



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

BILLS

**Superannuation Legislation Amendment (Trustee
Obligations and Prudential Standards) Bill 2012**

Consideration in Detail

SPEECH

Wednesday, 23 May 2012

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Wednesday, 23 May 2012
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Questioner
Speaker Billson, Bruce, MP

Source House
Proof No
Responder
Question No.

Mr BILLSON (Dunkley) (10:49): I move:

(1) Schedule 1, item 9, page 6 (lines 1 to 20), omit paragraphs 29VN(b) and (c).

[obligations of trustee]

This amendment was foreshadowed by my friend and colleague the shadow Treasurer and member for North Sydney, I reflect on the fact that a key issue raised by the coalition in the second reading debate was not addressed adequately in the minister's summation. I am hopeful that he may be able to provide some small insight into the government's thinking.

Our amendment relates to the scale test for MySuper funds that is contained in new sections 29VN(b) and (c). This requires trustees to determine on an annual basis that there is sufficient scale in terms of assets and beneficiaries such as not to disadvantage the financial interests of beneficiaries relative to the financial interests of beneficiaries in MySuper products held and operated by other funds. Just to explain our thinking here, an otherwise perfectly acceptable fund that satisfies all of APRA's requirements in terms of prudential standards—its governance, its investment performance, its commitment to the best interests of beneficiaries, its fees and its returns—must now pass an additional scale test in order to be an acceptable provider of a MySuper product where they can be authorised by APRA to be one of the default funds that the minister talked about.

Essentially what is happening here in the opposition's view is that the government is seeking to legislate to provide for an unsubstantiated presumption that, when it comes to super, bigger is best. This is the only policy rationale that seems to be driving the government's actions—that somehow bigger is best and that, invariably, larger funds provide for lower fees and higher returns. Sadly, there is no evidence to substantiate that assumption, yet that presumption is now being legislated in what the government is providing. So here we have a presumption, with no basis of evidence, being injected into this framework.

It is clear that a number of smaller funds, as the shadow Treasurer outlined, can be more nimble and better able to exploit market opportunities and in this way actually provide returns superior to those that are offered by larger, less flexible and less agile funds. At best, we think this provision seems redundant because the minister outlined all of the new requirements and touched on the best interests of members and how those are enshrined and then the prudential framework that APRA would be putting in place. But now there is this additional test, a scale test. We are concerned that that may confer an advantage on larger industry superannuation funds that is simply not substantiated and not justified by the facts and that these larger funds simply get a head start because they are large, not reflecting on any of the performance criteria or governance or prudential requirements that the minister spent a few moments talking about. We are concerned that this would have an adverse impact on competition and would represent a new, unjustified barrier to new entrants, and interestingly the coalition is not alone. It should come as no surprise to the minister that these are concerns shared right across the sector by stakeholders.

The minister spoke about being prepared to work with people of goodwill to further develop this framework, yet clearly he has not been listening to the input he has been getting, and in fact this input should come as no surprise. It was input that was provided when there was draft legislation prepared and it is input that has been reflected in the parliamentary joint committee. Even the union-controlled Industry Super Network commented, 'We agree that the scale test is problematic.' We then saw the Association of Superannuation Funds of Australia concur with that view: 'We believe the current wording of the scale test is problematic.' They urge that the scale test be reviewed. Mercer, one of the larger funds, which might have thought it would be advantaged by this, itself identified that 'the scale test is not needed if the trustees have the responsibility to act in the member's best interest'. If all of the safeguards that the minister alluded to are to have any value and utility at all, the scale test becomes completely redundant. The Financial Services Council identified that the scale test should not be in the law. It said:

Not only is it a barrier to entry but the test, as suggested in the current drafting, is very subjective, very open.

There is nobody we can find who actually thinks this scale test adds anything whatsoever.

Mr Shorten interjecting—

Mr BILLSON: Sorry, I stand corrected. The minister put his hand up and said there is one person who thinks it is a good idea: it is the minister. We are blessed that he has such wisdom and foresight to share when everyone else active in the sector—all those people he urges to be consulted—do not think so. So we think this is redundant and should be removed. (*Time expired*)