

Answer to question on notice and in writing:

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

**AUSTRALIA'S FOUR MAJOR BANKS AND OTHER FINANCIAL INSTITUTIONS:
SUPERANNUATION SECTOR**

APRA-S02QON:

CHAIR: Thank you, Ms Quinn. Ms Cole, I have two last questions. In the AustralianSuper case, Justice Blue based a number of his decisions on confidential submissions made by counsel for AustralianSuper. Have you seen this in any previous cases?

Ms Cole: I'm going to ask Ms McCann to deal with that one.

Ms McCann: Yes. I'm happy to, Ms Cole. Chair, it's the fact that, across a number of these trustee court applications, aspects of their submissions were kept confidential. This was something that was put to the court and considered by APRA. Of course, normally you'd have the open court principle, because it is in the public interest for the evidence tended in these sorts of proceedings to be publicly available. Having heard arguments in the court as to why it could be detrimental to the interests of the fund for all of this information to be made public, some of the judges have made confidentiality orders around some of the material that was submitted.

CHAIR: Did the funds share their submissions with you prior to the cases?

Ms McCann: Yes. APRA was provided with the information.

CHAIR: So you have seen those confidential submissions?

Ms McCann: I'll have to get back to you on notice on that one, Chair.

CHAIR: Yes. Please take that on notice. Given that there was no-one representing the interests of members in any of these cases—

Dr LEIGH: That's just not true.

CHAIR: and we've had confirmation before this committee today that members will now be paying civil penalties when they have incurred those losses against them, are you really happy with the outcome of these cases, given that Ms Cole said earlier that members' interests are first and foremost in the actions that APRA takes?

Answer:

APRA was provided with the submissions made by trustees in relation to each application. In some instances, there was certain confidential information and privileged material that APRA did not see.