

## Chapter 15

# Prudence under Pressure

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*If you can keep your head when all about you  
Are losing theirs and blaming it on you,  
If you can trust yourself when all men doubt you,  
But make allowance for their doubting too ...  
... you'll be a [prudent] Man, my son!<sup>1</sup>*

The past 18 months have provided a salutary reminder of Justice Putnam's famous warning, 'Do what you will, the capital is at hazard.'<sup>2</sup> The market price of listed shares and non-government bonds has taken a beating. The values of their unlisted counterparts have arguably yet to reflect this re-rating, but it would be dangerous to assume that the wide discrepancies in valuation reported in recent months can continue. The ruins of complex structured products, orphans of once-proud investment banks, lie strewn across a financial wasteland.

Superannuation funds and their trustees have had to negotiate this storm. Industry figures suggest that the average balanced superannuation fund suffered a loss of almost 20 per cent in the 12 months to 31 December 2008.<sup>3</sup> That figure would no doubt have been worse but for the precipitous fall of the Australian dollar, which provided an offsetting currency gain for any unhedged exposures to international assets.

It would be naive to assume that this environment hasn't unsettled many super fund members, and perhaps a few regulators. Recent market events will inspire scrutiny of the investment decisions taken by super fund trustees of an intensity that few will ever have experienced before. Some members will no doubt take aim at the investment decisions made by the trustees on their behalf. The regulators may also intervene. This paper looks at some of the issues that may arise. In particular it reviews how the law relating to superannuation fund trustees deals with investment risk. It also considers the way that the incorporation of 'alternative' type investments and investment strategies

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1 Adapted from Rudyard Kipling, *If* (1909).

2 *Harvard College v Amory* (1830) 26 Mass (9 Pick) 446.

3 See for instance data available at <<http://www.superratings.com.au/latestreturns>>.

This is a preview. Not all pages are shown.