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PARLIAMENTARY DEBATES



THE SENATE

BILLS

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

Second Reading

SPEECH

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BY AUTHORITY OF THE SENATE

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Questioner
Speaker Xenophon, Sen Nick

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Senator XENOPHON (South Australia) (13:28): I would like to indicate my support for the provisions in the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012, particularly those aimed at greater accountability and transparency for superannuation funds. But we need to go further. The Cooper review into superannuation talks about the theory of 'rational and informed investors versus real-life experience'. Up until now the presumption has been to treat super fund members as informed and rational investors, which in an ideal world I am sure we all would be. But this is not an ideal world.

The report quotes from ABS figures which show that 46 per cent of 15- to 74-year-olds, approximately seven million people, would struggle to understand documents such as job applications and payroll forms; 53 per cent of people surveyed reached only the second of five levels in a practical numeracy test; and 70 per cent, or 10.6 million people, only managed to reach level 2 in a series of problem-solving exercises. The report states that the survey developers regard level 3 as the minimum required by individuals to 'meet the complex demands of everyday life and work'. Leaving that aside and apart from the obvious concerns this raises about our education system, it is clear that we cannot expect everyone to be a financial genius or even financially literate. Should these people—according to the ABS survey, the majority of our population—be disadvantaged? For many people super is something that is there to be thought about later; it is for old age. There are not many people I know who will voluntarily admit, even to themselves, that they fit into that category.

But superannuation is compulsory. We do have some choice about what fund, whether we make voluntary contributions and whether we direct our fund managers or leave them to it. Ultimately the law says we have to have superannuation, and most of us do not make an informed choice. If the government uphold superannuation as compulsory, as it should be, then they also have a responsibility to ensure the sector is appropriately regulated and that consumers are protected. The Cooper review, which the government are holding up as the basis for these reforms, states:

... there is presently a lack of transparency, comparability and, ultimately, accountability in the Australian superannuation system ...

That, clearly, is the nub of the problem.

There is an unstoppable trend to increase transparency in the financial services sector, and that trend has in part been driven by a lack of trust in the financial services sector. I look to the work of those who have been campaigning for better governance and for better accountability over many years, such as Dean Paatsch of Ownership Matters and formerly of RiskMetrics. The key theme of the many opinion pieces that Mr Paatsch has written over the years, and his work, is about improving governance and transparency, and about getting meaningful information as to how your fund is performing and its compatibility with other funds. We just do not have that at the moment.

I applaud the government for the action it has taken so far and the further action it is planning to take, but there is far more we can do for consumers—for those who put their life savings, effectively, into these super funds. Firstly, consumers need to be able to make meaningful comparisons between funds. I acknowledge that there are provisions in the bill before us to require greater transparency from funds and for them to publish certain comparisons relating to scale. Clear and relevant information is important. Funds should be required to provide standard figures about returns, member numbers, fees, executive pay and commissions in a standardised format to allow for easy comparison. That is a given, and they are fundamental benchmarks. Ideally, however, commissions should not come into this question at all. Where there is an essentially compulsory product we need to move away from commissions, which are more likely to encourage risky behaviour on the part of fund managers and trustees.

I also note the provisions in this bill relating to conflicts of interest. I support the intention of this legislation, which is to require fund trustees to place the interests of their MySuper clients above any other interests.

Ultimately, however, this raises the question of whether fund trustees should be required to disclose these conflicts and demonstrate exactly how they prioritise their interests. There also needs to be greater openness and communication on the part of the funds themselves. Funds should be open about answering questions in relation to their operations. A greater release of information would be likely to engage consumers with their funds, and provide them with the understanding and confidence to hold their funds to a higher standard.

Currently, for most consumers superannuation is all too hard. That is understandable, given the current complexities and the current lack of transparency. But as people get closer to retirement they tend to focus on their super more and begin digging through the paperwork, annual reports and carefully-worded statements to find out what all this could possibly mean for them in their retirement. Unfortunately, too many of them get a nasty shock and their last years at work are spent frantically trying to build up their fund to get them through retirement.

But if funds provided clear and relevant information and focused on engagement and conversation with their members, consumers would benefit in the long run. Funds need to consider the idea of direct discussions with their members, either through AGMs or other meetings. This is something that must be structured into funds so that every fund member has the right to attend an AGM in the same way as for a public company. There must be ways that this mechanism can be put in place and that the information provided to members is meaningful information; meaningful comparisons so that relevant questions can be asked about the performance of the fund and the governance of that fund.

I foreshadow that if this is something that the government does not come up with in its next tranche of reforms then I believe it is worth moving specific amendments to the legislation so that there is that level of transparency, accountability and engagement for individual fund members to attend a nominated meeting or participate via online and ask the directors of that super fund relevant questions and keep them accountable. Consumers need to be empowered to ask questions and insist on answers, and we do not have that now.

There are not many of us who would not complain if we were overcharged in a supermarket or restaurant. But because we do not have the information we need, we essentially can give some super funds a free pass. The basis of the Cooper report was that we need to move the superannuation sector from the idea of an 'engaged consumer' towards the idea of 'choice architecture'. The report explains this as the idea that if a consumer is financially literate and engaged then they should be able to make choices about their super funds, but if they are not then they should not be disadvantaged. According to the review, the super system should provide optimal outcomes for both. I strongly support this.

However, I believe that putting further, easy-to-understand and comparable information into the public sphere will help to engage consumers in superannuation. This further accountability should also be a priority for the government, given the significant amounts of government expenditure on superannuation. Taxpayers deserve to know their money is being well spent and that the appropriate safeguards are in place. They also deserve to know that their investments are being protected.

More importantly, there are issues such as long-term investment strategies and mandates that need to be considered. Given the importance of superannuation in our economy, both in terms of the investment and in terms of security for retirees, we should be opening the industry up further and encouraging funds to move away from liquid investments and more towards concrete investments such as infrastructure. I know that there has been a debate in the recent Senate committee hearing where David Farley from the Australian Agricultural Company talked about the importance of superannuation funds investing in Australian agriculture. I think that is a very real issue, and that if we had greater transparency and a more accountable system it would encourage that.

While these types of investments may not have the short-term gains generally associated with super funds, they are likely to have better and more secure returns in the long run. Ultimately, we have been presented with the ideal opportunity to reform the superannuation industry in Australia. Given our ageing population and uncertainty about global finances, there has never been a better time. I can indicate my support for this bill, and I hope that this is only the beginning of this discussion and the necessary reforms.