

House of Representatives Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Review of the Australian Prudential Regulation Authority Annual Report 2020

Division/Agency: Australian Prudential Regulation Authority

Question No: APRAQoN07

Topic: First State Super

Reference: Page 13 Hansard, (29 March 2021)

Member: Jason Falinski

Question:

Mr FALINSKI: If you fine AMP or a retail super fund, their shareholders pay for it. Talk me through the case of First State Super, which is now Aware Super, when they had a situation where they were fined for financial advice that they were providing. Who paid those fines? Was it paid by the members or by the shareholders?

Mrs Rowell: I believe in that case it came out of reserves in StatePlus, which is not a superannuation entity.

Mr FALINSKI: You believe that, or that is the case?

Mrs Rowell: I'm fairly—

Mr FALINSKI: My understanding is—sorry.

Mrs Rowell: I'm fairly certain that's the case, but we can confirm that on notice.

Answer:

In 2016 Aware Super purchased State Super Financial Services Australia Ltd (State Plus). The specific case you are referring to concerned the payment of remediation to members by StatePlus rather than payment of a fine imposed by a regulator.

StatePlus undertook a process to identify affected members relating to its fee-for-no service issues. Once identified, these members were remediated by StatePlus with the funding for the payment being sourced from StatePlus' retained profits (i.e. its own financial resources).

We are unaware of any fines having been imposed on StatePlus or Aware Super that were paid for by Aware Super (whether through the exercise of any right of indemnification from the fund or otherwise). APRA notes that [ASIC is seeking civil penalties](#) in relation to the fees for no service conduct. This matter is ongoing.

We note that a 'fine' and 'remediation' are distinct concepts. In general terms, a fine is imposed on a regulated entity by a regulator in relation to a breach of a law. Remediation however broadly refers to a payment made to address any loss suffered by a member as a result of an error or other failure that occurs (including from an external event) in the course of operating a fund.