive—

CHAIR—Can you clarify ‘including the commencement date as laid down’?

Mr Maroney—I will add a few caveats to ‘including the commencement date as laid down’ in a minute. We see that choice will help put more pressure on the whole system to be competitive over time and for greater efficiency over time. It will not happen immediately but, over time, as a natural outworking of the free enterprise system. The absence of greater choice and competition is detrimental to the long-term healthy development of the whole system.

Without choice, employees are not encouraged to take an interest in and ownership of their retirement savings. Therefore, they are not really involved with investment decisions until they retire whereas, effectively, full choice applies on retirement. We have many thousands of people for the first time having to make choices of financial issues with large amounts of money at retirement when they have not had to think about these issues during the period they have had their money within the system.

We believe the introduction of choice will have two significant beneficial outcomes. Firstly, as I said, an increased efficiency and competition in the superannuation industry and, secondly, an enhanced commitment to retirement savings which should heighten consumer awareness and interest, and, we hope, could and should lead to greater levels of voluntary contributions once people have a greater understanding of how much they really need to put away to save for an adequate level of retirement income. We believe that employee choice of fund is a sensible addition to the superannuation industry regulatory structure. As I said, we support the government’s proposal for introducing it.

Perhaps I should start with the question you asked, Mr Chairman, on the start date. We believe that the 1 July 1998 start date is, in fact, quite viable despite the reservations that many others have expressed. We believe that, to make it viable, we need to make sure there is sufficient awareness and education of both employers and employees in the run-up to that date and in the period thereafter.

There needs to be, over time, a practical system of electronic commerce being extended to employers to enable contribution and data to flow more efficiently through the system and again, over time, consistent provisions within the different industrial relations regimes, particularly between the federal and state levels.

Our industry is putting considerable resources into the development of products and services to meet the need of consumers generally but in particular in the run-up to choice. We believe the industry will be ready for the introduction of choice regime, and we welcome the changes that will bring.

IFSA is concerned that employers and employees will need to be equipped to undertake their responsibilities from 1 July 1998 and that there are concerns about the capability to accommodate the thousands of employers needing advice, but we believe the best of way of dealing with that is to bring the legislation in on schedule but provide that there is a penalty-free period of up to six months so that, if people do not quite comply with the rules on a technical basis, there are no penal sanctions applied to employers or employees. Given the protections where employees can change their choice once a year and a range of other protections in the system—member protection, the disclosure rules et cetera—we do not believe that there are major risks in taking that approach.

On education, we have been working closely with employer groups, particularly the Australian Chamber of Commerce and Industry, to produce an information booklet for employers. We are strongly committed to work with the tax office to assist in the development of education and awareness campaigns for both employers and employees. We look forward to a tangible and real community by the government to implement an intensive and well resourced education campaign for employers, employees and funds. We believe it should be grassroots in its focus and in addressing the superannuation basics of choice of fund but also moving on, in due course, to investment understanding and issues so that people are becoming more and more informed consumers in their decision making.

Portability is another key issue which we believe needs to be addressed. The government has announced support in principle for the introduction of benefit portability by the year 2000. However, with high levels of labour turnover of potentially up to 25 per cent in some areas at the moment, we believe that, to effectively implement choice, reforms are necessary to enable members to transfer their accumulated benefits between funds at the earliest possible opportunity. The proposed choice of funds regime deals only with choice in relation to compulsory contributions. It does not address the issue of members' ability to transfer their accumulated moneys to other funds.

IFSA believes that the introduction of reforms to allow benefit portability will enable the government to achieve its overall policy objectives and will go a long way to limit the number of members with multiple accounts.

On performance measurement, we support the development of industry standards to allow valid comparisons of returns and costs between funds. There has been a lot of developmental work there and that will be progressed further at our next board meeting in a few weeks time.

To sum up our overall position, we look forward to the choice legislation being adopted by the parliament. If it is successful, Australians will have an enhanced commitment to the need for long-term saving. We believe that quite a number of other issues need to be addressed, including the default fund, disclosure, state awards and policy committees. These are outlined in our submission. We welcome questions from the committee on any of those issues or any other aspects of the submission or the issue overall.

Senator HOGG—You mentioned something that I would like to take up and that is the experience of what is happening currently with those people who are retiring and the fact that those people currently have the option of choice. Can you give us any idea of how many of them just go into a straight default fund, the ERFs, as opposed to going into a specific product tailored for their needs?

Mr Maroney—In relation to the ERFs, the eligible rollover funds, the use of those generally is not related to retired people as against people that are lost or have small accounts in the system.

Senator HOGG—Yes, I understand that.

Mr Maroney—So I do not think that tends to be a likely place where people would end up. In practice, there is a very active marketplace in all financial institutions and with a lot of superannuation funds themselves. When someone retires, they are generally dealing with probably the largest singular amount of money they have had and there will be a lot of people offering them advice and products and services, whether it is from the nearby bank, whether it is from financial advisers or whether it is services related to the fund.

Senator HOGG—I accept that. But how many would park it in a fund that could be basically typified as being a default fund, that covers all sins and omissions, where people do not sit down and actively go through and say, ‘Now, I want that element, that element, that element’ and buy a generic sort of product?

Mr Maroney—Yes, I really cannot give an off the top of the head sort of feeling as to whether it is a small minority or a large majority. It is very much a matter of where the moneys flow is individual—

Senator HOGG—I am just trying to find out whether there is some experience that we can translate back into the new scene that is going to emerge, because evidence before this committee indicates that, in some instances, up to as high or as low 40 per cent—depending on what camp you come from—of the people are just not going to make a choice at all. Choice means nothing to them for a number of reasons and they will just park themselves in the default fund.

Mr Maroney—Essentially, there is not a fund for people at retirement.

Senator HOGG—That is why I was trying to use an equivalent, if one could be found. That is why I mentioned the ERF, or a default generic type of fund. I am just trying to get a feel for experience.

Mr Maroney—Probably the main similarity to a default fund at retirement would be people leaving the money in the last fund they were in and not choosing to put it somewhere else. A lot of funds were not able to do that until the regulations were changed recently. Now, a lot of funds can allow that.

My general understanding—and I will check with my colleagues—is that relatively few people leave their money in the fund they are in at retirement and by far the vast majority of them make an active decision to put the money somewhere else. I am not sure whether anyone can give any examples, but the vast majority—I expect, 80 per cent or 90 per cent—of people at retirement take the money out of the fund they are in, even if they have got the option of leaving it there. But a lot of them do not. They put the money somewhere else, whether it is in an allocated pension annuity, buying a bank term deposit or putting into a unit trust. So almost an overwhelming majority would be making an active decision at retirement, either because they have to, because their fund will not allow them to stay or because they choose not to stay—the default would be to stay where you were.

Mr Casey—Senator Hogg, a lot would leave their money in a pool of investment type of arrangement, but it would not be generally in the native fund from which that money had been accumulated. They would transfer it out into something like an allocated annuity,

allocated pension, which is a pooled type of arrangement in which they can draw down on that.

Some of those arrangements do offer a range of investment strategies and they can choose. A large number, particularly if there are modest amounts, will choose that sort of arrangement. For higher net worth individuals there is quite an active marketplace out there in terms of providing financial advice.

Senator HOGG—We had evidence yesterday that where there were strong campaigns and intensive campaigns on the issue of member choice—and I think that was predominantly investment choice—in one major company, Coca Cola, only 64 per cent of the people actively decided to pursue a choice. In Optus, it was a higher figure of 75 per cent to 80 per cent, but that higher figure may well relate to the differing natures of the work forces and the differing levels of education and so on. It seems to me that, even in the most controlled circumstances, we are not going to see people prepared to exercise the choice that we are trying to give them.

Mr Maroney—Those figures are surprisingly high from my point of view.

Senator HOGG—They are high from my point of view as well because, when we get to the other information, it is 40 per cent.

Mr Maroney—Even if it is only 40 per cent, you can stand back and ask: what is the objective of the exercise? Is the objective to force everyone to make a choice? I do not think it is. I think it is to particularly facilitate those who want to make a choice to be able to make it. If we have the population split into three: one-third definitely do not want to make a choice, one-third definitely do and one-third are ambivalent about it.

Senator HOGG—How do you protect those people who feel they do not want to make a choice and as if they are being placed in the position of having to make a choice? Go through the United Kingdom experience where people felt no option but to choose and then found that they made the wrong choice. How do we afford protection?

Mr Maroney—The default fund is a very important aspect of it. In a sense, the question is no different to how we protect people under the existing system. How do we protect people now?

Senator CONROY—There is a difference. A decision on no choice may mean that you are happy with your existing fund, but if your existing fund is not part of the four, where does an employee go?

Mr Child—You would go into the default fund offered by the employer.

Senator CONROY—If an employee decides not to make the choice because they want to stay in their existing fund, but you are not one of the four, where has the choice gone?

Mr Child—Unless their existing fund is closed and, for some reason, the employer is unable to contribute to it—

Senator CONROY—We are not mandating in the legislation that one of the funds must be your existing fund.

Mr Child—No, but the legislation mandates the default fund for existing members is their existing fund.

Senator CONROY—Many people have recommended that that be taken out and your own submission argues that it be taken out.

Mr Maroney—I would agree that it is a very important issue in terms of how that default fund goes. We would actually prefer a system over time where individuals can choose, through the unlimited choice arrangements, to make sure they keep their existing fund when they change employers or when their employer does other things. At the moment, we are trying to give suggestions on what is the best way of managing the transition from the very complex and quite limited choice, in pre-retirement stage, to five years time when there will be much more choice readily available because the benefits will be seen and people, particularly employers, will embrace the idea.

We pay people's pay into different savings accounts and people's home loans to different home loans. We do not ask people to change their home loan when they change employment. If they are happy with the superannuation fund they had with the previous employer and two employers before that, why do we want them to change when they change jobs? Something that allows a person to keep the fund that they prefer right through a whole range of different employers is something that we would strongly support.

Senator CONROY—Why are you advocating taking away that option in your submission?

Mr Maroney—We would be advocating an option through promoting unlimited choice. While there is not going to be unlimited choice, you need to have as workable a default mechanism as you can. Lisa is probably the best one to comment on why we have that particular suggestion for default in the current circumstance.

Ms Chadwick—I think the senator's point is taken that there will always be some percentage of people who do not feel able to make a choice and just want to go along with whatever the employer's choice is. The problem with the legislation, as we see it, is there is no ability for the employer to change that default fund.

We are suggesting that the employer be allowed to change that default fund to protect those very employees who do not feel able to make the choices. There has to be a protection there for those people who prefer the default fund. We are suggesting that they be allowed to actively remain with the default fund if they want. For all those people who are never going to tick a box, because they are just not interested in the whole thing, let the employer take over if they so desire.

Senator HOGG—Should all default funds reach a certain minimum standard and, if so, what? We have had this raised with us, which is why I am asking it. You can take it on notice.

Senator CONROY—I will ask a more pointed question: should an RSA be a default fund?

Ms Chadwick—As long as the employee has a choice, the legislation has been met. We would not advocate RSAs as default funds.

Senator CONROY—But that was the argument in Great Britain. They willingly chose to slaughter themselves. At some point we have to learn from that mistaken experience. A 25-year-old walks up and says, ‘Oh, a RSA default fund; I will happily go into that.’ At some point you have to say it, so you avoid the sort of debacle you had in England. We are not going to allow that to happen surely.

Mr Maroney—We fully support learning from that experience. That is something we kept in mind very much when we discussed it and pulled the submission together. That would not mean, to my mind, barring RSAs from being a default choice or really barring any type of fund that is provided at the moment from being available, provided we have the right rules on disclosure, information availability and provision of advice.

We have a much better system in Australia now than the one the UK had when it brought in these arrangements. It includes things like member protection rules that mean that when people are starting off—whether it is a small RSA or a small super fund or a small account in a master trust—there is much greater protection in the early stages of their compulsory funds going in. Given they have a choice once a year to look at whether they want to stay in that fund or pick a different one, we would generally resist the idea of setting particular standards for a default fund on the basis that it tends to work against the underlying competitive pressures.

If the government mandates these other parameters, that will cause the market to lock in on those parameters, even if those parameters are not really ideal from what you would really want to offer in the range of benefits, costs and services to different sorts of customers. Some customers like very low costs and are quite happy with infrequent and standardised service. Others would prefer to have a more premium type arrangement where you can get personal advice at the end of a phone call. We would say the better way to do that is to make sure it is very clear what people are getting into through disclosure, that there are good levels of advice around and that people have flexibility which the annual choice provides so that they can pick what suits them best.

CHAIR—There is a big difference in the two types of customers that we are referring to. The person who wants to opt for what you are suggesting is obviously quite an informed person. The problem that my colleague Senator Conroy is concerned about is the uninformed person who does nothing, who may—not of his own volition, but just by ignoring everything—stay where he is. There is a suggestion that perhaps these people should be protected just a little because they are not the informed ones as to who really wants a low cost. He wants this; he wants these bells and whistles as well. Given that we have also heard evidence from the people who are less informed in the market, there is perhaps a case for having a level of legislative protection for them. I absolutely agree that it is counter to competition, but there is a consumer protection element required in this as well.

Senator CONROY—There have been attempts in the bill to limit the legal liability. What I probably would say if we went down your path and an employer mandated the default as a RSA and put a 25-year-old—

CHAIR—Which they can do according to the bill.

Senator CONROY—An employee can end up doing it under either way. Do you think, if we went down your path where responsibility was given to the employer, the legal liability would be removed? If in 20 years time the 25-year-old realises that they are not going to have enough to retire on and they were given a bad choice by doing nothing, is what is being proposed enough to protect that employer?

Mr Child—The issue is that RSAs could become the default. In the current environment, RSAs can become the employer's fund now.

Senator CONROY—The slight difference in what is being argued in the submission is that they are being mandated to do it. It happens through the legislation, but the suggestion from the submission is that they are absolutely given the responsibility to exercise. I am worried that you may have crossed the line where the legal liability—

Ms Chadwick—Actually giving employers a liability again?

Senator CONROY—Yes. It would possibly give your liability back.

Ms Chadwick—I think that you would have to be careful on the drafting. I am suggesting that it is an option for the employer, rather than a responsibility, and that the legislation should make it clear that if the employer does not choose to change the default over time they are not liable. You would need both those caveats to make the legislation workable from the employers' perspective and still protect the employees.

Senator CONROY—That is what I was trying to get to—that question of possibly putting the liability back on to the employer by going down your path.

Ms Chadwick—Yes, that has to be restricted. All we are suggesting is that those employers who do wish to take on the responsibility of looking at the funds and worrying about whether they are financially safe can do so. But those employers who say, 'All right, I don't want to worry about it any more,' are also protected under the legislation. There would need to be something in the legislation to limit that liability for them.

CHAIR—Do you think some employers could use this legislation to reduce the benefits of employees? That is a concern that has been raised.

Mr Maroney—Has that concern been raised in any particular respect, Senator?

CHAIR—In the particular area where they may have had insurance previously under, say, a corporate scheme and are offered an RSA without insurance cover. Can you envisage some employers using the legislation to do that?

Mr Casey—As a default function?

CHAIR—So as to perhaps reduce the cost.

Mr Maroney—My initial reaction to it is I am not sure that there is anything that changes in the environment. Employers could do that at the moment. They could change their fund at the moment from one with insurance to one without insurance. They could do it in the future. I do not know whether the legislation actually makes it any easier for the employer to do it. It is more a question of employment law in relation to changing the terms and conditions of employment. Superannuation is recognised as part of the terms and conditions of employment so generally that an employer would need to be fairly careful, if they were doing that, not to incur a liability, from a number of angles but particularly the basic one of the employer not having a unilateral right to change employment terms and conditions from one day to the next without going through the appropriate processes. I cannot think of anything specific in this legislation that actually changes—

CHAIR—Would you like to look at it for us?

Senator HOGG—There is nothing specific in this legislation, but in other legislation superannuation may no longer be an allowable matter, depending on how that is determined. The argument that you have just put forward founders because you have superannuation no longer an allowable industrial matter. It is a matter which the industrial commission will no longer be able to arbitrate over. We are in a changing scene with problems and we are looking to you for guidance.

Mr Maroney—I take your point, Senator. It is part of the broader field of evolving industrial regulation. I would expect to see in the short term more superannuation turning up in workplace agreements and enterprise collective agreements because of the desire to have some clarity as to what the basis is. Over time it is something that will evolve with the way the industrial system evolves at federal and state level.

Senator HOGG—I understand that, but it is currently an allowable matter which allows the commission to arbitrate. Other proposed legislation will remove that. In spite of certified agreements and other forms of agreements, the commission will not have that power to resolve disputes. The disputes can be not simply on the issue of what the quantum is or anything else. There are a whole range of issues such as payment scheduling—

Mr Maroney—A system where individual employees can choose what sort of superannuation they want, including insurance, to my mind, is going to be preferable to the current system where a lot of employees might not like the superannuation fund and the benefits that they are required to be in under existing restrictive industrial terms.

I do not think it is necessarily going to create only negative consequences for employees. There will actually be quite a lot of positive implications for employees of being able to choose the sort of fund. If they have already got a lot of private insurance outside superannuation, they might prefer to have more in their pay packet than having some of their pay packet being diverted to additional insurance because that is what their particular existing

industrial award says. I think there are potentially quite a lot of pros and cons from having a different system than the one there at the moment but I do not think it is all one-way traffic.

Senator HOGG—Do we have any research that shows how many people are currently dissatisfied with their current superannuation scheme and therefore driving the engine for choice or is this something that is good in theory but there is no basis in practice to substantiate the need for us to pass this legislation?

Mr Casey—I am not sure that the level of dissatisfaction is the only driver of this sort of arrangement. It is endeavouring to try to ensure that over a period of time individuals take responsibility for their retirement savings leading up to the period when they will have to take it in retirement. Certainly, there is some level of dissatisfaction with a particular arrangement in an industry this big; those people may or may not choose to exercise choice if it is available to them.

Senator HOGG—Do we have any statistics there that might give us some insight?

Mr Casey—Certainly, there are statistics available through the ISC and through the SCT in terms of the level of complaints that are issued. That is not necessarily indicative of those people who might be dissatisfied with the superannuation arrangement per se.

Senator CONROY—To come back to what I was discussing before: let us say I work for Mayne Nickless and I am paying into the TW super fund. I leave Mayne Nickless and I go to Linfox. Linfox are under one of the other competing industry funds, but I like the TW super fund and I want to stay in it. The Linfox package of four does not include the TW super fund. Where is my choice, whether the default is an RSA or whatever?

Mr Casey—The employer can, in actual fact, implement different choice regimes for different employees. Whilst the choice of four is one of the options, it is not something which has to be implemented for all levels of employment.

Senator CONROY—But that the choice here is really employer choice, not employee choice, is the point that I am making.

Mr Casey—Yes, in the sense that there are a series of options which the employer can offer to the employees, but it does not have to offer a single package to all employees. It can offer a choice of four but it could extend that. For instance, if somebody comes along and says, ‘I want to continue to contribute to the TW fund’, the employer could implement that by an informal agreement with the individual. This is why, over a period of time, we believe that you will get to unlimited choice but it will be only as we get systems coming on board which will support employers being able to pay to a multitude of superannuation arrangements.

Senator CONROY—But equally, under this legislation, the employer can say no.

Mr Casey—Yes. The employer can say no.

Senator CONROY—And the employee, therefore, has no choice.

Mr Casey—Yes.

Mr Child—One of the benefits under this legislation, though, is that, for example, an RSA is one of the choices so if the employer was unable to pay into the TW fund, the employee could choose the RSA and transfer the benefit out at any time back to their own fund. They do have that ability.

Senator CONROY—We have now seen possibly three accounts just from the one move. We have all spent years trying to move towards bringing a number of accounts down to one or—a best case scenario—two. But what we are seeing is the creation of more accounts because of employer choice.

Mr Maroney—In some circumstances, yes, though for those employers that are prepared to offer the informal agreement to continue existing funds it will reduce the number. So it will work both ways and it will be some time before we see what the net result is. I think, over time, the net result will be to reduce undesired multiple accounts. I have a number of accounts because I choose to have them. I am quite happy with that, but lots of people have multiple accounts because the amounts are so small it is not worth their effort to do something with, or the paperwork is too infuriating to actually go through the process of eliminating them. But, to my mind, this legislation should help reduce the number of undesired multiple accounts.

Senator CONROY—You are probably the first witness that thinks that.

Mr Maroney—I suppose it depends on the time frame.

Mr Child—But, under the current environment, exactly that would happen—the individual would have no opportunity to pay their benefits into their old preferred fund. But, under the proposed legislation, then they would.

Ms Chadwick—Over time, competitive pressure for employees will encourage employers to open up that choice as more and more employees come along with their particular fund that they want.

Senator CONROY—That is a wonderful, noble concept. I would love to see some evidence of that.

Mr Casey—I think once the system makes it cost effective to be able to distribute to a number of different superannuation funds, as you have got with payroll systems at the moment, that will alleviate the pressure.

Senator CONROY—Mr Child, there was an interesting submission yesterday that suggested that banks do not have the software, or are not going to allow access to software, that allows you to distribute money to super funds and have it tagged, if you like. I am just trying to remember who gave the evidence. It might be one that the Bankers Association or your own bank might want to respond to.

It was an interesting point. The argument was, essentially, that banks will not have an incentive to assist in this process of other financial transactions by trying, by not cooperating, to make it more attractive for an RSA. Now I thought it was a bit of a long bow, but there was a suggestion that, electronically, the transmission of the money to the account would not be able to be tagged. Possibly I am not explaining it as well as it was explained to the committee, so I invite you to please read *Hansard*. I would be interested in a response to that one in particular, because it was something that came up yesterday.

Mr Child—Yes. From my own organisation's perspective, and IFSA's, we are very keen for electronic commerce, whatever you like to term it—a capability for the payment of superannuation contributions to, indeed, any superannuation fund in the country. I think that is a prerequisite for greater efficiency in the system. I guess the analogy that Mr Casey was using with the payroll system is something that I know my organisation is looking at the feasibility of, and what are the specification requirements. It is a big project and it is something that will not happen overnight. Yes, I think it is something the whole industry needs to look at—and is.

CHAIR—I have quite a number of questions.

Senator CONROY—I apologise, I have to go.

CHAIR—Colleagues, Senator Conroy will be leaving us in a moment. It does not make any difference. Technically, we have made arrangements so that the committee is now a subcommittee. For Senator Hogg and myself it makes no difference, that is just a legality. It has been approved by a prior meeting of the committee.

You support the definition of an industry based superannuation fund, and we have had a look at the definition of 'an industry'. However, a number of people from the industry funds believe that there are deficiencies in that definition. They are quite agreeable to the concept of two or more sponsors, but they would like it added in that it must have a trustees-type status and that it be not for profit. What would be your objections to that—amending the definition to bring in those requirements?

Mr Casey—Over a period of time, Senator, there has been a significant blurring of the classification of superannuation funds. The industry style funds have grown over a period of time, effectively out of award type superannuation. Public offer funds have grown out of a slightly different environment. The industry funds have sought now to become public offer funds—in other words, to not only cater for those people who are directed into the funds via the various awards, but to actually become open for public offer funds. So, therefore, they are seeking to represent a broader constituency than just those people who are coming in via the awards.

When they talk in terms of representation at the trustee level, when you have got that in an industry fund, you can have a genuine representation of those members via the employer associations and the unions themselves. When they branch out into making public offers, are representatives of the previous industry funds in terms of the employer associations and the unions genuinely representative of the members as a whole as they get more and more dilution of their membership in terms of the original constituency? Equally, there are a

number of other public offer funds who are registered as being acceptable from awards and are mentioned actually in the awards. So you have got a blurring of these two situations.

In public offer funds, it is generally the situation that you have a public trustee who is under more scrutiny—and a broader scrutiny from the ISC, incidentally—than you would have under an industry fund which was not a public offer fund. So, from that point of view, we believe that there is now less distinction between a public offer and an industry fund, and therefore the definition which would require the equal representation at trustee level would actually not in fact fit the market as it is emerging.

CHAIR—What is wrong with the concept, though, of an industry fund being able to fit under two umbrellas—a public offer fund if it chooses, or an industry fund if it chooses?

Mr Casey—There is nothing stopping it from doing that. It can only represent itself in one way in any one particular offer. If it does that, what is the essential difference between that and a public offer fund which is currently registered as being acceptable and mentioned in the award?

CHAIR—What would be the advantages to an industry superannuation fund of having that definition over and above other funds?

Mr Casey—It may exclude other funds from actually being classified as industry funds and being offered as an industry fund as one of the four types of funds in an offer.

CHAIR—What sorts of funds would come under the enlarged definition of an industry fund?

Mr Casey—There are a number of public offer funds offered by the life offices and other organisations which are actually mentioned in awards.

CHAIR—They come under the umbrella of a public offer fund anyway.

Mr Casey—Yes. They come under the umbrella of a public offer fund but they do not have the equal representation as specified in the first part of that definition. By having it as an ‘and’ rather than an ‘or’ you would exclude those funds from being included under the definition of an industry fund, even though those funds are currently mentioned in some awards.

CHAIR—I see. Because they will no longer be mentioned in awards, there is the potential for these types of funds to miss out as being an industry fund.

Mr Casey—Yes.

CHAIR—So it is a consequence of the transition.

Mr Casey—Yes.

CHAIR—Under point 7 at page 11 of your submission, you draw our attention to the blanket exclusion of employees employed under a state industrial award. Do you see the need for an intergovernment committee to try to bring in state awards to ensure there is uniformity in this question of choice? Otherwise we might find the states going down different routes with different definitions to what is proposed at the federal level. Do you think that would be possible?

Mr Maroney—Our general position is that we urge the government to try to achieve uniform complementary legislation in all states as a matter of priority. We are fairly realistic about this and we realise that it is not always very easy for the Commonwealth to get all the states to agree to its preferred way of looking at such matters. We have suggested another alternative, which would be to make use of the corporations power, for example, so that a federal jurisdiction could be utilised through that mechanism. We believe that that would enable employees of corporations to have one set of national rules, if that approach were used. That would pick up a lot of nationwide employers who would otherwise be significantly inconvenienced by the—

CHAIR—That would require an amendment to the act.

Mr Maroney—Yes.

CHAIR—Could you give us some wording that might pick up that change?

Mr Maroney—We would certainly be happy to have a look at that. We would obviously need to engage some of our legal support rather than the group at this table.

CHAIR—Thank you. I refer to page 19 of the report. You indicate that transfer out should be a ‘once only option’. What about transfer in? Once a person has gone out, your wording does not preclude their coming back. The other submissions say that, if a person opts to go out of a defined benefit fund, they are out for all time. I understand from reading the top of page 19, where you say that transfer out should be a once only option, that that would give people the option of going out and then coming back in, and that is it. You are a little more generous. Is that how you intended to be?

Mr Maroney—I might get Mr Child to comment on that. It is dealing with defined benefit.

Mr Child—We are saying there that, in the very nature of a defined benefit fund, it is very difficult for the trustee of that fund to have people opting out, moving to an accumulation fund and then moving back in. What we are proposing there is that there would be no compulsion upon the trustee to accept people continually moving in and out. If people want to move out, they should do it only once.

CHAIR—Yes; but the way it is written would allow a person to go out and then to come back, whereas a majority of the previous people have said that there is no problem with them going out, but they cannot come back. You have allowed them to come back but not to opt out until their retirement. Do you see the distinction?

Mr Child—Yes, I see what you are getting at there.

CHAIR—I am seeking clarification.

Mr Child—I do not think that is the intention. We are saying there that if you opt out, in a voluntary move from a defined benefit fund, then that is it. It is up to the trustee; they may want to enable people to come back in. We are saying that there should be no compulsion for the trustee to continue that.

CHAIR—If we took up that suggestion as it is written, there could be the opportunity for people to come back; but that is not your intention?

Mr Child—No, that is not the intention.

CHAIR—Thank you. Item No. 15 on page 20 of your submission says about unlimited choice that, if an employer offers unlimited choice, ‘it must contribute to any complying superannuation fund or RSA by an employee.’ Under unlimited choice, it is possible that there could be excluded funds under that umbrella. That means, does it not, that there could be further obligations on the employer to check and ensure that that excluded fund is a regulated fund? Would that not require the employer to obtain from the fund, rather than from the member, that it is a regulated fund and, in addition, obtain from somebody—maybe the tax office—that it is also a complying fund?

Ms Chadwick—That is exactly the point we are trying to get at in this. The onus should not be on the employer to go and chase up all that information on whether the fund is complying or not. Rather, if the employee chooses a particular fund, they would need to show the letter of compliance to the employer. Indeed, the key features statement could include that statement of compliance.

CHAIR—Really, that does need a clarification.

Ms Chadwick—Yes, I believe so.

CHAIR—If you allow unlimited choice and allow it to include excluded funds, should an excluded fund of the employer be part of the menu of the employer?

Mr Maroney—Could you clarify what you mean by an ‘excluded fund of the employer’?

CHAIR—I refer to the case of a very small employer, who has perhaps one or two people. That is essentially the mums and dads type of scheme, those that have difficulty in complying with some of the obligations of SIS. At the moment, as I see it, it is possible for such an excluded fund, which is part of the employer’s arrangements, to be included by an employee as an excluded fund. Do you think that is desirable?

Ms Chadwick—As long as the employee is offered choice, then I do not find it undesirable. It is a choice.

CHAIR—Therefore, if you go down that track, do you not think that we need a higher level of prudential oversight than is currently provided for excluded funds? Excluded funds do not come under such strict regulatory oversight by the ISC, for very good reasons. You might say that the wife or the family might get hurt a little. But, once we distinguish between an arms-length person and a very close family relationship, I can see the possibility that people at one stage of their career, when their business is going very well, will say that it is a good thing; but, if it ceases to be a complying fund and gets fined and loses half its assets, where is the employee going to be, in that sort of arrangement?

Mr Casey—That has always been a problem with the definition of ‘excluded fund’.

CHAIR—That is right. That is why I say it.

Mr Casey—We have believed for some time that the definition should simply be that it can contain only non-arms-length associated employees. If you have an arms-length employee, that fund should cease to be an excluded fund and should be subject to the overall disclosure reporting requirements, et cetera. With the proposed change of the supervision of this to the tax office, there will be a different sort of auditing regime associated with it, and the Wallis recommendations might see that arms-length employees are actually excluded from excluded funds.

CHAIR—But, at the moment, an arms-length employee can come within this choice regime. Do you think a legislative amendment is necessary to pull them out?

Mr Casey—The employer has the obligation to pay contributions to a regulated complying fund. If that fund is non-complying, then the contributions cannot be received. However, your point is very valid in terms of the potential for those sorts of funds to be made non-complying and, therefore, for a significant tax penalty to be imposed upon the assets of the fund, which can weaken the ability of the individual to receive their benefits.

CHAIR—Thank you very much; that is very helpful. I think we asked Mr Casey the next question this morning. How long do you think it might take the industry to come to an agreed set of KFS standards in terms of disclosure?

Mr Maroney—I am trying to think what my colleague might have said in response to that, to see if we can get some interesting debate going here. My quick answer would be that it is a process that the ISC currently has responsibility for. It consults with the industry, and so it is not so much the industry itself coming to transfer the—

CHAIR—I am not trying to bring about a rift between you, the reason is the commencement date. There is some concern at this stage that if we cannot get the legislation through quickly enough, if there is a problem getting regulations up and the negotiations with the ISC are somewhat protracted, this could be part of the problem.

Mr Maroney—The latest feedback I have had from our people who have been in intense discussions with the ISC on that is that by the end of March there should be pretty much an agreed position between the ISC and industry. Even though it would not be formally the rules as I understand the technicalities, it could certainly be exposed as the intended rules

subject to the legislation passing parliament, et cetera. Obviously, if parliament changes the law there might be something needed to then reflect that in the disclosure side, but that would be a commercial judgment.

Our members have consistently said to the ISC that three months is the minimum period from when you tell us what is in the disclosure material for us to actually have it out there. I am not sure whether we have adjusted from that three-month period at the moment. Some people can do it more quickly than three months and that is part of the commercial operations. If the ISC does not indicate to industry within three months of start date, that will put pressure on those that are least efficient at getting their disclosure material out quickly.

CHAIR—You can rest easy, there is a high level of consistency between the two of you.

Mr Maroney—Having spent 20 years with this fellow next door, in various situations, I would hope we would not be too far away!

Senator HOGG—We have had evidence from the Australian Consumers Association this morning about the government's undertaking to introduce consumer protection legislation in the life insurance industry area. It was put to us that with the great uncertainty with this particular piece of legislation, that given that other commitment the government should put in place at the same time consumer protection legislation applying to choice of fund so that we do not go down the path of Chile and the UK and so on.

That may have the unintended consequence of delaying the operational date of this piece of legislation itself. What is your view on that? It would give the community out there—employer and employees and the like—greater confidence in what we are doing.

Mr Maroney—It is a very good point, Senator. It gets caught up in the broader processes of implementing the Wallis inquiry recommendations and also what is happening in the corporate law economic reform program. Our current expectation is there will not be, necessarily, a move just in relation to life insurance conduct and disclosure, which is a scheduled bill for this coming session, but it would be done more broadly.

Generally, we would be supportive of consistent rules right across the financial sector. That is one of the things that led to our creation and merger, that the rules that apply to an adviser selling a life insurance product should be the same as the rules for a bank employee selling a bank product or for a financial planner selling a unit trust product. That is what we are in the process of trying to establish through the Wallis and CLERP processes.

Senator HOGG—That would of itself necessitate the deferral of the introduction of this. I want to continue on from that because we have had quite a deal of evidence before us that suggests that we should defer the implementation date, not the passage of the bill, given the educative process that is going to have to be gone through with employers, whether they be large business or small business, the problem being the small business end; whether they be volunteer employers such as the local kindergarten committee; or whether they be the end user, in this case a member of a fund. In doing that then maybe, somehow, taking all of these circumstances into consideration, we can come up with a better result in deferring the implementation date.

Mr Maroney—On the point to do with the legislation life insurance side, in a sense the major thrust of that legislation is codifying what is already happening. There is a code of practice for the selling, advising and distribution of life insurance products, whether they be superannuation or otherwise. That is adopted by all companies. There are complaints mechanisms to deal with that, through the Life Insurance Complaints Service, on which I serve as a director. From the practical operational side, most of what a consumer would see coming from that bill is already there. It does not have full statutory backing but there is certainly the backing of the complaints service, where people can get their complaints dealt with if companies have not met their obligations under the existing code. I would not see that being sufficient reason for delay. I think education is probably a more pertinent one in terms of whether a 1 July operative date, as well as passing legislation, is viable.

We, at this stage, are saying that, provided parliament can deal with the legislation expeditiously, 1 July is viable because people will not actually start focusing on education until they know they have to do something. It is not as though all employers and all employees have to on 1 July do something. Yes, employers have to, if they are going to start employing people, make sure they have thought about the options and put things in place, but there is no reason they cannot start thinking about the options now, broadly. The main uncertainty is whether or not the law is law by the particular times you have to do it, July this year, or three or six months later down the track.

We feel that it is so important to start getting people to focus on taking responsibility for their personal financial security and how much they need to save for a time, that any sort of delay in the overall process will just keep putting back what has now been a 10-year process of getting people wedded to the idea that they will be partly responsible for their own retirement and not just rely on government pension. It is much better to do these things from a 1 July timing within the way the system works than it is to have sort of other dates through the year, otherwise it gets confusing for tax and other purposes. We would certainly be encouraging that.

If the parliament chose to pass legislation before 1 July, with an operative date sometime later in the year, it would give more time for people to get themselves geared up and operating. So it really is a fairly fundamental issue for the parliament to balance up the weight of arguments. But, from our side, we would say that, leaving aside the public sector funds and the excluded funds, our members provide most of the administrative services for probably over 80 or 90 per cent of employers and over 75 per cent of members. That is our rough estimate. We would expect that the vast bulk of those will be, over the course of the second half of this year, if the system comes into place, provided with the products and services they need.

CHAIR—On the other hand, we are told off the record, I think it is true to say, that there was a very significant meeting of the employers held under the sponsorship of a major provider. The consensus there was that the employers were a little bit worried about the start-up. So the committee has a difficult job.

The other difficult job that we have is that we have heard very persuasive evidence, both from you and also from ASFA and the unions. The latter two would like a changed definition. I think Mr Casey's presentation this afternoon was also very persuasive. Would it

be possible, or unethical, for you to meet and maybe have a common approach? Is it a case that the twain will never meet on this issue?

Senator HOGG—Warring camps.

Mr Maroney—I will leave that to Kevin and ask him to speak on the specifics. But, in general, we are very keen to have such a meeting and try to resolve as many of those sort of industry things as we can. I think that might have already started.

CHAIR—Our committee has heard persuasive evidence on both sides and it is not going to be an easy one for us to resolve in a short time.

Senator HOGG—You vote one way and I will vote the other.

CHAIR—We would like, if we can, to get agreement. If the parties could come together and see whether it would be possible it would be good. If it is not possible, we will accept that.

Mr Casey—As far as possible, the industry does try to work together to resolve these sorts of tension type issues and definitional issues. There are times when we have to agree to disagree, because we are coming from a different perspective.

CHAIR—Fair enough, we accept that.

Mr Casey—Certainly, there are ongoing discussions. I personally am a member of ASFA advisory committees as well. So I am involved in both organisations to try to get as common a ground as we can on these issues.

CHAIR—I think that would help the committee in its deliberations. Ms Chadwick, would you like to make any concluding comments?

Ms Chadwick—No, thank you.

Mr Maroney—I have one comment. One of the areas we thought the committee might have some interest in is the relative ease of availability of information on public offer retail superannuation fund arrangements. I think it will be one part of the educational process. I thought we would draw to your attention the regular publication in publications such as *Personal Investment* magazine and *Money Management* whereby net investment performance for recent one-, three- and five-year periods net of the cost of investment and also the fact that entry and exit fees for the vast range of products that are available in the public offer retail side are available as close as everyone's nearest newsagency. We think that is a major issue in terms of accessibility of information for people making comparisons, compared with trying to get information from other parts of the industry that have not, in the past, been on public offer, and hence it has not been their business. But we think it would be helpful to have more information around. If the committee is interested, we actually brought along a few copies of those publications just to give you a bit of light reading on the plane on the way home as well. I will leave those with the secretary.

CHAIR—Thank you. I subscribe to them myself, so maybe Mr Hogg might like them. Thank you very much for appearing before the committee.

[2.38 p.m.]

CRAIK, Mr John, Past National President, Association of Financial Advisers, 39 Geils Place, Deakin, Australian Capital Territory

HIBBERD, Mr John, President, Association of Financial Advisers, 39 Geils Place, Deakin, Australian Capital Territory

MITCHELL, Mr Dugald Scott, Consultant, Association of Financial Advisers, 39 Geil Place, Deakin, Australian Capital Territory

CHAIR—Welcome. We now invite you to talk to your submission, after which the committee will ask you questions.

Mr Hibberd—Thank you. I have taken the liberty of giving a brief additional submission, which provides some points that I would like to cover in the brief time I have. There is a question about how much time we have; I do not want to stop you getting your planes.

CHAIR—We have lost a number of our members.

Mr Hibberd—Yes, I noticed.

Senator HOGG—You will find that I may disappear.

CHAIR—We do have your submission. Could you speak to that submission, rather than read it?

Mr Hibberd—Yes, I will do that.

Senator HOGG—I will disappear at five past three.

CHAIR—At that time we will lose our quorum.

Mr Hibberd—The Association of Financial Advisers is an Australia wide professional organisation. We represent about 7,500 self-employed financial advisers across the country. Our membership is not that large, but we speak for the self-employed financial adviser.

Basically, our policy is that we endorse choice and we have enumerated the Association of Financial Advisers policy in item 1. Our main thrust is that advice has to be delivered for people. This is an advice process that we are going to get into here with superannuation.

If you go to item 2, Financial Services Industry, FSI, or Wallis report, we would like to bring to your attention the Wallis report inquiry as to how advice will be delivered. Our view is that we endorse most of the recommendations of Wallis. Wallis clearly defines how advice should be delivered across all financial services sectors, but more importantly across the financial services industry, and the current problem is with superannuation. As we know, there is \$280 billion in superannuation and what we would like to bring to the committee's attention is the delivery of advice through the FSI inquiry.

If you go to item 3, major relevant recommendations of FSI report, on page 2, the recommendation of that inquiry was that advice is triple-streamed in this country: life insurance products, superannuation products and managed investment products. Until recent times, they have been regulated by four regulators, in fact, or two regulators. Wallis will bring it under one regulator. We think that is a good idea and we think it is quite good for delivery advice in the superannuation area.

But item 4 in our discussion talks about a qualified adviser. What we are concerned about is people giving out information on superannuation. Currently, any person in the community can give advice on super. There are no rules. You could give advice to someone on it. We think that is unacceptable, especially with \$280 billion in the funds and now the choice problem.

We are suggesting that advisers should be qualified, which is the third dot point under qualified advisers. Under streaming overlaps, all advisers should be qualified by achieving basic competencies in those three streams—life, superannuation, managed investments—with extra qualifications and higher competencies for superannuation. What we are suggesting is that we should have something like a certified superannuation adviser, and our superannuation committee suggests with a provider number: so you are certified; you have done the competencies; you understand superannuation; you are qualified to advise.

Senator HOGG—Who would do the certification?

Mr Hibberd—The professional associations can do it. Under the Wallis inquiry it says that ‘certification and industry standards can be devolved to the professional associations’. So the professional associations can certify or we can have—which is a previous proposition we put up—a registration board that has all stakeholders on it and they just sign off the competencies if people prove they have done the exams and done all the qualifications.

Senator HOGG—What is your preferred option?

Mr Hibberd—Our preferred option is a registration board that actually registers people. That is just a stakeholders group, but the professional associations would say, ‘This guy has done all the exams. These exams are covered under ANTA rules, the standard government rules, and this person is certified. Give him a certificate or a number; he can advise on super.’

Senator HOGG—Would you see a phase-in period for this?

Mr Hibberd—Yes.

Senator HOGG—What sort of phase-in?

Mr Hibberd—We would suggest that it would take us a couple of years to set it up but we could look under the Wallis inquiry and put the formula there for it, and start to work on it.

One of the issues is having education and an education program to certify people. We could put an education program together that advisers could do in three months. We have got all the stuff there. We just need some funding for it. If people have done that, they could then say that they are registered or qualified to discuss superannuation matters. In fact, all the things are there to do the education process.

We have made some comments here about the dealer principle arrangements under Wallis and we think we should have a certified authority and industry board, which is the bottom of item 4, Qualified Advisers.

We have said, from item 5, Difficulties of 'Choice of Fund' onwards, on the third page, some things that I am sure this committee has already addressed—I will not get through them—for instance, costs et cetera. Because our members come from the life stream, one of our most important issues is life insurance and disability cover and the portability of that within superannuation choice. According to the latest ISC statistics, there is \$400 billion of life cover in super funds and we are concerned that people should not lose that if they transfer over in choice. I am sure other submissions have been made about that. It is a very important issue.

A large number of the public out there see the life cover in their super as their prime life insurance cover and there is a chance, if we do not watch this, that people will make a choice and move from one fund to the other. They will have less cover. They will become a burden on the social security system and they will die.

Senator HOGG—Just on that point, what about those who change—and there are now going to be 28 days and then a further 28 days—and in that period that would lapse?

Mr Hibberd—That is exactly right.

Senator HOGG—So how will you overcome that?

Mr Hibberd—Some of the public sector funds have a three-month period where you can take up the life cover. The only way you can do that is to build into the product life cover for two months. You can build that into the pricing after you leave the fund while you are transferring. They can cost that in so that it is not out of cover.

CHAIR—But some people might have a health risk themselves where they do not qualify for other outside life assurance.

Mr Hibberd—What I am suggesting is that someone who is already in a fund with \$100,000 of life insurance could exercise a choice option to go from that fund to this fund. They must be aware that they need the same amount of life insurance in the new fund and there is a transfer of the ability to go over. You are correct. The new fund might not accept them for their life insurance cover and that is just a problem of choice. I think it needs to be worked out through the industry and they need to focus on it. I guess we are highlighting that there is a problem here.

Senator HOGG—What about the new employee, though, who is starting and is seeking life cover? That person has got the range of—

CHAIR—It is a genuine group cover.

Mr Hibberd—He can have cover. The existing funds now would say, for example, that if it is an industry fund, you get \$50,000—

Senator HOGG—But some of them will not give cover until you have paid.

CHAIR—That is a different issue.

Mr Hibberd—No. It is an issue. The issue would be when you sign the application form they can give cover. There are several products around where they give accidental cover the day you sign the application form. They could cover that by putting an interim cover arrangement—many products we sell already have that—and they can build that into the pricing.

Mr Mitchell—There is usually a proviso in a superannuation fund, if it is run by a life company, that you can transfer that life cover, if you cannot get it in the next fund, into that life office as cover there. I think that you are asking what happens to the life cover if you do transfer and you cannot get it in the next fund.

Senator HOGG—It may well be, though, that you are a completely new employee without any previous superannuation experience. There are a substantial number of those who come into the marketplace each year. How do you cover those people?

Mr Hibberd—The current position is that you go into a fund and as soon as the first premium is paid, you are covered for your \$50,000. That is the current position. In a Superleader fund, or whatever the funds are, as soon as you pay there is a statutory cover in many of the funds. There are still some funds with no cover in them, but many of them over the last couple of years have put life insurance in at \$1 a week. So as soon as you are in the fund, you are covered.

The question about when you are covered and whether it is from when you pay—that is, when they receive the contribution from the employer—is a product problem. They could build that into the fund by pricing that in and saying, ‘at work’. In the large industry funds there is an at work test. If you are at work, you will join the fund and the cover is there because they are sending premiums in all the time. So you accept that when his application is signed, we will give him the cover, whether the money is received or not. I happen to be chairman of a fund that actually does that.

Senator HOGG—But under this regime, though, you have got 28 days for the employer to get the information to you and 28 days for the employee to make the choice, as opposed to the current situation where the likelihood is that you start up today, you get the form to join the health fund, the form to join this, the Christmas fund and everything else, and you sign all of them at once. That is not going to be the regime of the future. The regime is going to be that you have got to make a choice in terms of your fund.

Mr Craik—One of the things that is evident is the schedule to the deed that is now in place, and most have eligibility for membership. Quite often, eligibility for membership is the date they joined the company. So if that is the eligibility, the day they join the company is the day they are covered.

The other important thing is that most of the bigger funds—and I think you need to distinguish between the bigger funds and the smaller funds—have what is called ‘automatic acceptance’. This could range from \$200,000 or \$300,000 up to \$400,000, with no medical evidence. As soon as you sign the application on day one of your employment, you are covered.

Mr Hibberd—It is a fortnight, I think. You are saying that he is not in a fund for 28 days: that is the problem you are suggesting.

Mr Craik—We are saying that, when that employee actually goes in to the new employer, he is given the choice. If he is coming from a previous fund, most funds provide death cover and TPD cover for 30 days. They provide an additional 30 days for that person to be able to take out that cover, up to that level of cover without any medical evidence, but they do not cover him from the 31st day. They can take the cover without medical evidence, subject to the person paying a premium.

Mr Hibberd—One answer to this is that you say, ‘Do you want life insurance cover?’ on the day they start. When you go through those forms and ask, ‘Do you need life insurance?’ they will say, ‘Yes, I do.’ Therefore, for life insurance cover, the fund that they may go into then says, ‘We’ll offer cover free for the first month’, and that gives them cover. There is a way to do it through the product.

Senator HOGG—We are looking for that way, because it has been an issue that has been raised before with the committee.

Mr Hibberd—Okay. My view is that they build it into the product. If they are going to sell this product, they will offer free cover for the first month, and they can build that into their pricing.

The other issue is the rules, as you well know. I make the point that the book that explains superannuation has 105 pages, but the dictionary that explains the 105 pages actually has 161 pages in it. We are on item 5 here. The superannuation regulations are still complicated, as you well know. I do not have to tell you that.

Again, we are reinforcing the timing. There is a timing period here on the whole choice matter, as many people have discussed and as you just have. More importantly, with regard to timing, we have to change the anti-superannuation culture in this country. With all the changes in legislation, our members and the public we deal with are telling us that they are anti superannuation cover, and choice in the short run is not helping that. Our members who have advised us want to help change that culture. That is an important issue.

CHAIR—You want the scheduled start-up to be at least a year later: is that right?

Mr Hibberd—Our view is that we would get a better outcome later rather than sooner. I have been on industry committees that have talked about putting the legislation through and making the start date the end of the year or 1999. I actually sit on the taxation media consulting committee for choice. As I go around the industry looking at it, everyone is keen on the idea, but it is an enormous problem with a close start date. My view is that we are not going to get decent outcomes. Our members say it is difficult for them to get the information. They are in the information exchange business. The fund manager puts it out, picks up the product, goes and talks to his client and explains it. It is confusing because of the time lag, and so we would endorse some change in that.

I have made a little point about small and medium-sized enterprises and I know that the chairman is interested in this end of the market. Our members are the prime contact for small and medium-sized enterprises, for information on superannuation, as their accountant and financial adviser. I have made the point here that there are 850,000 employees, as we know; but, according to the figures I got from the office of the minister for small business, about 440,000 people are changing jobs in that small and medium-sized enterprise area every year. That is a big number. They are two- and three-man businesses, and they have an enormous problem. Our members contact them, and they are now also contacting us and ringing us up. That is a problem.

Senator HOGG—Is there a cost impost there?

Mr Hibberd—Yes, there certainly is. Our view is that advice should be paid for: if our members have to give advice, someone has to pay. There are two ways that they get paid now: either by a commission from the product provider or by a fee from the client. Our view is that in superannuation there will be some fees.

I come back to my qualified advice. I am qualified; I have got the competencies. You are a small business; you want to know about this. I will talk you through it and give you a submission. I may not sell you anything; pay me a fee for doing it. So there is fee generation here, as a small business would ring up his accountant and ask him about it—or any of his legal advisers.

Senator HOGG—What sort of cost do you think that will work out at?

Mr Hibberd—We have had a long discussion about that. We have some people who are going around charging \$250 a member. We think that is a bit rough. But small- to medium-sized enterprises, from our discussion—and Mr Craik might be able to add to this—will pay up to \$400, \$500 or \$600 to do it. I said to my managing partner in my group, ‘What would you pay?’ He said, ‘If it cost me \$500 to \$800, I’d pay it because that gets it out of the way, and I know I am doing it—as long as I have got a qualified person.’

Mr Craik—I think it depends on the number of employees because, if each individual employee has to be interviewed, that is a very long task.

Senator HOGG—We were talking about small businesses, small to medium.

Mr Craik—Yes, up to 50 employees.

Senator HOGG—Yes.

Mr Craik—That is a fair bit of work. So, if you did it on a project basis, you could be looking at \$2,500 or \$3,000.

Mr Hibberd—For 50 members.

Mr Craik—Yes, for 50 members. It just depends on what is involved. With superannuation being what it is, more and more people want to know particular details relating to them. So quite often you have got a right of way to get information. You have got to verify their death and disablement cover. There is quite a lot of work involved when you actually get into the nitty gritty. So it is a big issue in dealing with that side of the market, and choice is going to generate a dependency. What is happening is that many accountants have generic information about super, but they are not specialists. They can give basic taxation advice but, in terms of choice of funds, choice of investment options, all those things relating to this new legislation, it is becoming a very specialised area.

Mr Hibberd—So our view is that small to medium-sized enterprises are at the bottom of No. 6. It seems to me, in the process of explaining choice, we have got awareness: they put an ad in the paper but there is no contact in that. So people read the information and there is no contact. There is education: IFSA puts out a leaflet, or the industry association puts a leaflet; the small to medium-sized enterprise or the employee reads it, but there is no contact there. Our view is that when it gets to the advice process there is contact across the desk, across the table with the employer or the employee, and we are getting into a proper discussion on it. We think choice needs a lot of contact because they want to find somewhere to go. Based on the fact that people perceive it is complicated, they are looking for somewhere to go in that respect.

Mr Craik—I think it is very clear that we are setting up a mirror social security system, a privatised social security system. If you think of that in terms of the infrastructure that is already there with the social security system now, in effect we are going to privatised social security where people are going to be self-funded or, depending on—

CHAIR—Part of social security, because social security will always be there as a safety net.

Mr Craik—Yes, I am talking about mainly the funding of lifestyle, not other associated benefits that social security offers. What you are looking at is a very important aspect of how do we ensure that the infrastructure is in place to service the needs of the citizens, and that is a very vital question. If that is going to be driven through the media or through the advisory associations, or through the accounting or legal profession, then it is a big issue in terms of building that infrastructure, and that infrastructure will not come without cost in a privatised system.

Mr Hibberd—Our view is that advisers can help. We have put that in No. 7, Adviser driven process. Employees have their trust. We understand employers because all our members are self-employed individuals, often employing staff themselves. They are mostly well informed and highly competent to explain this. Most of them have been in the business

of dealing with complicated life insurance, superannuation and investment things for the public.

It is a communications process we are on about here. I refer you to Mackay's book, *Why Don't People Listen?* He says:

People who feel insecure in a relationship are unlikely to be good listeners.

We have got to get people to listen about this problem. The trouble with superannuation is that it has an insecure relationship with employer and employees. Mackay also says:

The message in what is said will be interpreted in the light of how, when, where and by whom it is said.

So, in terms of the superannuation choice message, the messenger is an important issue—and not only the process but the messenger, whether it is advisers or associations. Mackay also says:

People are more likely to support a change which affects them if they are consulted before the change is made.

That is a most relevant comment. This change in superannuation is imposed upon employees and employers, so their support is a problem. I think one of the senators asked before how many people want this. I think the tax office has some research on it. But we have a major problem because, as most people see it, it has come from the top down.

Under 'People pay attention to a message which is relevant to their own circumstances', I guess that, in the process you gentlemen and we are going through, our hope is that employers and employees will pay attention to the choice message as it is their futures we are trying to improve. That is the whole exercise here. In item 8, I have made suggestions that this committee looks at the Wallis report as a way of looking at advice, and endorses the concept, and that we need some funding for education here. It is a funding issue.

CHAIR—On behalf of the committee, I would like to commend your organisation for what you are trying to do in lifting the standards across the industry, including education. We are quite impressed with this approach that you have adopted and will certainly be examining it very closely. Senator Hogg, do you have a concluding comment or statement?

Senator HOGG—No; I have asked all my questions throughout, Chair.

CHAIR—Thank you. A concluding comment, Mr Mitchell?

Mr Mitchell—I would like to make a point about key features statements. The ISC have just put out a discussion paper for this choice business and they have not followed the Wallis line at all. In the Wallis submission, which was followed through in—

CHAIR—If I can just bring you up to date, those negotiations are still continuing and there is a lot of input still being fed into the ISC, so the matter is not concluded.

Mr Mitchell—Yes. They put out a discussion paper on choice in super funds and how the information should be provided in the brochures. The first part of each brochure, of

course, is the KFS, which is the key features statement. The paper itself had three key features statements attached to it, none of which was comparable, so it would literally take you a couple of hours to go through the points.

It seems to me that the ISC are not taking any notice of the Wallis inquiry, or maybe they have not heard of it—though that is probably unfair. It is very important, if we are going to get an overall financial system which is comparable, that the superannuation products have to have comparability.

CHAIR—The Institute of Actuaries are working on this. They believe that they will be able to come up with a form of words and presentation that will enable comparability.

Mr Mitchell—Yes, that is right.

CHAIR—But it is a valid point that you are making in relation to the document.

Mr Mitchell—Our view is that the KFSs should be separate from the brochures and they should be freely available—for instance, on the Internet. Everybody should be able to get them easily and they should be in a matrix form so that you can compare them.

Mr Hibberd—I guess that is part of the lack of information here. As you no doubt know, every product provider has its way of putting out a brochure and information. One of the sad things in this country is that there is no decent research to compare retail superannuation funds with one another. We do not have a Morning Star in this country and we dearly need one so that adequate research into superannuation can be done properly. Anything that your committee can do to encourage people to do that would be very helpful.

CHAIR—Thank you very much, gentlemen. I now adjourn this session.

Subcommittee adjourned at 3.05 p.m.