

Inquiry into improving consumer experiences, choice, and outcomes in Australia's retirement system

Responses to questions on notice from Senator Bragg, 17 December 2024, following on from the public hearing of 29 November 2024 for the Senate Economics References Committee's inquiry into improving consumer experiences, choice, and outcomes in Australia's retirement system.

17 January 2025.

TOPIC: General Business Practices

1. Does Cbus apply any of its members' funds in litigation funding either directly or indirectly?

Response:

Cbus does not fund or lead class actions but will participate in class actions at no cost where the action is considered in the best financial interests of members and is consistent with the Fund's Litigation Policy. The Fund does not directly invest in any litigation funders, but its external investment managers may from time to time hold shares in companies where part of their business is involved in litigation funding. That said, we are not aware of any current holdings in any such companies.

2. Does Cbus lend shares to short sellers?

Response:

Yes. Securities lending to approved financial institutions is a common and well accepted market practice that adds incremental value to the portfolio. Cbus' investment strategy is designed to maximise returns for members over the long term.

Page 5 of Cbus' Responsible Investment Policy sets out Cbus' approach to securities lending: <https://www.cbussuper.com.au/content/dam/cbus/files/governance/policies/Responsible-Investment-Policy-Summary.pdf>.

3. How much does Cbus spend annually on advertising?
4. As Chair, what is your perception of the purpose of that advertising?

Response:

Qs 3-4:

Information regarding Cbus' expenditure on promotion, marketing and sponsorship is available here: <https://www.cbussuper.com.au/content/dam/cbus/files/governance/reporting/amm-fy24-detailed-website-disclosure.pdf>.

Promotion, marketing and sponsorship helps to grow Cbus' Fund and increase scale, which positions Cbus to deliver lower fees for members.

5. What sports sponsorships does Cbus spend members' money on? What is the value of each sponsorship?

Response:

Cbus does not have any sports sponsorship arrangements.

6. Do any employees of Cbus receive any "perks" as a result of these sports sponsorships? (tickets to matches etc.)

Response:

No. Cbus does not have any sports sponsorship arrangements.

7. As Chair of Cbus, have you personally received any complimentary benefits?

Response:

No. Cbus does not have any sports sponsorship arrangements.

8. Can you provide a copy of the Cbus risk register from 2022 through until today?

Response:

The Committee can refer to the written response provided on Friday 13 December 2024.

9. Does Cbus have an ESG excluded list of companies that it does not invest in as a rule?
10. Which defence companies feature on the list of excluded companies that Cbus does not invest in as a rule?

Response:

Qs 9-10:

Information about Cbus' portfolio-wide investment exclusions, including in relation to defence companies, is on page 30 of Cbus' Responsible Investment Supplement 2024:

www.cbussuper.com.au/content/dam/cbus/files/governance/reporting/responsible-investment-supplement-2024.pdf

11. Will Cbus be supporting the superannuation summit in the United States in February? If so, who will be attending on behalf of Cbus?

Response:

Participation in global discussions on investments and retirement savings is a routine aspect of Cbus' work to deliver strong outcomes for members. Engaging with governments and advisers provides a deeper understanding of policies and likely policy changes, which is critical to assessing new investment opportunities and the potential impact on existing investments. With the change in Government and President in the US, it is a particularly pertinent time to undertake this updated analysis.

Decisions about Cbus representation at the summit planned in the US for February will be guided by whether it will advance member outcomes and align with their best financial interests.

TOPIC: Insurance

1. When was the board advised about a possible breach relating to the payment of insurance claims?

2. When was ASIC informed?
3. When did the board know about the administration issues? (Firstly, the Risk Committee, and the full Board)
4. Did the board do any planning/analysis in the wake of the pandemic about their reliance on third party providers?
5. Has ASIC's investigation triggered a review of other customer services such as complaints handling? Should this have been brought in house earlier?

Response:

Qs 1-5:

As the Committee is aware, these matters are the subject of ongoing legal proceedings in the Federal Court of Australia.

The Committee can refer to Cbus' statement regarding ASIC proceedings against Cbus Super on insurance claim delays here: <https://www.cbussuper.com.au/about-us/news/media-release/asic-proceedings>.

Cbus does not intend to comment further on these matters at this time as doing so may prejudice the proceedings and would not be in members' best financial interests.

6. Would the Cbus board benefit from specialist skills in areas like administration or retirement solutions?
7. Can Cbus access those skills when drawing from a limited talent pool inside of unions and employer groups?

Response:

Qs 6-7:

Cbus Board Directors bring various capabilities and career experience, technical specialities and formal education, and are of different gender, age, geographic representation etc.

Under Cbus' Equal Representation Model of governance, the Cbus Board is comprised of an equal number of member and employer representative directors, as well as two independent directors. The model protects both member and employer interests by having their voices represented at the Cbus board. See further Cbus' website at <https://www.cbussuper.com.au/about-us/how-were-run/board>.

The Committee may refer to Deloitte's independent review report, which concluded that all current and nominated Directors on the Cbus Board meet the 'fit and proper' test as at the date of the report: www.cbussuper.com.au/content/dam/cbus/files/governance/reporting/deloitte-independent-review-report.pdf. Cbus is working with Deloitte to develop an action plan to address each of the recommendations of its independent review.

8. In response to your statements on the Today Show apportioning blame to Link, the organisation says: *"The decision-making authority rests with the trustee and insurers,*

and we operate under extensive business rules that vary for each fund.” Isn’t it true that the trustee makes the decisions about insurance claims?

Response:

As the Committee is aware, these matters are the subject of ongoing legal proceedings in the Federal Court of Australia.

The Committee can refer to Cbus’ statement regarding ASIC proceedings against Cbus Super on insurance claim delays here: <https://www.cbussuper.com.au/about-us/news/media-release/asic-proceedings>.

Cbus does not intend to comment further on these matters at this time as doing so may prejudice the proceedings and would not be in members’ best financial interests.

TOPIC: Deloitte Report

1. When did you receive the Deloitte report?
2. When did you read it?
3. Did you request the deletion of the first media release on the Deloitte report?
4. Did Deloitte or APRA raise a concern about the initial release? If so, what was their concern?
5. Why was it reissued?

Response:

Qs 1-5:

The Committee can refer to responses provided in person on 29 November 2024.

TOPIC: Partnerships

1. Has Cbus paid the CFMEU for research?

Response:

Information regarding Cbus’ expenditure on promotion, marketing and sponsorship is available here: <https://www.cbussuper.com.au/content/dam/cbus/files/governance/reporting/amm-fy24-detailed-website-disclosure.pdf>.

2. Does Cbus hire CFMEU staff or their family members?

Response:

The Committee can refer to Cbus’ written response provided on 13 December 2024.

3. Deloitte’s report states there are *“no metrics outlined in the Partnership Proposal...”* Why did you tell the Senate that the partnerships are *“audited, supervised and made under the BFID framework”*?
4. Deloitte’s report states: *“Despite this emphasis on partnership benefit, and calculation method, there are no metrics outlined in the Partnership Proposal as to how to assess*

what member outcome will be achieved for each specific expenditure (such as a reduction in fees). There is also no guidance provided as to how the matter should be monitored on an ongoing basis.” Accordingly, why did you tell the Senate: “all of those arrangements [union partnerships] are subject to BFID assessment”?

5. Deloitte’s report stated they were “unable to identify a complete set of underlying data and assumptions that support the [industry partnership assessment] methodology.” Accordingly, why did you tell the Senate: “We get very good value from them [union partnerships], and that value is measured, and we’re accountable for measuring that”?
6. You told the Senate: “Those agreements are audited, supervised and made under a BFID framework. They are the subject of review in a number of inquiries at the moment. I believe they will be demonstrated to be successful programs which deliver good value for the fund, rather than spending that amount of money in other areas such as advertising.” Do you stand by this statement?
7. How do you as Chairman satisfy yourself that members’ money is used in the best financial interest of the members?
8. The independent expert could not find any justification for the union payments and therefore given that the board has the onus of establishing that these payments are in the best financial interest of members, has this breach been reported to ASIC?
9. What process of formal BFID assessment have Cbus’s union partnerships undergone?
10. What ongoing assessment have the union partnerships been subject to?
11. How have you quantified and tested the value of the union partnerships to members?
12. How are you accountable for those BFID assessments?
13. Where, and by what metrics, have the union partnerships enhanced member returns?
14. How do you measure the success of these union partnerships? What is their ROI versus your other forms of advertising?

Response:

Qs 3-14:

The Committee can refer to Cbus’ statement regarding Deloitte’s independent review report here: <https://www.cbussuper.com.au/about-us/news/media-release/statement-regarding-deloitte-independent-review>.

15. What Cbus Board members have their fees paid directly to them, and who has them paid to the union?

Response:

Details of director remuneration are available on Page 5 and following of Cbus' 2024 Annual Report: <https://www.cbussuper.com.au/content/dam/cbus/files/governance/reporting/cbus-annual-financial-report-2024.pdf>

16. Please provide a list of the current (including suspended) partnership agreements Cbus has signed with a third party. Please provide the date on which the board approved the partnership agreement, the date it was signed, the date a Best Financial Interest test assessment was conducted, and the purpose of the agreement.
17. Please provide a list of research projects or arrangements that Cbus has requested from any union, including suspended agreements.
18. Please provide the date on which the board approved the research project or arrangement, the date it was signed, the date a Best Financial Interest test assessment was conducted, and the purpose of the agreement.

Response:

Qs 16-18:

Information regarding Cbus' expenditure on these arrangements is available here:

<https://www.cbussuper.com.au/content/dam/cbus/files/governance/reporting/amm-fy24-detailed-website-disclosure.pdf>.

TOPIC: Trust Deed

1. You told the Senate in November that:
CHAIR: My question is about the trust deed changes. Cbus did change its trust deeds so it could charge members for future fines, hasn't it?
Mr Swan: No, it hasn't done anything of the sort.
Why did you make this statement given the changes to the trust deed to allow these charges was announced to Cbus members in February 2022 when you were chair? (statement from Cbus website entitled "changes to trust deed" dated February 2022).
2. Did you deliberately mislead the Senate or were you unaware of these changes when you gave evidence to the Senate?

Response:

Qs 1-2:

The question was posed in the context of an exchange about the Fund's management of insurance claims, with the answer rejecting the clear implication being created that Cbus had made changes to its Trust Deed following ASIC's recently announced legal action.

Like other not-for-profit super funds, Cbus changed its Trust Deed in 2021 (after obtaining judicial advice from the Supreme Court of New South Wales) including to protect members' financial interests by setting clear parameters for making provision for reserves to deal with potential future regulatory penalties. See *Application by United Super Pty Ltd atf Construction and Building Unions Superannuation Fund* [2021] NSWSC 1679 per Henry J.

3. One of the benefits of the large fund flow Cbus has experienced is that you're able to achieve economies of scale. Then why has Cbus been steadily charging members more in administrative fees since 2019?
4. Why are Cbus' administrative costs rising as a proportion of your FUM despite your increased scale?

Response:

Qs 3-4:

Information about administration fees charged by Cbus is available here:

<https://www.cbussuper.com.au/content/dam/cbus/files/forms-publications/general-information/Fees-Factsheet.pdf>

Cbus's administration fees have not been rising as a proportion of FUM.

Cbus reduced its administration fees in 2022 and 2024.

In 2020, Cbus adjusted its administration fee model such that all administration fees are deducted directly from member accounts. Previously, a component of the fee was deducted from the return allocated to member accounts. The change aligns with industry standards and allows Cbus to cap fees for very high and very low balances, to the benefit of members.

5. How much money is held on reserve for future fines?
6. How much have members paid into the reserve for future fines?

Response:

Qs 5-6:

Cbus has established reserves to meet legal liabilities imposed on the trustee. Details of our reserves is available on Page 11 of Cbus' 2024 Annual Financial Report:

www.cbussuper.com.au/content/dam/cbus/files/governance/reporting/cbus-annual-financial-report-2024.pdf

TOPIC: Interaction with Government

1. How many meetings have you had with Dr Chalmers since becoming Cbus Chair on 1 January 2022?
2. What have each of the meetings been about? Please supply agendas and follow up items.
3. Have you met with the Prime Minister or other Ministers on Cbus matters? If so, when and please supply details of each meeting.
4. Who at Cbus discussed the commitment of \$500 million to the HAFF with the Treasurer's office? Cbus CEO Kristian Fok provided evidence to the Senate that: *"the opportunity was with (Mr Swan)...I am not aware of any conversations"*
5. What was the opportunity Mr Fok says was provided to you as Chair?
6. When you left Parliament, Dr Chalmers released a media release describing you as a mate and a mentor. Were you Dr Chalmers' mentor?

7. Four days prior to your \$500m announcement with Dr Chalmers, your Cbus staff were lobbying the Treasurer's office to have stamp duty removed from the regulatory disclosure requirements. What involvement did you have in that lobbying?
8. What issues changed in the HAFF exposure draft legislation that enabled Cbus to overcome your concerns as institutional investors?
9. Why did Cbus seek to suppress its lobbying effort on RG97?
10. Mr Fok says "*I wasn't consulted*" over the Cbus effort to suppress the lobbying effort on RG 97 which was the subject of FOI and orders of the Senate. Who made the decision to ask for the documents relating to Cbus lobbying on RG 97 to be kept private? Dr Chalmers later made a public interest immunity claim for Cbus stating the material was commercial in confidence. Were you consulted on this matter?
11. Why was this lobbying considered to be "commercial in confidence"?

Response:

Qs 1-11:

The Committee can refer to responses provided by Cbus in person on 14 November 2024 and 29 November 2024, and in writing on 13 December 2024.

TOPIC: Cbus Board Nomination

1. What was the process of Mr Crumlin's appointment to the Cbus Board?

Response:

After applying a comprehensive 'fit and proper persons test', the board confirmed Mr Crumlin's appointment.

2. Were any Cbus Board nominations rejected?
3. Have any Cbus Board nominations historically been rejected? If so, on what grounds?
4. Who from the Master Builders Association invited you to be the chair of Cbus ?

Response:

Qs 2-4:

In addition to the response provided in person on 29 November 2024, nominations and appointments to the Cbus Board are made in accordance with Cbus' governance framework, which includes the Trust Deed and Trustee's Constitution. Further information is available on Cbus' website here: <https://www.cbussuper.com.au/about-us/how-were-run/governance>

5. What are Dr Edwards specific risk management skills to chair the Board Risk Committee?
6. Who invited Dr Edwards to chair the Risk Committee?
7. When did that happen?

Response:

Qs 5- 7:

The Committee can refer to responses provided in person on 29 November 2024.

8. Does Dr Edwards receive additional remuneration in this role ? If so, how much?

Response:

Details of director remuneration are available on Page 5 and following of Cbus' 2024 Annual Report: <https://www.cbussuper.com.au/content/dam/cbus/files/governance/reporting/cbus-annual-financial-report-2024.pdf>

TOPIC: Best Financial Interests Duty

1. What are the BFID frameworks Cbus has used in the past?
2. What is the current BFID framework used by Cbus?
3. How are the BFID assessments and decisions supervised?
4. How are the BFID assessments audited?
5. Which BFID assessments have been audited, and what were the outcomes? Who undertook those audits?

Response:

Qs 1-5:

Cbus has a BFID framework as described in the Deloitte independent review report. Cbus is addressing recommendations from the Deloitte independent review report to strengthen this framework. Further information is available here: <https://www.cbussuper.com.au/about-us/news/media-release/statement-regarding-deloitte-independent-review>

6. Did you approve the budget for the 40th anniversary celebration at the Regent Theatre?
7. What was the total cost for the 40th anniversary celebration?
8. What was the Cbus Board approval process for the 40th anniversary celebration budget?
9. What was the 40th anniversary celebration budget approval process against its best financial interests duties?
10. How many Cbus members attended the 40th anniversary celebration?
11. Which CFMEU officials were invited to the 40th anniversary celebration?
12. Were the investment team encouraged to attract fund managers as sponsors of the 40th anniversary celebration?

[Additional questions received via email, 19 December 2024]

13. What state or federal parliamentarians were invited?

14. Who of these attended?

Response:

Qs 6-14:

The Committee can refer to the written response provided on 13 December 2024.

Invitations to the reception were extended to officials from sponsoring organisations and no parliamentarians attended the event.

TOPIC: Cbus Staffing

1. Referring to reporting of the Morningstar rating that was released on Cbus, it outlined that: *"Turnover across Cbus' senior ranks remains an issue ... While turnover has not been high across the broader investment team and replacements have mostly been made, it's hard to view Cbus positively for its culture or ability to retain key talent as things stand"*. This was reported at the same time it became public that some senior staff had resigned. How many executive staff have resigned or been made redundant since the start of the year?
2. Did any resignations or redundancies include staff involved in Risk?
3. Did this include the Deputy Chief Risk Officer?
4. Did this include the Acting Chief Risk Officer?
5. Did this include the Chief Strategy Officer?
6. Did this include the Deputy Chief Investment Officer?
7. Have any senior positions been made redundant in the last six (6) months?
8. Of all of these positions, did any exit interviews occur? Who conducted the exit interview?

Response:

Qs 1-8:

Cbus renewed its business strategy in FY2024 and has undergone executive and structural changes to ensure it can continue to deliver the best possible retirement outcomes for members. The Committee can refer to information about the executive in Cbus' Annual Reports and responses provided in person on 29 November 2024.

9. Does Cbus currently have an executive position that deals with compliance?

Response:

Yes.

10. Please provide on notice a list of union officials, or their immediate family members, who have been employed by Cbus Super. Please provide the date they were engaged, if the engagement was advertised publicly, and the purpose of their engagement.

Response:

The Committee can refer to the written response provided on 13 December 2024.

TOPIC: Investment Presentations

1. Does the Cbus Super investment team make presentations to shareholder unions to show that they are managing members' money correctly?
2. How often are these presentations conducted?
3. When was the last presentation made and to who?
4. Has the investment team ever made presentations to non-shareholder unions?
5. Which unions have they presented to?
6. When did these presentations take place?
7. Who attended these presentations?
8. What is the basis of making investment presentations and justifying your investment strategy to unrelated third parties?

Response:

Qs 1-8:

Fund representatives regularly provide presentations to employer and union stakeholders across a range of superannuation and investment matters.

TOPIC: Software and Tech Services

1. What software has Cbus used to process death and TPD insurance claims since 2019?
2. What tech service providers has Cbus partnered with since 2019, that help process death and TPD insurance claims?
3. Have there been any issues with either software or tech services providers that may have caused delays to processing death and TPD insurance claims?
4. If so, what actions did the Cbus Board take to address these problems causing delay?

Response:

Qs 1-4:

Claim handling is a complex process that involves multiple third parties.

As the Committee is aware, these matters are the subject of ongoing legal proceedings in the Federal Court of Australia.

The Committee can refer to Cbus' statement regarding ASIC proceedings against Cbus Super on insurance claim delays here: <https://www.cbussuper.com.au/about-us/news/media-release/asic-proceedings>.

Cbus does not intend to comment further on these matters further at this time as doing so may prejudice the proceedings and would not be in members' best financial interests.

[Additional questions received via email, 20 December 2024]

TOPIC: Financial Advice

1. On 28th November 2024, Cbus announced it would provide financial advice services to members and their spouses for \$990 including GST. Does Cbus expect Advice Essentials Plus to be a profitable line of business?
2. Are the financial advice services designed to be cheaper than external financial planners?
3. What has the Advice Essentials financial performance been each year? Is it a loss-making or profitable part of Cbus?
4. Are these services funded using members' money?

Response:
Qs 1-4:

The Committee can refer to our media release regarding Advice Essentials Plus: <https://www.cbussuper.com.au/about-us/news/media-release/advice-essentials-plus>.