

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates, 16 & 17 February 2005

Question: Add 24

Topic: APRA – Funding of an Industry Advertising Campaign

Hansard Page: E113/114

Senator Watson asked:

A report in the Australian *Financial Review* and other daily papers allege industry superannuation funds amassed a \$20 million fighting fund for an advertising campaign in the lead-up to superannuation fund choice from 2005:

- How is the proposed advertising campaign being funded?
- How does the expenditure of such a significant sum on advertising to prospective investors comply with the sole purpose test provided in the Superannuation Industry (Supervision) Act of 1993, which requires that the funds be maintained for the benefit of existing members?
- Is it appropriate that retirement savings invested for example in industry funds are proposed to be used in a way that is not part of an investment strategy aimed at ensuring that existing members will have sufficient income in their retirement? Isn't this particularly of concern where industry funds claim that all profits are to their members?
- In relation to a number of non-fund affiliates, eg. the administrators, and those who spend their money as they see fit, does APRA conduct audits to ensure that it is not fund money?

Answer:

- The proposed campaign will be funded by industry funds, using member money.
- APRA has discussed the proposed funding arrangements with relevant entities. Although the arrangements have yet to be concluded, they are broadly similar to past industry fund advertising practice. It is APRA's understanding that the advertising is designed to retain existing members in the choice environment.

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- APRA has taken the view that a limited amount of member education on superannuation matters is an appropriate ancillary purpose under the *Superannuation Industry (Supervision) Act 1993*. Such education is helpful to assist members in making informed decisions about their superannuation. Examples include informational evenings and seminars offered to members by some funds, and informational advertising. APRA's preliminary view is that the industry fund campaign, as currently contemplated, falls within this ancillary purpose.
- APRA takes a more restrictive view of advertising expenditure that is focussed primarily upon recruiting new members. It is considerably more difficult for a fund trustee to justify such expenditure as a valid ancillary purpose.
- APRA looks at such expenditure on a case-by-case basis. Campaigns which focus primarily on member retention and education for existing members are not likely to be in breach of the sole purpose test. No external advice in the form of circulars or guidance notes has been issued by APRA. In those circumstances in the past where APRA has taken the view that advertising has not be primarily to inform and educate existing members, APRA has taken appropriate action.

APRA has recently written to all superannuation trustees to clarify its expectations in regard to marketing expenditure.

APRA does not conduct audits, nor does it have general power to review non-regulated entities. However, APRA's regulatory reach has been extended (on a transitional basis) so that there will be a right to obtain information from certain non-regulated entities that are service providers to funds. Under the new *Superannuation Industry (Supervision) Act 1993* outsourcing standard, agreements covering material business activities, such as administration, must include, by 30 June 2006, provisions to enable APRA to seek from the service provider information and documents relating to a particular fund under the agreement, or to have an audit of the activities under the agreement conducted by an independent auditor.