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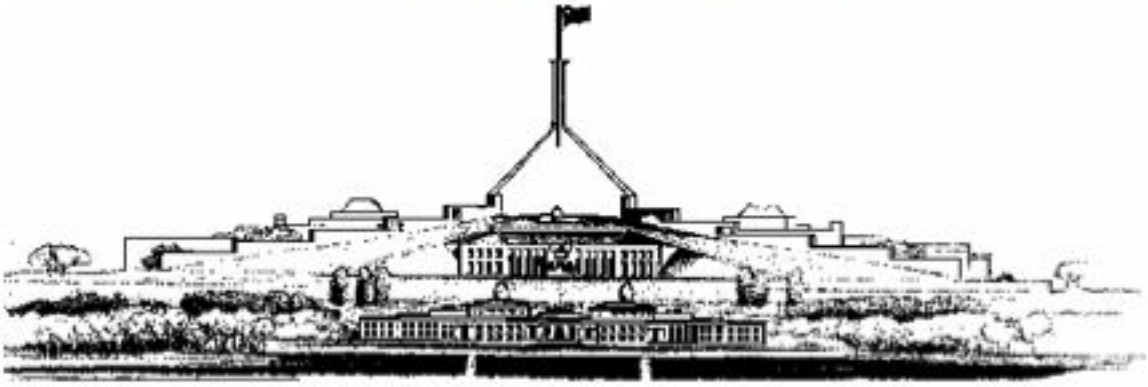

THE SENATE

SUPERANNUATION LEGISLATION AMENDMENT BILL (No. 4) 1999

Second Reading

SPEECH

Wednesday, 8 December 1999

BY AUTHORITY OF THE SENATE

SPEECH

Date	Wednesday, 8 December 1999	**Source**	Senate
Page	11376	**Proof**	No
Questioner		**Responder**	
Speaker	Watson, Sen John	**Question No.**	

Senator WATSON (TAS) (10.22 am)—I rise on behalf of the government to support the Superannuation Legislation Amendment Bill (No. 4) 1999 put forward by the government. One of the strengths of the superannuation arrangements in Australia, particularly the superannuation guarantee system, is the flexibility in terms of investment restrictions. We are different to most other countries in that superannuation funds are free from some of the very onerous investment regulations. While this bill will certainly restrict certain investments which may expose funds to greater risk, it will allow superannuation funds considerable scope for diversified investment.

It is important to look at the matters that have moved since the budget announcement some time ago. For example, there have been very generous grandfathering provisions, especially for those funds that had particular arrangements in place on budget night. Essentially, all those funds would have been protected. Also, there is the incentive to increase the business rule property exemption from 40 to 100 per cent. A number of submissions acknowledged the very extensive consultation that has taken place. It has taken a long time and there has been a great deal of consultation. Naturally, not everybody was happy about particular outcomes.

I am particularly pleased about an amendment that the government agreed to following the hearing in Melbourne on 18 November. I refer to the government's agreement to the use of an interposed unit trust, but only in circumstances where that unit trust is not allowed to borrow. Perhaps one of the most contentious issues arising from the deliberations of the hearing that I chaired in Melbourne was the view that widely held trusts are in a position to leverage and to borrow much more extensively than is possible under the arrangements for the smaller funds. That seemed to be a grievance. I must say that that sort of issue raises a number of problems for me in superannuation. Leverage is always a difficult area because any leverage at all exposes funds to a greater risk. Obviously, the responsibility of any superannuation trustee is to get the highest return, commensurate with the minimum amount of risk. Of course, any situation which allows leverage is a situation where members' investments are open to greater risk. Perhaps this was the issue that really dominated the whole of the hearings.

We have to go back a little in history, because when the SIS arrangements were first put in place—they were put in place by a Labor government with close supervision by the superannuation committee, which Senator Sherry and I chaired over that period—there was a very strong feeling that there was to be no borrowing whatsoever. Subsequently, a piece of paper was issued by the ISC that allowed an extraordinary situation where you could not borrow directly, but if you interposed a unit trust, that unit trust was able to leverage or borrow. As such, it meant that super funds were in a position to acquire a wider range of assets. But the whole process effectively lifted the risk profile of many small funds. It is always difficult for regulators to look closely at investment strategies, so broad guidelines have to be laid down. The government in its wisdom has seen fit to do so, but in some cases where you have an interposed trust there is exploitation of the situation. That is not in every case—in fact, I would say the majority of super funds that use this interposed trust as a mechanism for leverage do so very responsibly. But, of course, we have to be careful as legislators to make sure that we do not allow those who are unscrupulous to move in.

One of the big challenges in the superannuation industry at the present time is that this pot of gold in superannuation continues to grow at a tremendous rate. Despite the government announcement, it is significant to point out that do-it-yourself funds, small super funds, et cetera are still increasing in number, size and importance. I remind you that it was always the original intention of the SIS, supported by both levels of government, that there should not be borrowing. This raises the wider question that a number of funds alluded to: why do you put so-called tighter restrictions on the smaller funds rather than on the larger funds, where they can invest in companies that have a certain amount of gearing or have these sorts of trusts?

There is also the question of investing in certain types of derivatives. Derivatives are an issue that I think will challenge the superannuation industry in the future because, used inappropriately, they can be used as a mechanism of leverage—and no, I am not satisfied that we have got these rules completely right in Australia at the present time. It could well be an issue for further evaluation not only by our committee, if time permits, but

also by the industry generally. That is because, after all, we have to safeguard the protection of these moneys, particularly as more and more of people's money is being put into the private sector, and there will always be people within the private sector who put private profit, personal greed, ahead of members' interests. You can always get situations where you have a very aggressive chairman taking a fund in directions which may not necessarily be in the best interests of the wider membership, despite all the sorts of powers that we seem to be giving to the individual members. My time is brief; I know the minister is anxious to get on with this bill, so I will conclude my remarks in support of the bill.