

**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-S08QW:**

In testimony before the Committee, Ms Cole suggested that general reserves can be “repurposed”, with retrospective application. Does APRA have a legal basis for this interpretation, and has it sought advice on this issue?

**Answer:**

Section 115 of the SIS Act provides that a trustee can maintain a reserve for a particular purpose. APRA has observed that trustees maintain general or administration reserves pursuant to the reserving powers that provide for their establishment and operation in their trust deeds, and they are further governed by policies and strategies determined by the trustees.

Based on APRA’s supervisory experience, it would not be uncommon for such reserves to already be sufficiently broad in purpose to allow for the payment of a new kind of administration fee from them (such as a fee for trustee remuneration).

Where a trustee has the necessary power in their trust deed to pay an amount to the trustee company for a specified purpose, for example to remunerate the trustee for services provided or to build a contingency reserve on the trustee’s balance sheet, it is open to the trustee to pay this amount out of general reserves.

The use of reserves is subject to respective constitutions and accounting rules. We do not consider legal advice is required.