

House of Representatives Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Review of the Australian Prudential Regulation Authority Annual Report 2022

02 June 2023

**Division/Agency:** Australian Prudential Regulation Authority

**Question No:** APRA04QON

**Topic:** Youpla – Funeral insurance

**Reference:** Spoken (Hansard Page 20)

**Member:** Allegra Spender

**Question:**

**Ms SPENDER:** I wanted to move on to the Youpla funeral insurance issue that has been around for some years now. It's been put to me that Youpla's business model was the sale of life insurance contracts from the beginning, even though it wasn't authorised to do so. Is that APRA's view?

**Dr Carmody:** I'd say two things on Youpla. Firstly, there's quite a bit of work that ASIC has been doing in that respect. Probably a lot of the detailed commentary would be more readily answered by ASIC. I think one of the issues is that there is a provision in the Life Insurance Act which explicitly carves out funeral insurance. There's a limit to what we can do when that sort of business is explicitly carved out of the regime.

**Ms SPENDER:** My understanding is there is a difference between funeral insurance and funeral life insurance, and that's the piece I wanted to understand. What's been put to me is that this was actually a type of funeral life insurance, and therefore it was under APRA as opposed to some sort of funeral service expenses benefit or for funeral expenses insurance.

**Dr Carmody:** Certainly, our understanding at this point—and I'm happy to take some further consideration on notice—would be that it hadn't come under our regime.

**Answer:**

Please refer to the response provided in APRA06QW.

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**Division/Agency:** Australian Prudential Regulation Authority

**Question No:** APRA05QON

**Topic:** Youpla Licensing

**Reference:** Spoken (Hansard Page 20)

**Member:** Allegra Spender

**Question:**

**Ms SPENDER:** Youpla was part of our conversation earlier. Was APRA aware that the Supreme Court, the Federal Court and FCA judgements and determinations found that the ACBF and Youpla were offering life insurance policies?

**Dr Carmody:** As I said, we might come back to that on notice. When you look at APRA's approach to engaging with entities, first and foremost, we supervise and regulate licence-holders. To the extent that Youpla wasn't licensed by APRA, we wouldn't have been supervising them. If there's a question there about whether they should've had a licence—

**Ms SPENDER:** I think that's probably the question.

**Dr Carmody:** Personally I'm not aware of determinations where that finding has been made, but I'm very happy to take that one on notice and see what awareness we've had of that position.

**Ms SPENDER:** My follow-up question was going to be to say: have you considered prosecution of ACBF or Youpla under the section 17 of the Life Insurance Act, but it sounds like you're not aware of the—

**Dr Carmody:** I'll have to take that one on notice. My apologies for that.

**Ms SPENDER:** Take those on notice. We'll send them to you formally. The fundamental question is whether they should have been licensed.

**Dr Carmody:** I understand. I'll take it on that basis. Thank you.

**Answer:**

Please refer to the response provided in APRA06QW.

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ANSWERS TO QUESTIONS ON NOTICE

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02 June 2023

**Division/Agency:** Australian Prudential Regulation Authority  
**Question No:** APRA06QW  
**Topic:** **Aboriginal Community Benefit Fund (ACBF) & Youpla**  
**Reference:** Written  
**Member:** Allegra Spender

**Question:**

Following on from questions raised at the public hearing on 2 June 2023 in relation to ACBF–Youpla, please advise:

***Licensing***

- a. Does APRA now believe ACBF–Youpla should have held a licence for life insurance policies? What is the basis for this view and when did APRA form this view?
- b. Why was ACBF–Youpla not required to hold a license for life insurance?

***APRA's role and action***

- c. Has APRA considered a prosecution of:
- ACBF–Youpla under section 17 of the *Life Insurance Act 1995*?
  - ACBF–Youpla's directors and officers for ancillary liability?
  - If so, what was that consideration ?
  - If not, why not ?
- d. Has APRA taken any action in relation to ACBF–Youpla issuing 'life policies' (i.e. 'a contract of insurance that provides for the payment of money on the death of a person', as defined in section 9 of the Life Insurance Act)?
- If so, what action and when?
  - If not, why not?
- e. Did APRA at any time make any enquiries about ABCF–Youpla, or its business of issuing of life policies, to:
- ACBF–Youpla?
  - Any Funeral Fund Regulator including the NSW Department of Fair Trading under the *Funeral Funds Act 1979 (NSW)*?
  - The Australian Securities and Investments Commission (ASIC)?  
If so:
    - What information did APRA gain about ACBF–Youpla's business and its issuing of life policies?
    - When and what, if any, resulting action was taken?
    - If no action was taken, why not?
- f. Did APRA at any time make any enquiries or take any action when:
- National Mutual-AXA terminated its life reinsurance of ACBF–Youpla?
  - ACBF–Youpla entered into a life reinsurance with an offshore life reinsurer?
  - If so, what?
  - If not, why not?

- g. Did APRA at any time take any internal or external legal advice about ACBF–Youpla issuing life policies or its regulatory powers in relation to ACBF?
- If so, did the legal advice contradict the legal decisions?
  - If not, why not?
- h. Did APRA at any time consider using any regulatory powers in relation to ACBF–Youpla’s issue of life policies?
- If so, what was that consideration?
  - If not, why not?
- i. Does APRA consider that in relation to First Nations policyowners of ACBF–Youpla’s, it fulfilled that part of the regulator’s ‘Our Purpose...to ensure Australians’ financial interests are protected...’?

**Answer:**

ACBF-Youpla is not and has never been an APRA-regulated entity as it does not run a life insurance business as defined under the *Life Insurance Act 1995*.

APRA is not able to take action against non-regulated entities.