

Economics References Committee

Improving consumer experiences, choice, and outcomes in Australia's retirement system

Friday, 29 November 2024

Answers to Questions on Notice

1.

CHAIR: Do these funds flow through to the sponsoring unions, or do the individuals keep the money?

Mr Swan: Some union directors have their funds paid directly to the union. Some receive them personally.

CHAIR: If you could take on notice who does what, that would be very helpful.

ANSWER:

The Cbus 2024 Annual Financial Reports detail director remuneration, see page 7.

2.

CHAIR: Okay. It's a large fund; I understand things can go wrong. That's why we have frameworks in place in the law and operationally to protect the members' interests. I assume you have a risk and control—

Mr Swan: Of course we do. Let me make this one point: we are not the only fund that has a challenge with a third-party provider and has delays in the processing of insurance claims. This is also an issue elsewhere in the industry. But, in saying that, we accept complete accountability for the outcomes. That's why we have worked very hard with both the regulators and our fund to uplift our practices in this area, and that's what we're doing right now.

CHAIR: On your risk register, is one of the risks the nonpayment of insurance claims?

Mr Swan: Of course it's a risk. But do I have the risk register in front of me? No, of course I don't. I can't answer that question.

CHAIR: Okay. Maybe I should ask Dr Edwards, then. What's the control in the risk register against the nonpayment of insurance claims?

Dr Edwards: Payment of insurance claims is an important element in our risk control framework. But, beyond that, as you're aware, Senator, ASIC has commenced some action against us in the Federal Court that relates to insurance claims. In my view—and I'm advised—to reverse these issues in this context risks introducing elements which are sub judice and to which we should not respond.

CHAIR: That's okay. Mr Swan, you have been discussing these matters on the *Today Show*, and you've said the cause of this principally lays with a third-party operator. I want to read out into the record the super prudential standard requirement:

The Board cannot abrogate its responsibility for functions delegated to management.

Ultimately, you are responsible for the operation of the fund.

Mr Swan: I have said publicly—

CHAIR: My point is, Mr Swan, you can't really blame Link under the law.

Mr Swan: We accept complete accountability for these outcomes, but neither can you ignore the condition of the third-party operator. But, as Dr Edwards and I said before, these matters could be the subject of legal action, and to comment any further could prejudice that outcome.

CHAIR: But do you think it's a good look for you, as the chair, to be blaming Link?

Mr Swan: I think there is a challenge with Link. It's the subject of public discussion not just for Cbus but for a number of other funds. Beyond that, I can't make any comment.

CHAIR: I again remind you of your legal obligation. You cannot abrogate responsibility, so you cannot blame third parties.

Mr Swan: I'm not abrogating responsibility. We accept complete responsibility and accountability. I've said that on numerous occasions publicly.

CHAIR: Can you provide your risk register on notice?

Mr Swan: I'll take that on notice.

ANSWER:

The Fund's risk register contains sensitive and confidential information and therefore is not able to be disclosed publicly.

The Fund's risk framework outlines how it identifies and manages risk, including insurance risk and the elements of that process. See pages 34-35 of the Cbus Annual Integrated Report 2024 for further information about how the Fund identifies and manages risks.

3.

CHAIR: Do you have members of the CFMEU or CFMEU officials on the books at Cbus?

Mr Swan: What do you mean by 'CFMEU officials on the books'?

CHAIR: Do you have people who are working for the CFMEU also being paid by Cbus?

Mr Swan: We have directors on the board who work for the administrator. We have one director, but I'm not sure what that question is aimed at.

CHAIR: I'm wondering whether there are people who are CFMEU members who are paid by the super fund.

Mr Swan: We will pay people who work for our fund. We only pay people who work for our fund. We only pay employees. I'm not sure what you're getting at. Tell me what you're really wondering.

CHAIR: I'm wondering if there are any uncommercial arrangements here.

Mr Swan: Of course we don't enter into uncommercial arrangements.

CHAIR: So there are no family members or no other particular special deals done for any CFMEU members at Cbus?

Mr Swan: Not to my knowledge.

CHAIR: I might get you to take that on notice.

Mr Swan: I'm happy to take any question on notice.

ANSWER:

All employees are directly employed by the Trustee, with no duties carried out on behalf of any sponsoring organisation.

All employment and contractual arrangements are conducted in line with standard employment practices.

4.

CHAIR: What about the issues around the changes that Cbus sought to RG 97, the regulatory guide dealing with member disclosures? There was a public interest immunity claim signed by Dr Chalmers, the Treasurer, where he was required to consult with Cbus, and Dr Chalmers and Cbus wanted that document to be covered up.

So what discussions did you have about that?

Mr Swan: I didn't have any discussions with Dr Chalmers about that, but I certainly think some Cbus officials may well have had a discussion about that very important issue which inhibits investment, as other funds would have done so as well.

CHAIR: I might get you to take that on notice then.

ANSWER:

Cbus engages with policymakers and regulators to advocate for the best retirement outcomes for members. The Fund's engagement on RG 97 was consistent with this approach.

5.

CHAIR: I want to ask you whether Cbus had a 40th birthday celebration proposed.

Mr Swan: We did.

CHAIR: Where was that to be held?

Mr Swan: It was held at the Regent Theatre here in Melbourne.

CHAIR: What was the cost of that event?

Mr Swan: I'll take that on notice.

ANSWER:

On 1 July 2024, Cbus convened an event that incorporated an all staff strategy forum, and a reception to mark the achievements of the Fund for members over the last 40 years. It was the first all staff in person event Cbus had held since 2019. The event involved over 750 attendees, including employees, stakeholders, and industry representatives. The objective of the event was to secure alignment across employees and key stakeholders on strategies to ensure Cbus remains one of Australia's largest, fastest growing, and best performing super funds for members. The cost of the event was approximately \$387,000 and was met using pre allocated budget for professional development of staff. The cost comprises of delivery of strategic planning content, venue hire, food and drink, audio visual and production delivery costs.

6.

CHAIR: Did the event go ahead as a birthday party for Cbus, or did it go ahead as a staff planning day or something similar?

Mr Swan: What it did achieve was a focus on our 40th anniversary and what it meant for the reform of the fund as we went forward. From our point of view, it was a key strategic part of the uplift we were seeking to achieve and the changes we have put in place over a period of time under our new CEO, Mr Fok.

CHAIR: Were there any discussions internally about whether spending members' money on hiring out a big theatre would meet the best financial interests?

Mr Swan: I'm certain it would have met the best financial interest test because it was an integral part of developing the fund, celebrating its history and learning the lessons of what it means for the future of the fund.

CHAIR: Did you have a discussion about whether it would meet the best financial interest duty?

Mr Swan: I'd have to take that or notice.

ANSWER:

A best financial interest duty assessment was completed for the event. The Fund acknowledges an independent review has identified opportunities to further strengthen our best financial interest duty framework and practices. The Fund has accepted in principle all of the recommendations of the independent review.