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**SUBMISSION TO THE PRODUCTIVITY COMMISSION'S 2001 REVIEW OF THE
SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993 AND CERTAIN
OTHER SUPERANNUATION LEGISLATION**

1 The principal contentions of this submission are:

1 that competition and the advancement of the superannuation industry ought not be restricted and almost nullified as now, by the publication of misleading and deceptive Performance Returns on funds

2 that the regulator be specifically held responsible under legislation for ensuring accuracy and consistency in the method(s) used in the calculations of Performance Returns published by the industry;

3 that the regulator be required under legislation to be responsible for regular spot checks of published Returns and of any particular Returns which are the subject of complaints from the public;

3 that in order to increase and improve competition in the issue of super products, artificial and unnecessary legislative demarkations be abolished between financial organisations which are denied and those approved to issue super products

4 that similar demarcations be abolished between categories of dealers, brokers, investment advisers and financial planners (note; some of the above may presently be in process of legislative change).

2 I, John Patrick McAuley of 3/1310 Pacific Highway, Turramurra, NSW am

: a retired bank Chief Economist;

: a former Administrative Appeals Tribunal Member:

: author of "Capital and Wealth in Australia's Post-war National Balance Sheets" (Longman Cheshire);

: "The Structure of Australian Public Debt" (ANU Press).

My work experience has been in central, trading and saving banking, State and Commonwealth banking, stockbroking and in financial planning and advising.

3. I have held a licence as an Investment Adviser continuously since about 1983. and I am 'independent' of any financial institution

4 Recent events with the general insurer HIH have produced a crisis in Australia's system of prudential regulation and in particular, have shown the weakness of the single-regulator concept, implemented following the Wallis Inquiry despite the explicit objections raised by the Reserve Bank of Australia in relation to banking. However supportable is the notion that insolvent financial organisations should be allowed to fail, the HIH failure is about to demonstrate that society will not allow governments to acquiesce in such a situation. Prudential and regulatory authorities were expressly set up to deal with these emergencies, but in the end, a society will hold governments accountable for the aftermath. HIH has shown the imperative need that a more effective system of prudential supervision and regulation should extend also to life insurance/superannuation as well as banks. Prudential supervision of the superannuation industry is exercised by APRA and ASIC..

5 This P/C Review is concerned primarily according to its Terms of Reference, with "competition". Competition is not automatically ensured by the existence of a

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sufficiently large number of competitors in the industry. "Monopoly" profits may conceivably continue for long periods before competitors can bring the industry towards the economist's notion of an "equilibrium" state where undue profits do not occur. Nefarious practices may prolong these periods. .

6 In the superannuation industry, competitors are numerous but the Quality of competition is disputable from the investor's viewpoint. This is because investors, advisers, brokers, planners, dealers and rating agencies are given inadequate knowledge of the respective merits of the various super funds. Details of the portfolios of the funds are disclosed only at long intervals and usually in outline only. In the absence of suitable alternatives, published historical Performance Returns are perforce, major indicators but in many cases these rates may be misleading and deceptive because of inappropriate methodology which I shall discuss in a later paragraph. It seems that the ASIC regulator applies to published performance returns, no checks, even occasional, spot checks, nor in response to a complaint. This situation needs to be remedied without delay. Until public confidence can be established in published Returns, competition is a farce.

7 My third conclusion stated in para 1 above is that I believe all managers of Managed Funds ought be enabled to issue superannuation products, rather than having to set up separate legal entities to do this, operating under the same roof with the same staff. There are of course, tax and other differences between super and other managed funds but these can easily be encompassed within the same financial organisation.

8 For the same reason, it is anomalous that all categories of financial licences for advisers etc do not automatically extend to the handling of superannuation, my fourth conclusion.

9 The methodology upon which Performance Returns are calculated and published by the funds can be grossly misleading and deceptive in my opinion, and therefore contrary to Corporations law, section 995 of the Trade Practices Act. According to a letter of 13.2.01 from the Minister of Financial Services and Regulation, all Performance Returns of managed funds which are members of the Investment and Financial Services Association (IFSA) are to be calculated as from 1.1.01, according to Standard 6.00 adopted by IFSA. There are a number of deficiencies in the use of this Standard (I have a copy available for perusal). It is incongruous that those fund-members which are presently publishing appropriate rates, are now being obliged to use a defective S6.00 in the supposed interest of consistency.

10 Three major defects of S6.00 are :1 The base of each calculated rate is the unit's Exit price at purchase date, not the Entry cost (this particularly inflates the rate for those funds having a large difference between the Exit and Entry price). 2 The base price at purchase date omits commission costs, a further inflating factor.

3 The shortest rate calculated is for one year only. This can be grossly misleading if most recent periods, distributions have been negligible and capital movements adverse;. in a recent case, a most attractive but deceptive 34%pa i-yr rate in one quarter was followed for reasons mentioned, by a negative rate in the next quarter. New & existing investors may well have been misled into buying or holding when the published rate was 34%pa, only to discover their error too late next quarter.

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The theme of my Submission is that if the community is to be encouraged and in some cases, FORCED to save via superannuation (eg in the guarantee charge), the least that can be expected of authorities is first, that Cheating and other malpractices should be properly policed; and second, that the quality of Competition should be improved.

Otherwise, contributors to superannuation can rightly claim they have been duded when they check the value of their investments, and are dismayed to discover this value to be DECLINING by around 10% pa, as has been happening over the past year, according to my GRAPH .

PRICE TRENDS: 2000 ON

