



**ASIC**  
Australian Securities &  
Investments Commission

Committee	House of Representatives Standing Committee on Economics
Inquiry	Review of the Four Major Banks and Other Financial Institutions
Question No.	ASIC02QW
Topic	Superannuation Funds and Penalties
Reference	Written, 16 February 2022

### Question

Does ASIC consider that penalties should be lower for superannuation funds where there is a risk that a penalty would make the trustee insolvent?

### Answer

No. ASIC's approach to enforcement generally is set out in [Information Sheet 151](#).

ASIC, notes that, whilst ASIC provides submissions on the appropriate penalty amount, ultimately, determination of penalty is a matter for the court: *Australian Energy Regulator v Snowy Hydro Limited (No 2)* [2015] FCA 58. In accordance with sections 1311A and 1317G of the *Corporations Act 2001* (Cth), when a court is considering what penalty to impose, it is required to take into account the impact the imposition of the penalty may have on beneficiaries of the superannuation fund.