HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND PUBLIC ADMINISTRATION

Reference: Insurance and Superannuation Commission annual report 1995-96

CANBERRA

Monday, 10 February 1997

OFFICIAL HANSARD REPORT

CANBERRA

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND PUBLIC ADMINISTRATION

Members:

Mr Hawker (Chair)

Mr Albanese	Mr McMullan
Mr Anthony	Mr Mutch
Mrs Bailey	Dr Nelson
Mr Causley	Mr Pyne
Mrs Gallus	Mr Willis
Mr Hockey	Mr Wilton
Mr Latham	

Matter referred to the Committee:

Insurance and Superannuation Commission annual report 1995-1996.

WITNESSES

CHAPMAN, Mr Keith David, Assistant Commissioner, Public Offer Branch, Superannuation Group, Insurance and Superannuation Commission, 212 Northbourne Avenue, Canberra, Australian Capital Territory 3

GLADING, Mr Robert George, Deputy Commissioner—Life Insurance, Insurance and Superannuation Commission, 212 Northbourne Avenue, Canberra, Australian Capital Territory 3

POOLEY, Mr Frederick George, Commissioner, Insurance and Superannuation Commission, 212 Northbourne Avenue, Canberra, Australian Capital Territory 3

ROBERTS, Dr Darryl, First Assistant Commissioner, Policy, Legal and Actuarial Group, Insurance and Superannuation Commission, 212 Northbourne Avenue, Braddon, Australian Capital Territory 3

SMITH, Mr Richard, Deputy Commissioner—General Insurance, Insurance and Superannuation Commission, 212 Northbourne Avenue, Braddon, Australian Capital Territory 3

THORBURN, Mr Craig, Australian Government Actuary, Insurance and Superannuation Commission, 212 Northbourne Avenue, Braddon, Australian Capital Territory 3

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND PUBLIC ADMINISTRATION

Insurance and Superannuation Commission's annual report for 1995-96

CANBERRA

Monday, 10 February 1997

Present

Mr Hawker (Chair)

Mr Anthony	Mr Pyne
Mr Causley	Dr Southcott
Mrs Gallus	Mr Wilton
Mr Mutch	

The committee met at 10.03 a.m.

Mr Hawker took the chair.

CHAIR—I declare open this final hearing of the House of Representatives Financial Institutions and Public Administration Committee's review of the 1995-96 annual reports. The committee has already heard from the Reserve Bank and the Australian Securities Commission. While the committee has been conducting these reviews for a number of years with the Reserve Bank, the ISC has appeared previously on only one occasion, and that appearance focused on the use of financial derivatives in the insurance and superannuation industries.

In the past, the committee has expressed a strong interest in using the review of annual reports as a means to improve parliamentary oversight of the broader financial services industry. The committee considers that the growth of financial conglomerates and the blurring of regulatory boundaries have increased the need for a broader oversight than in the past. Consequently, the committee resolved to examine each of the major financial regulators on an annual basis.

As I know committee members have many questions and issues that they wish to canvass today, we will move straight to business.

CHAPMAN, Mr Keith David, Assistant Commissioner, Public Offer Branch, Superannuation Group, Insurance and Superannuation Commission, 212 Northbourne Avenue, Canberra, Australian Capital Territory

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CHAIR—Welcome, gentlemen. I remind you that the evidence you give at the public hearing today is considered to be part of the proceedings of the parliament. Accordingly, I advise you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. Do you wish to make an opening statement before we start the questions?

Mr Pooley—Mr Chairman, I am prepared to tell you where we stand on derivatives, as an opening statement, if you would like that. The committee may be aware that in November 1995 we issued three circulars, one each to the life industry, the general industry and one to superannuation trustees. These circulars required the life, general and superannuation areas to work out risk management statements and set out fairly detailed arrangements for those.

The risk management statements were designed, in the superannuation area most particularly, to focus the attention of trustees on their responsibilities for the risks in respect of all their investments, particularly the risks of derivatives. But the risk management statement that they were required to produce had to deal with the risks not only of derivatives but also of physical investments.

As far as superannuation was concerned, we made it clear that superannuation trustees were not to use derivatives for speculative purposes or for gearing up, because gearing up is prohibited under the superannuation legislation and speculation is inconsistent with prudent person rule.

Otherwise, there were no restrictions on the use of derivatives. So we left it to the super fund trustees to have a lot of discretion but to know the risks. In so doing, we found it very useful because we made them also focus on the risks of their physical investments.

Since April 1996, we have had a little project going to work out the extent to which super funds actually use derivatives and how well they have complied with these risk management requirements. As you would expect, we have a mixed set of findings: some trustees have developed more robust control systems for handling derivatives than others. Those that have not very good ones we have had discussions with and pointed out that they need to do better.

The superannuation industry itself—consultants such as Mercers—have analysed many of the risk management statements prepared by super fund managers, and that has resulted in an improvement in standards too.

So the purpose of the little project we have carried out has been to see the extent to which derivatives have been used by superannuation entities, to see how prudently they have been used and to make sure that the use of derivatives does not obviously threaten members' retirement savings. We have also looked to see whether our degree of regulation is approximately right and whether we need to do any more in terms of guidance. Finally, the purpose of it was to encourage trustees to do as well as they reasonably can in understanding the use of derivatives.

In terms of the findings, as I have already said, they were a bit mixed—they always are whenever we research anything in particular in the market. We found that the principal use of derivatives relates to futures options and currency forwards and that, for the most part, trustees that use derivatives have used them only for risk management purposes and not for speculation.

Generally, derivative investments are well managed by super funds. Most of them use fairly simple derivatives; many of them have foreign investments and therefore overseas currency exposures, and they use derivatives to deal with those—and that of course is usually sensible. We are encouraged that trustees have a better understanding of risks because of the need to prepare these risk management statements. We are in the process of reissuing the risk management statements. We are having discussions with industry and, probably later this month, we shall be reissuing risk management statement requirements for the superannuation area.

That is very broadly what we found. We can answer questions in more detail if you wish.

CHAIR—Thank you very much, Mr Pooley, for that introduction and for giving us an update on where we are with derivatives. I understand that we already have copies of those guidelines you mentioned. I guess the observation that generally superannuation funds are well managed in this area would be self-evident by the nature of superannuation funds, but the question really arises: what are the risks of a rogue fund going off the rails? That is the thing that, I suppose, the ISC is always watching. What is the risk? How confident are you that you have a pretty good handle on that?

Mr Pooley—A rogue super fund can go off the rails in terms of its investments through the use of derivatives or through a physical position. It is perhaps a bit easier and quicker to do it through derivatives but, if trustees take unusually high risks, one way or another they can go off the rails.

CHAIR—But for the members of the fund it is a bit late?

Mr Pooley—Well, the legislation requires prudent investments, and it is up to trustees to make sure those investments are prudent.

CHAIR—We all know that that is all in place; it is a question of whether you as the regulator feel that you are confident that you have sufficient oversight on what is happening.

Mr Pooley—We cannot be sure that a rogue super fund will not go off the rails.

CHAIR—In know that, but are you confident that you—

Mr Pooley—We are confident that we have the right legislation and that we do the best supervision of it that we possibly can—and we are always looking at ways of improving it. For example, we are currently employing a consultant who has been with the International Monetary Fund and chairman of their super fund, which has $4 billion or $5 billion in assets. It is a pretty well regulated fund. He is having a look in this project on the use of derivatives with us.

CHAIR—I will put the question another way. If you had the opportunity, would you say that you need additional resources to be more confident or do you have sufficient resources to feel confident?

Mr Pooley—It is a difficult question to answer because if we had more resources we would certainly use them to inspect super funds. But, in the end, there is the question of judgment. We have a very large number of super funds and even if we had twice the number of staff we could not be sure that a rogue would not go off the rails.

Dr Roberts—We have as many checks and balances in the framework as we can to try to maximise the compliance with the rules. So, in addition to the audits that we do, if you look at the system as having two halves—the standard employer funds and the retail or public office side—you see that on the standard employer side we have member representation on the trustee board. The idea of that is to have that extra level of scrutiny. At the end of the year there is the scrutiny of the external auditor. There is whistleblowing from members of a fund or competitors if they are suspicious that a fund is behaving recklessly.

On the retail or public side there is the whole question of entry standards, which needs to be under review all the time. If we thought we were not getting managers of sufficient substance running those public offer funds, then it would be for the government to look at whether the entry standards are high enough. So, if you put all those things together, you do not eliminate that risk of non-compliance but you try to hold it down to manageable levels.

CHAIR—What happens if a fund does get into serious difficulty?

Mr Pooley—Some have through poor investment decisions. When that happens, it is usually drawn to our attention or we discover it through a review. We have a look at the whole situation and decide what is best. Sometimes it is best to wind them up. Sometimes it is best just to have new trustees. There are a range of options of this sort. Some members lose some of their money. But so far losses have been quite small and they have all been small funds.

CHAIR—Touch wood.

Mr Pooley—Yes, indeed; I do not disagree with that.

CHAIR—With the sort of fairly rapid growth in the funds employed, obviously the task is going to get more challenging. We are trying to get a handle on what you feel. You have said that the legislation is adequate. It is a matter of judgment in relation to resources, but you feel as though you probably have a reasonable position on the whole thing. As far as you can go, that is how you feel.

Mr Pooley—What we have done in the past couple of years is put more people on to review so that more funds are being reviewed and they are being reviewed at a better standard. That has uncovered quite a lot, mainly organisational problems. Most of those have not led to losses, but they could have if they were not corrected. So there is quite a lot of correction going on. Quite often super funds let out the business of managing the assets to managers, and many of those managers are very competent. But some of the trustees have not bothered to have a proper agreement with the manager or, if they have, they have not followed up the agreement to see that the manager performs and so on. They are things of that sort that we check up on and get them to change. There is a lot of that going on.

Mr Chapman—The biggest problem we find is that the legislation sets the framework well but the trustees have not really appreciated their responsibilities and their role at the top of the tree managing the fund. So what the commissioner has really said is part of that process; it is part of raising the trustees' awareness that they are responsible for all this money and they should properly structure their agreements and their arrangements so that that responsibility is properly carried through so that members are protected.

So the issue about the resources really goes to the question, 'Can we as a regulator go out and look at more funds and achieve that improvement more effectively that way or can we do it through giving trustees the tools and information that they need to appreciate that responsibility?' That is where the regulatory dilemma comes in a little bit. We can overregulate, therefore the trustees do not appreciate their responsibilities and do it themselves, and they are the ones who know what the fund is all about, or we can underregulate and leave it to them and they are still grasping at the air a little bit in some cases as to what they should be doing as a trustee.

Dr SOUTHCOTT—That is one of the dilemmas with regulation of all the financial industries. If you have less regulation, what sorts of things can you do to make sure that there is more information in the marketplace so that there is not information asymmetry between the people who are in the funds and the funds?

Mr Chapman—It is always a good question to ask. I am not sure anybody can actually answer that. You can certainly try to standardise the information that people get. We have done that to some degree on the public offer retail side with the new prospectus and disclosure requirements. That means people can compare between funds. You can improve what they know about the investments of funds. We have done that through the legislation by making trustees describe big exposures to the members.

What you cannot necessarily do through that relates to the quality of the management or the operation

of a fund. The commissioner mentioned that they outsource administration in investment management. People might assume that if you outsource to somebody called BT then they are a big investment manager and they know what they are doing. But, if you outsource to Keith Chapman Pty Ltd, not many people have heard of them and you therefore may not know whether they are good or bad. They may actually be a better provider because they may be a smaller provider. The difficulty with the information flow is that you can make funds feed people information; it is very hard to be able to put any sort of quality stamp on that information.

Dr SOUTHCOTT—In terms of the derivatives in the superannuation funds, is the level of trading in derivatives still relatively low?

Mr Chapman—The information is imperfect; let me make that clear up-front. One of the things we found in the project was that people had different interpretations about what trading means and what 'do you do it yourself' means. We found that through the information we had available about only 230 funds said, 'We do derivative trading ourselves.' The reason I say that the information is imperfect is that some of those did not do it themselves; they used investment managers. Some of the ones who did not say they used derivatives, used investment managers who did it for them but directly on the fund balance sheet rather than through a collective investment scheme.

It seems to still be fairly low. It is definitely going to be increasing, though. People are using them, as the commissioner said, for risk management but also for surrogate exposure, if you like, where it is much cheaper to go and buy an index on the Stock Exchange than it is to go and buy the physical stock. So the indications are that, as funds get bigger and these become more viable instruments for them to use, they will be using them more than they do at the moment. But, at the moment, it is a fairly small proportion who apparently use them directly.

Dr SOUTHCOTT—Do you have any plans to publish the figures that you can get from the superannuation industry in terms of derivatives?

Mr Chapman—One of the findings of the project that the commissioner was mentioning will be a report on that project describing the sorts of things that we did, the numbers that were there, the finance we had. If you tell people what we found, then those who might not be using them now will have an idea, 'These are the sorts of things we better make sure we get right,' and those who are using them but we might not have looked at directly will say, 'These are things we should improve,' and it should raise the quality. One of the things we try to do quite a lot is to put out information about what we have done and what we have found and therefore try to raise people's awareness of the issues. It is becoming a much better tool.

If we go back two years when the new legislation first came in, we see that there was very little pick-up by trustees; they were still grasping with the principles about what they should do. Now they pick up the information and it flows through the system much better than it did in the past. So we hope from that sort of public release of the project report people will say, 'These are things that we should do.'

We are also planning to trial some seminars with the SFE—Sydney Futures Exchange—aimed at trustees both who use derivatives now and who may, based on the size and nature of their funds, use them in the future, just so they understand what derivatives are and, with the ISC involvement, understand what sorts

of controls we think should be in place when they are using them. All these sorts of things are going on. It is just a question of how far they get disseminated and how much the industry picks them up.

CHAIR—As for most people in super funds, firstly, it is compulsory and, secondly, if they are in an industry fund they probably do not have any choice of moving anyway. So they are stuck in that fund. To say, 'We will publish this,' may or may not give them much comfort.

Mr Chapman—I guess we are talking about slightly different things. I was saying that we publish it to raise the trustees' awareness and their appreciation, so they should put the controls in place. Through the review process, we will go and have a look to see whether they actually do that, and if they do not we will get them to rectify the problem.

As to members' ability to move, there is a much greater chance of movement now than there would have been five or 10 years ago, largely because of the fact that they do not have tied-in life company funds that used to be sold. The ability of a member to move between industry funds is probably much greater now than it would have been even two or three years ago, simply because they have the transfer protocol in place and the industry funds work together to try to create one balance rather than multiple balances.

Member understanding is a good point. It is another area of weakness, and it is much harder for us to address as regulator. We can address the trustees because there are not all that many of them, comparatively speaking. But to raise members' understanding of what investment issues are and what the options are is very much harder to do other than a broad brush education type campaign. That is really the key. It is not 'can members move'; it is do they understand the difference between this industry fund doing this and the risk that might arise from that and another fund doing that and the risk that might arise from that. That is a much more difficult thing.

One of the big industry funds did introduce member choice of investment. I cannot remember what the numbers were, but it was something ridiculous like, out of 25,000 members in the fund, 100 of them chose. That was a very broad choice between a balance and a growth. Member education is another big issue, but it basically sits outside our purview. We cannot hope to get into that sort of education process.

Mr WILTON—No mention has been made of the use of derivatives, if any, within the insurance industry. We know that trustees could act as a sort of quasi regulator of their use in some way, hopefully in a superannuation context. What types and volumes of derivatives are you using in the insurance industry and how are they regulated in industry?

Mr Glading—Essentially, the risk management statement approach is being used for both life and general. I talk only about life insurance. Most of the smaller companies are still not using derivatives. There are only 50 companies, so the numbers are very much lower than in the superannuation area.

The large companies—they have been using them for a long time—have their own very strict controls in place. The supervision of the life industry—based on the new Life Insurance Act, and additional to our own supervision—depends a lot upon the appointed actuary and the approved auditor arrangements, and both those professional people have an interest in the investment philosophy, strategy and performance of

the life company funds. They are required to undertake whistleblowing exercises to us if they come across any problems.

The act is very important because the onus is on the directors of the company to place the interests of the policy owners before the interests of shareholders if there is ever any conflict of interest between the policy owners and the shareholders. Most of the companies that are using derivatives are using the plain types. Some of the very large companies are using the more synthetic approach but not, so far as we are aware, to any great extent.

For about five years now, the life group has required life companies to complete a return of their assets showing both their physical holdings and the net effect of the holdings of derivatives on top of the physicals. So we do in our quarterly reviews of those life companies have a fairly clear idea of what their real risk is in the asset area compared with what their apparent risk is in terms of their physical holdings. We are really relating that to the liability structure. There is no point in looking at assets by themselves. You are really trying to relate them to the liabilities. I do not have any figures on how extensive is the use of derivatives. We would need to investigate them from that point of view. It is not something we do each quarter.

At the moment, we are also looking at the rules that we set out in a circular to the industry. There has been some concern expressed by the industry, because much of the life industry, about 70 per cent of the overall business, relates to superannuation. They provide superannuation products for the funds. The requirements of our risk management statements are slightly different from those of the superannuation group—the requirements are not, but the form of presentation that we have asked for is. So we are really just looking at that at the moment. We have conducted a review of the derivatives that are being used. We will be making fairly minor adjustments to our circular to the companies.

Mr Smith—We have imperfect information on general insurance as well because our risk management statement requirements came into full operation for balance sheets only after 31 December last year. So we expect to get more information this year.

We have approximately 160 general insurance companies. There seems to be fairly little use of derivatives by general insurers, probably because they rely almost entirely on their own shareholders' funds and on policy holder funds. They do not engage in borrowings. They invest their funds generally in very liquid assets, as they need to do to meet claims. So the general insurance position is one where we think we are under control. We will be getting quite a deal of extra information later this year as the companies come to the new balance date periods, after which they have to provide these RMSs.

CHAIR—On this whistleblowing business, is this something that happens regularly?

Mr Glading—No. A new Life Insurance Act came into effect on 1 July 1995. That provided specifically for both the auditor and the actuary of the company to provide information. First of all, if they come across anything they have to go through a process with the company—with the board and management. If they are unsatisfied with any actions taken, then they are required to give us information. In fact, to date it has not happened.

There has been no record—not that we know of—of whistleblowing to us. We have had some quiet conversations with the auditors occasionally, but it is not specifically about derivatives. We do not find derivatives a big issue in relation to the life insurance industry. It is the companies that are using derivatives and have been using them for a long time that are aware of the problems that can be caused by derivatives. So we treat it as just an integral part of the whole investment portfolio structure and everything else.

CHAIR—So generally—not only in life but in other things—whistleblowing while it is there does not actually happen.

Mr Pooley—On the super side, it is quite different. If whistleblowing is taken to include member complaints, then we get a lot. We investigate them and often find something wrong with the fund and get it corrected. So it is extremely useful on the super side. But whistleblowing may be too strong a term to use for member complaints.

Mr Chapman—But we also have auditors who, under the superannuation legislation, tell us there is a problem in a particular fund. So it has actually happened.

Mrs GALLUS—Mr Glading, you referred to a synthetic approach; I do not understand what you mean by that.

Mr Glading—Sorry, I was really just thinking of the more complicated derivatives rather than just the plain options.

Mrs GALLUS—So the use of the more complicated derivatives you were labelling as a synthetic approach?

Mr Glading—Yes. This terminology can be a bit confusing.

Mrs GALLUS—I am sorry I missed your opening address. I understand that the insurance companies when they are using derivatives are mainly using them for hedging, and they are not using them for anything else.

Mr Glading—Yes, it is a bit difficult for them. There is this problem of actually defining hedging and portfolio enhancement—that is the euphemistic term—but essentially they are for hedging and we rather expect them to use it for that purpose. It would make a problem for their solvency and capital adequacy calculations if they were to use them ill-advisedly because the actuarial rules for those requirements can be pretty demanding for extra reserves required for companies which are not relating their asset risks to their liability risks. And that would be the situation if they were using derivatives speculatively, so it would actually require them to hold extra funds, which they do not particularly want to do.

Mrs GALLUS—There was a question I wanted to ask you about something you said about the shareholders' funds, but I would rather move on to the point in your report where you have said that 50 per cent were found to have a significant weakness and five per cent a serious weakness. That is really worrying. Could you explain what sort of weaknesses we are talking about here?

Mr Pooley—Most of them are organisational problems. As I mentioned before, when we look at super funds we often find the internal administration is not as good as it should be. Sometimes there is just one trustee with all the knowledge, often a company secretary, and the other trustees just go along with that one person, because they do not have the skills. Sometimes that one person does everything in the administration of the super fund, so that opens the possibility of fraud. So we insist that they have better arrangements, and checks and balances put in place to limit the possibility of that sort of thing continuing.

As we know, a lot of super funds have their funds managed—and that is fine—but they are supposed to have agreements with the fund managers. Naturally, if you employ a consultant to do something, you should have an agreement with them—and the same with the fund manager. Sometimes there are agreements but they are not very thorough ones, and sometimes they are very thorough and require all sorts of performance but they are not followed up.

Mrs GALLUS—What would you say was an essential ingredient in that agreement?

Mr Pooley—I will hand you over to Keith Chapman on that, because he actually does inspections and I do not.

Mr Chapman—Perhaps one of the most essential ingredients of any agreement is a clear definition of who does what and what the responsibilities are. The big change that the new superannuation legislation brought into place was to clearly and squarely make the trustees responsible for everything.

Clearly, they cannot do everything so it is a question of when they delegate—whether it is internally or externally to another provider—setting out very clearly what that provider is responsible for, the sorts of turnaround times, performance standards, penalty provisions for non-adherence and things like that. They are really the key elements that a lot of the agreements do not have.

For example, we had one case very early on in the new legislation where the agreement was basically written to protect the administration provider, not the trustee, so it was a 10-year fixed-term agreement and any termination earlier than that made the trustee pay from the fund itself the next 10 years worth of fees that would have been earned. So it is bringing it back to the trustee being responsible and delegating—and the parameters that the administrator has to work within. That is probably the most key ingredient.

But we see all sort of other things in there too. For example, the service providers can deduct their own fees, so there is no check there that they have actually done the job and done it properly and that ‘This is a real invoice’. Sure, you can run the argument that that will be picked up later on, but it might be too late by then and it is much better for the trustee to have direct control now over paying the provider, because they are employing that person for the fund members. So it still comes back to that fundamental question of trustee responsibility and understanding what that means—and that is ‘It is my job as a trustee to make the best decisions for the fund members’.

Mrs GALLUS—Mr Chapman, you were in charge of investigating superannuation funds and looking at this. As an individual, with what percentage of them, if you had your money invested in them, would you say ‘Oh, shit’ and get your money out as quickly as you could?

Mr Chapman—Do I have to answer that question? I would actually hang my hat on the number which was quoted before, the five per cent. Those numbers are real numbers. We have consciously gone back and looked at what we have done and produced those numbers. They are not a top-of-the-head type of guess of what the problems are.

Mrs GALLUS—The five per cent were where you said there were really serious problems. But what about the 50 per cent?

Mr Chapman—The 50 per cent are the ones that have the potential to go badly wrong.

Mrs GALLUS—You would not want to keep your money in them either?

Mr Chapman—I would not want to keep my money in them either if they did not improve things. What we tend to find is that those 50 per cent are very receptive. Trustees in this industry tend to be very reactive rather than proactive—and I am not quite sure why. As I said earlier in response to a question, they have actually turned that around a bit in probably the last six to 12 months, and they are actually being more proactive now by going and finding the information and therefore fixing things up before we get there.

An example of what we find with the 50 per cent type of fund was one where the administration staff had delegation up to $20,000 to place investments, but there was nothing there to stop investments being redeemed. And it is all because this has been a cash flow for that fund; it has been all positive cash flow going in and therefore they put a control of 'We don't want these staff making decisions that the trustees should make as to where the money goes'. They never thought about what was going to happen if they employed the wrong person and they signed a cheque, which legitimately the investment manager must cash under the agreement, for $1 million to go into their bank account and that is the last you ever see of the person.

They are the sorts of problems we are finding in that 50 per cent and that is why I would not leave my money there if I were not sure that things were going to be fixed up. I guess our challenge as the ISC is to get that 50 per cent back into the 45 per cent, which is the minor technical type of problem. We are getting there.

The process is that we send the report, tell them what the problems are, talk to them and get their commitment to fix them up. Depending on on which end of the spectrum of the 50 per cent they happen to sit, we will go back within six months or we might go back in a couple of years and ask them to show us where it has all been improved and that things have been put right. It is very rare that we find that they have not been put right either in the six-month period or the two-year period.

So the real difficulty is that it is a fairly young industry in terms of the new legislation. It is an industry that tends to be cash flow positive at the moment—therefore trustees have a focus on money coming in, not necessarily on money going out. It is an industry where—I probably should not say this—the rules do change, and that creates administrative uncertainty. That is where things start to come apart, I guess. Trustees have not really got to the stage of saying, 'This is a business. I am running this fund as a business. I have a business plan in place that will take account of all the things that will happen to the fund in the future.'

Mrs GALLUS—I have not looked in your annual report. Do you publish a list of the companies where you are waiting to have good changes made—that you have concerns about?

Mr Pooley—No, we have secrecy provisions.

Mrs GALLUS—So the poor nut out there who has one of the really bad superannuation companies that he does not know about is stuck with it?

Mr Pooley—Or if they are in the five per cent we take very energetic action to see that things are fixed up very quickly. Keith was talking about the 50 per cent. On the other five per cent, quite often we require the trustees to tell all the members of the ISC's concerns and the particulars of it. So if it is really bad, the members know reasonably quickly.

Mr CAUSLEY—I was going to raise what Chris raised, but could I go a bit further with it. I notice you have had concerns in the past about the independence of auditors: has that improved? It surprises me that professional auditors might be deemed to be acting in concert with the trustees of a fund.

Mr Pooley—We do have problems with a few auditors each year. There are a large number of auditors, and auditing super funds is not the same as auditing a normal company. Some auditors do not have the expertise to audit super funds and they have nevertheless continued to do so. When we come across an inadequate audit, a number of things can happen. If people have been dishonest or totally negligent, then we take action to disqualify them under the act.

If they simply need more training, we suggest they go and do some of the approved courses and meanwhile not audit any more super funds until they have passed those courses. Sometimes we suggest that they should not audit super funds in future—whatever their other activities are. So there are a range of options that we use, and we get tremendously strong support from the profession in respect of all those actions.

Mr CAUSLEY—I note also that your report talks about '130,000 excluded funds'. Does this mean that you do not have any access to these funds to monitor them?

Mr Pooley—Excluded funds is just a term under the act for funds of less than five members. We certainly can and do audit some of them but almost all of our activity is focused on 5,000 funds. Of the 130,000, something like three quarters have no arms-length members, so they are mainly mum and dad super funds. But a quarter of them have one or two arms-length members.

CHAIR—Mr Pooley, I wish to clarify one point you made in the previous answer. You said that you suggest auditors might no longer act; what do you mean by suggest?

Mr Pooley—Sometimes it is a sort of Hobson's choice. We say, 'We don't think you are a fit person to audit super funds, so either we can take action against you under the act or you can stop auditing super funds or go and get some more training.'

CHAIR—Is it public or private when you make this little suggestion?

Mr Pooley—Private. If they do not take the suggestion we act, but they usually do.

CHAIR—I presume they do, but does that not run the risk of allowing that auditor then to go into another field of auditing presumably with some defect?

Mr Pooley—They may be perfectly competent to do a normal audit, it is just that they may not be at all aware of the superannuation legislation.

Mr CAUSLEY—It would not be very professional if they took on an audit that they were not competent to do, would it?

Mr Pooley—Indeed not very professional. That is quite right. But ignorance is a bit like that. If they do it knowingly it is one thing, but quite often they do not know that they are not competent to do it.

Mr CAUSLEY—You talked about the secrecy provisions. If I wanted to, can I check on my fund as a contributor?

Mr Pooley—You mean come to us?

Mr CAUSLEY—Yes, to see whether it is performing competently or not.

Mr Pooley—You can come, but we cannot tell you. We would suggest in those circumstances that you talk to the trustees, or one of them, and form a view yourself. There are quite a lot of questions you can ask. It is like going to a financial adviser. There are an awful lot of questions you can ask that will give you an indication of how competent they are.

Mr CAUSLEY—But the vast majority of contributors would not know what questions to ask.

Mr Pooley—Quite right.

Dr Roberts—We are not in a position to grade funds, like a rating agency, in terms of four stars to one star. Our responsibility is to minimise the prudential risk across the board. That is really a matter of focusing on systems and the quality of the people running these funds. Some presumably would be a little bit better at it than others. We would hope that there is a reasonable degree of security that is fairly broadly placed across the whole system.

Mr ANTHONY—I remember years ago when I started out my working career doing all my homework—this was when superannuation sought tax deductions—and I duly invested in Occidental Insurance. I thought that was the right thing to do. I thought I was quite clever. Soon I discovered I was not. Then, of course, there are all the other stories, not directly related to your area, about Estate Mortgage, and there is the ongoing legal case now with Burns Philp.

Mr Pooley—You were not in all of them, were you?

Mr ANTHONY—No, thankfully. There were a few success stories. They are quite modest, though. Of course, now there is the increasing cynicism with fees, and the governments of the day have continued to change policy. There are now about 130,000 independent superannuation funds—most professionals. And why not go into your own superannuation fund? Generally speaking, your performances are at least the same, if not better, than most insurance companies? Because of the public perception of the trustee area, it is clearly an area that has to be improved. There is great uncertainty. If you could put your finger on, say, one or two issues to improve the public perception of superannuation, what would they be?

Mr Pooley—If super funds do reasonably well in rates of return over a period of years through prudent investments, then people will start to have confidence. But expectations are a difficult thing. Members have to realise that there are good and bad years—sometimes very bad years and sometimes very good ones. They have to look over a period at how well they are doing.

The annual returns that people get from their super funds help them to focus on this because they find out the last years returns and work out their average return over five years. So that helps them a bit. If over a period of years they look at their returns and see that they are not too bad, and if they talk to their friends and find out that they have done as well as most people, that will cheer them up a bit.

As to changing the rules, most people do not like all the change. There may be things wrong with superannuation, or it could be improved, and governments seem to come to that view from time to time. I am not sure how much most members really are concerned about that, provided they think their funds are reasonably sensibly invested.

What we can do is continue with our review program and our education programs, and we publish a lot of guidance books to try to train trustees in their responsibilities. Most trustees perform reasonably well. Even if we find 50 per cent of funds are not as good as they should be, by the time a couple of months have gone by, and after our review, most of those are put right. So we hope that over two or three years the whole standard of trusteeship will go up. That will do a fair bit to improve confidence. But it is not a two-minute job.

Mr ANTHONY—Many of the banks are calling for no trustees. What is the commission's view on that?

Mr Pooley—I think that is really only in respect of RSAs, which is a new product coming in in the middle of the year. If superannuation moneys, individual member's funds, are just going to be invested in an RSA type product—which, in terms of the banks, is no more than simply into their deposit system, then you do not need some of the trustee functions to be carried out. For example, you do not need trustees to inform members each year of their investment strategy, because the banks' investment strategy does not change. As long as people are told when they go in about how the funds are invested, that is enough.

Because they are a slightly different product offered by a different institution, there is a case—the government has accepted it—for not having trustees. Some trustee type functions will still have to be carried

out by the banks, but not many.

Dr Roberts—As to the number of super funds, the task for us is not quite as bad as it seems. The great bulk of assets and members are concentrated in probably the 800 or 900 largest funds. So, in terms of providing a safe haven across the whole industry, it is really not in the 140,000 funds where all that money is managed; a great deal of it is probably in 800 or 900 funds.

Dr SOUTHCOTT—How many of those 800 or 900 funds did you review last year, or do you review? The group you review are a self-selecting group, being the most risky funds.

Mr Chapman—Our review program is basically structured around the industry funds and public-offer retail funds being cycled every three years. So about a third of each group will be done every three years, and a fifth of employer sponsored, which are the next type, will be done. I cannot answer your question precisely, because we do not split it up by the 800 or 900 largest. We split it up by type. It is a three-year and five-year cycle for those—between 200 and 300 each year.

Mr Pooley—And 90 per cent of assets and 90 per cent of members are in those top 900 to 1,000 funds.

Mr PYNE—At a time when the government is seeking to lessen regulation and require business to comply with fewer government bodies, I notice in your submission to the Wallis inquiry that you have opposed the megaregulator and you have talked about creating a new retail investment commission. Why do you feel that the ACCC should not continue to be responsible for consumer issues?

Mr Pooley—The consumer protection provisions of super are our responsibility at the moment. So we are responsible for the disclosure regime for superannuation, both the prospectus that goes out in advance and the annual statements and all of those things. We are also responsible on the life side for disclosure. What we found particularly in this area was that the skills you need for prudential superannuation of the review sort that we have been talking about are quite different from the consumer disclosure requirements. It seemed to us that there would be a good deal of merit in lining up disclosure right across the board in the financial sector. We have slightly different rules from the ASC. This is particularly so in respect of life agents. They are different from the ASC rules and we have been trying to harmonise them. In that whole process it seemed to us that there would be a good deal of merit in bringing all those consumer things under one roof.

Dr Roberts—In relation to the ACCC, I think we said in our submission that there is some merit in consolidating consumer protection in this new body and removing it from the current jurisdiction of the ACCC. But we do not have a particularly strong view on that, I suppose. There is some industry concern about being regulated twice or three times for the same potential offence—particularly misleading and deceptive conduct, where there is a Trade Practices Act provision and there are provisions we have and provisions the ASC has. So we said, 'You should have financial sector regulation for consumer protection because it has some unique problems, therefore the industry does not really want to be regulated twice.'

But if the industry were to say, 'We don't object to also coming under the Trade Practices Act if the provision was modified to put a defence in,' for example, which has been one of their complaints—that there

is not a defence in that provision that they can rely on—then we would not have a strong view on that. We have not had a strong view that there is anything wrong particularly with the ACCC coverage as well as the specialised coverage of these matters. It was just that there are some industry concerns about being regulated twice.

Mr PYNE—What are your arguments about the megaregulator? What is your concern about that?

Mr Pooley—There are a number of problems. If you put all the regulators together, you have a pretty big outfit and it may be very strongly regulatory inclined in the sense that there can be a great focus on regulation and not enough understanding on the need to regulate lightly, wherever possible to take account of self-regulation and so on. So there is an argument that keeping specialist regulation under separate roofs has some merit.

All of these things are highly arguable. If you look around the world in different countries, you find all sorts of different arrangements in place and they all work. You cannot look at a country and say, 'This is the best form of regulation,' and be conclusive about it. The present arrangements work. They do not work as well as they could. If Wallis and the government recommend and make changes, then those changes can be made to work as well.

Mr PYNE—So you would be concerned that, far from there being fewer regulations, a megaregulator would create a greater bureaucracy?

Mr Pooley—It is possible.

Mr PYNE—And more out of touch with the special needs of each industry.

Dr Roberts—It depends how you do it. We came from the position that our first order concern was that there should be a safe haven regime for policy holders and super members. A second order issue was as to where you housed that and where you moved the responsibility around. Things could be made to work well under a megasupervisor or under a separate supervisor. One of the advantages of having, say, two supervisors, where you have one for safe haven products and one for market integrity, would be that they would have a clear focus and people would understand what their focus was. They would have a clearer corporate objective than if you had a regulator with a whole range of purposes going from company regulation to disclosure to safe haven regulation to systemic stability. So it would be just a more confused role if you threw everything in.

Mr Chapman—From a practical point of view, there are different regimes of control for each of the sectors, if you like—the banks, the insurance companies, the life insurers and the super funds. It is actually very hard to get people with the skills to go across the lot. Again, the megaregulator may actually reduce the skills available to the regulator because you will get people with very broad skills and no specialist knowledge. So, from a purely practical point of view, that issue also exists.

Mr CAUSLEY—Wouldn't deregulation require complete and honest transparency, particularly with the 800 or 900 major funds? It comes back to the problem that the chairman brought up about people being

able to choose the fund they want to put their funds into that is performing the best, but the only way someone could make a choice is if they knew exactly what those funds were doing and how they were performing.

Dr Roberts—We do not think you can rely totally on disclosure. We have actually spent a fair amount of time—particularly Bob in the life area—trying to improve disclosure. But it only goes so far. There are some things, as Keith mentioned earlier, about the quality of managers and systems that are not in numbers that you can actually disclose to members; they are things we have a feeling about. So disclosure is never really a total substitute for hands-on supervision. We would say that you need both. You need to try to get the disclosure right to members so they can exercise their own decisions as much as possible, but there are efficiencies in having a collective hands-on supervisor doing some of that oversighting.

Mr Glading—It is also important to understand that we need to separate disclosure in market conduct issues or business conduct issues, like disclosure of product information and how intermediaries operate, from prudential disclosures, particularly in insurance where you are really looking at companies that are promising benefits 30 years out and thinking about the financial disclosure so the ordinary man in the street theoretically is going to understand this in terms of a life company balance sheet and a profit and loss account of a general insurance company. Publishing a profit and loss account beggars lots of questions. I just do not see that that sort of disclosure is possible. So, in terms of that type of prudential supervision, I think it really is difficult to envisage that disclosure is going to replace actual regulation.

Mr CAUSLEY—Some of the professional funds were doing quite well until the late 1980s and early 1990 when all of a sudden their property investment in the CBD of Sydney in particular did not perform very well; did it.

Dr Roberts—The last five years' returns are kind of useful in some respects, but the past should not be used to predict the future. You need a lot more elements in your regime than just saying that someone has earned good returns in the last few years; you are quite right.

CHAIR—I want to move on to fraud. Section 231 of the Superannuation Industry (Supervision) Act allows the minister to grant financial assistance to a fund that suffers a loss as a result of fraud and so on. Has there been any assistance provided under this?

Mr Pooley—No.

CHAIR—Following on from that: the act allows a government to bail out where fraud or theft has occurred and the fund is unable to meet benefit payments. But it has recently been reported that provable negligence should be included. Is negligence by funds a concern to the ISC and to what extent has negligence occurred and has been found proven?

Mr Pooley—Have we had any cases?

Mr Chapman—I guess it depends on what 'proven' means. I would read that to be a court case to prove the negligence, in which case the answer has to be no. Certainly we would say some trustees have been

negligent in recognising their responsibilities and doing things properly, but we would probably fall far short of proven negligence.

Dr Roberts—On investor compensation schemes, we take the view that the ground should be as narrow and as objective as possible to avoid liability on the part of industry, or ultimately on the taxpayer, if it went that way, from being open-ended. We would much prefer to ensure there is prudent conduct before a problem arises and to have closer control over what arrangements we might have in place after a problem occurs. The current arrangement is not bad because it is actually fairly narrowly defined, it is not open-ended and it does not raise community expectations which might be hard to meet.

Mr Pooley—I think that under the SIS trustees can be sued for negligent behaviour. So that is a safeguard for members.

Mr CAUSLEY—In what way? What if the trustees are straw people?

Dr Roberts—If there is no-one to sue or they do not have any money, it is a problem. That is why we would prefer to prevent problems occurring than rely on insurance.

Mr Pooley—Do they have PI insurance?

Mr Chapman—They do not have to, but they have to disclose if they do.

Mr Pooley—Many of them would have professional indemnity insurance but not all of them.

Mr Chapman—But the retail funds do. We make it as one of the approval arrangements that they have to have PI insurance. But PI insurance is like anything else. It depends on rigid supervision of the general insurance industry, which means that insurers would certainly meet claims but it is the contractual arrangements which are always a point of question.

We use it as a demonstration of capacity. We do not look in massive detail at the contract, but we make sure it covers their trustee responsibilities. We make sure there are no abnormal exclusions or inclusions in there. It is not a perfect system in terms of the process.

Dr Roberts—The philosophical point is that, if you increase the compensation system that would come into play after a problem, and downgrade the prudential supervision that tries to minimise the problems occurring, then you do not only create an open-ended kind of liability for the industry and the taxpayer afterwards but also encourage riskier behaviour because people feel, ‘We do not have to take so much care because at the end of the day there is a scheme.’

Mr ANTHONY—What happens in respect of master funds? This is the way the thrust of the industry is going now, so you have multiple managers potentially looking after an individual or corporate super fund. Where does the onus of liability rest—with the administrators of the master trust—when it comes to a recourse for damages after theft or fraud?

Mr Chapman—There are different types of things which are called master trusts. They vary between a fund which has one investment strategy, which multiple employers contribute to—that is the puristic definition.

Mr ANTHONY—The ones that outsource are the ones that I am talking about.

Mr Chapman—With discretionary things like Asgard and things like that, when you go into that fund you effectively buy an administration service. So, rather than you having to handle the four underlying funds, add the returns and work out where your money is, they do it for you.

There are two types of liability that can arise. If you go into one of those funds and pick a downstream investment and that investment goes bad—from bad investment decisions, fraud or whatever—that downstream investment will always be either an ISC regulated or an ASC regulated investment, because it will be a collective investment scheme of one type or another.

So there will be either a SIS trustee or a Corporations Law trustee manager arrangement in place. I would do this better with a whiteboard. There will always be one of those responsible entities there, although the corp law still has the two responsible entities. So they will be responsible if something goes wrong at the individual investment level. If something goes wrong above that, then it will be the SIS trustee who is the one who is liable for the problem.

Dr Roberts—Under our system there is always a trustee, and they are always the responsible entity. When these things go downstream they can create complexities, but we regulate the trustee and they are accountable.

Mr Chapman—That comes back to the question earlier about what should be in the agreement. The trustee will be responsible. If the trustee has any sense and they delegate to somebody else, then that agreement requires that delegate to have insurance and requires that delegate to provide redress if something goes wrong. But the responsibility is still with the trustees, and they are the ones who will be held accountable by us.

CHAIR—I want to follow up on the whole question of fraud and investigation. You will probably be well aware that the Institute of Criminology put out a paper in June last year on superannuation crime, which I know is a subject you are aware of. I would be very interested in your response to a section on this whole question of investigation. The paper says:

> The ISC is not alone in lacking experience in superannuation fraud control and investigation. The Australian Federal Police, the Director of Public Prosecutions and the National Crime Authority all remain relative novices in the field and there is clearly scope for further research and cooperation between these agencies. In the meantime, state fraud squads remain severely under-resourced.

They are fairly strong words. What is your response to that, and what have you followed up on since this report was published?

Mr Pooley—We have come across some cases of fraud—some we discovered ourselves and some we discovered because of tips we were given. When we suspect fraud, we hand the case over to the state fraud squad because that is their role and not ours. We keep in touch with them and we facilitate them.

CHAIR—But it suggests that they are severely under-resourced. Do you have confidence in them?

Mr Pooley—In a number of cases they have pursued things quite well, and some of the people are in gaol. So our experience has not been too bad.

CHAIR—Are you suggesting that this article is a little dramatic?

Mr Pooley—It might be so. Our experience has not been that the state fraud squads are incompetent.

CHAIR—No, it says 'under-resourced'.

Mr Pooley—Or under-resourced.

Dr Roberts—Our recollection when we were consulted along the way about that article, if it is the one I am thinking about, is that it was forward looking. If it is what I am thinking of, there was a reasonable acknowledgment that there had not been significant problems to date and that cases that have been referred to the police forces have been dealt with. They are trying to look forward a bit and are saying, 'This is a growing industry and people should be aware of problems that might grow larger down the track.' We do not have any particular basis for concern.

CHAIR—But it raises some pretty serious concerns. If they were responded to in time obviously you would be confident, which probably comes back to my first question. What have you seen happen since this was drawn to the public's attention?

Mr Pooley—We have not found in our experience that the state fraud people have not been able to follow up on the cases we have put to them. We can tell you only our experience. Maybe they are right: maybe in the future there will be a problem. But we have not identified it yet.

Mr CAUSLEY—In other words, you have probably done the majority of the work for them.

Mr Chapman—No, I do not think that is a true statement. Where we refer things to the fraud squad, often what happens is that we can identify that something has happened but because of the way it has happened outside the superannuation regime itself we cannot actually pursue it and do the work. So we refer fairly early on in these cases. I think it would be wrong to say that we have done most of the work for them in these cases. The commissioner is right; where we have referred them they have followed up perfectly appropriately and got to the end of the cases. We have not had a case that I am aware of where they have said, 'We haven't got resources,' or, 'We don't think it's worth pursuing.'

Mr Pooley—Thankfully there have not been too many that we know of and they have all been small.

Mr CAUSLEY—But wouldn't you think that with the proliferation of funds we have at the present time that the opportunities would probably expand?

Mr Pooley—The opportunities are there for anybody who manages money. In so far as this is a fast-

growing area, the answer would be yes. But there are a number of checks and balances in superannuation under the act that are designed to make fraud more difficult. Last year we ran a series of anti-fraud seminars for trustees. We gave out lots of kits with the suggestions that, if trustees followed them and asked all the questions that we put in at their trustee meetings and they were all dealt with properly, then all those funds would be less capable of being defrauded.

The nature of fraud, as I am sure you know, is that as soon as you have a standard check and balance then somebody will find a way through it. So fraud will always be with us, alas; but all we can do is do our best from time to time to encourage trustees to be alert. We found a very good response to those seminars.

Mr CAUSLEY—An education program which alerts trustees as to what might happen or what to look for.

Mr Pooley—Yes.

Mr Chapman—That drew on some of our experience in the review process, but we used Deloittes as expert presenters and they drew on some of their experience from the audit process as well. We actually produced a nice little booklet which, as the commissioner said, had a checklist of guidelines for trustees. Rather than saying, 'If you follow, you will be right for ever and a day,' it said, 'If you follow, you will be more aware of the issues and you reduce the chance, but you cannot eliminate the chance.'

CHAIR—I want to go on to another area of this AIC report. The National Audit Office did an audit of the ISC revealing 'serious weaknesses in the reporting regime between the ISC and the ATO'. It goes on:

> The interface between the ISC and the ATO was of particular concern to the ANAO. Its audit of the ISC found that a comprehensive compatibility check of ISC and ATO records had never been undertaken and a pilot attempt to do so was thwarted by program errors in the ATO's database.

It goes on to talk about errors in the ISC data and says:

> Based on the results of the ANAO compatibility check there appears to be the potential for a significant loss of ISC revenue with the potential for a far greater loss to ATO revenue . . . The results of this check highlight the need for the ISC and the ATO to develop a more effective system of control to safeguard their respective revenue base derived under SIS.

What has been your response to that?

Mr Pooley—We have fixed it all up. The SIS legislation dealt with some of it. We have changed our computer systems and the ATO has changed its. So it all comes together much more effectively than it did before. It was not through lack of goodwill on the part of both institutions; it was simply that the IT systems did not link up too well. But that has been, we hope, completely repaired and we have reported to the parliament on that.

CHAIR—In your submission to the Wallace inquiry, you said that the Council of Financial Supervisors required statutory backing. What particularly did you mean or expect from this that is not already amongst the various individuals in the Council of Financial Supervisors?

Mr Pooley—We put that forward as one of the options if the Wallis committee wanted to make some recommendations for improving the arrangements for coordination between the four members of the council.

We really put it forward in the context that, instead of having a megaregulator, you could draw the four together more precisely than they are at the moment.

The council at the moment is not statutory; it is an informal arrangement. We meet three or four times a year or as often as is necessary. Each of us has powers in our own right. So there are four of us with four acts of parliament. Of course, one is a state body. We talk about various problems and try to solve them. Instead of having a megaregulator with all that goes with it, we have put to Wallis that you could leave things as they are or make some changes but still have it well short of a megaregulator, and with statutory powers you could have tighter coordination.

Dr Roberts—The council has actually worked quite well, and there is a lot of goodwill and cooperation between the members. But if you are wanting to harmonise a lot of what the respective regulators do, people run into the limitations of their own statutory responsibilities. Particularly before this government's term, there was the complication that one of the major regulators was in the attorney's portfolio and the others were in the Treasurer's portfolio.

Two ways in which you could make coordination stronger and increase the degree of harmonisation of different regulations are to move the main regulators into the Treasurer's portfolio—which has been done, so that is an improvement—and to just upgrade the statutory basis of the council so that, when people run into this problem, 'We would like to take this harmonisation further but our own statutory responsibilities draw a line,' you could overcome that.

CHAIR—What about the problem of exchanging confidential information? Is that not one of the difficulties you face at the moment?

Mr Pooley—Yes, but some legislation is in the parliament to change that.

Dr Roberts—Yes, there is a bill before the House at present to improve streamlining of secrecy provisions to improve information exchange, which is really part of a worldwide trend among regulators to improve information exchange to coordinate financial regulation worldwide. That is a sort of step by step process to improve that situation. We have a basis for our secrecy provisions—to protect the commercial confidentiality of the information and for the institutions that provide it. Therefore, when you exchange information you have to ensure that the person who receives it continues to protect that information. So it is not a trivial thing to do. We are hoping that this bill will pass, and that will improve our ability to exchange information to other regulators. It will be an ongoing process amongst regulators everywhere over the next decade.

CHAIR—It is certainly not trivial. It has always been one of the difficulties faced even from the days when the ID card was first proposed.

Dr Roberts—Most of this information is not about customers; it is not personal information about customers. It is either about companies, or if it is about individuals it is about managers, directors or the executives of the product providers. It is not about the customer, which is where the greatest privacy concerns are. But there are commercial confidentiality concerns that have to be protected.

Mr CAUSLEY—The government announced that they were interested in allowing retirement savings accounts with the life offices, banks, building societies et cetera. Do you have any comment on that?

Mr Pooley—Work is proceeding on it. We hope that legislation will be introduced shortly and that these accounts will be up and operating by the middle of the year. Not all of them will be, because it takes time for people to gear up and until people see the legislation—that is, not just the laws but also the regulations—it will be a bit difficult for them to design their products to fit into that. But a lot of work is going on commercially and within the ISC to make all this possible.

Dr Roberts—The bill for that product is in the parliament. We support the product. We think it is a good product to add to the superannuation system. It should increase choice, convenience and competition in the system, which is desirable. So we have been very supportive.

There is a complication with the product in that it will result in providers of these products having two regulators. They will have their traditional prudential regulator to ensure the safety of the institution and the product and they will have a functional regulator to check compliance with the superannuation standards. For example, in the case of a bank the prudential regulator will continue to be the Reserve Bank and that product will be like any other deposit in the bank's books.

But, in regard to the superannuation standards—for example, preservation; not being allowed to cash out the money until you retire after age 55—that is our responsibility and we will be needing to regulate to ensure that. We are very conscious of not overregulating these institutions, not walking through them twice and not encroaching on the relationship they have with their traditional prudential regulator. For that reason we will be particularly non-intrusive in the way we do our part.

I suppose in the context of a financial system inquiry, if you were looking at that issue, you might think that there are some advantages, if you have a safe haven for superannuation, in having all superannuation regulation under one roof. That would be seamless from the point of view of the bank, the building society or the credit union. But we will just have to wait to see how that turns out.

Mr CAUSLEY—How much overlapping in the industry is like that?

Dr Roberts—There is a sort of whole range of overlaps in regulation and I suppose whichever way you shift things around you will solve some and create some. Our view is that it is particularly important to have one system and one regulator for superannuation, which is what we currently have. When RSAs come in on 1 July you will then have two regulators in the sense that the safety of the bank will be a matter for the Reserve Bank and the compliance with the retirement income standards for RSA products provided by the bank will be ours. We will ensure that that works smoothly, because we will be very careful about it. But I suppose you could see some advantages if that were all under one roof.

CHAIR—I think we have had a fairly wide-ranging list of questions. I thank everyone for coming before the committee today. It has been greatly appreciated. If we have any follow-up written questions, would you be happy to take them?

Mr Pooley—Indeed we would.

CHAIR—Thank you.

Resolved (on motion by Mr Causley):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

Committee adjourned at 11.30 a.m.