

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates, 16 February 2006

Question: AT 43

Topic: *Regulated funds having independent custodians*

Hansard Page: E55

Senator WATSON asked:

Does APRA insist that all regulated funds have an independent custodian?

Mr Khoo—No, we do not.

Senator WATSON—It is not a condition of licence?

Mr Khoo—No, it is not.

Senator WATSON—Why not? Would you like to take it on notice?

Mr Khoo—Yes. Is there a context which you would like us to respond to or are you asking the question in general?

Senator WATSON—I would have thought that it would have been a prudential requirement for licensing. I am happy for you to take the question on notice, because I think it deserves a serious response.

Answer:

The options available to an APRA-licensed trustee of a public offer superannuation entity to meet the capital requirements of s.29DA of the Superannuation Industry (Superannuation Act) 1993 (the SIS Act) are :

the trustee holds \$5 million Net Tangible Assets (NTA); or
the trustee has the benefit of an approved guarantee for \$5 million; or
a trustee has mixture of NTA and an approved guarantee which total to \$5 million; or
the trustee has agreed to an arrangement whereby a custodian (which should be a corporate with at least \$ 5 million NTA) holds the assets of the superannuation funds under trusteeship.
Where the trustee of a public offer superannuation entity does not hold the required amount of NTA or an approved guarantee, the assets of the funds under its trusteeship must be held by a custodian. The standard additional licence condition imposed by APRA is that the custodian is independent of the trustee.

Where the trustee of a public offer superannuation entity holds the required amount of NTA or an approved guarantee, there is no requirement for the assets of the superannuation entities under its trusteeship to be held by a custodian. If such a trustee uses a custodian, the trustee and the custodian are not required to be independent of each other.

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A trustee licensed only for the trusteeship of a non-public offer superannuation fund is not required to have the assets of the superannuation fund custodially held but may elect to use the services of a custodian.

APRA considers custody of assets to be a 'material business activity' that requires a written outsourcing agreement which meets the requirements of the outsourcing operating standard in r.4.16 of the SIS Regulations. The outsourcing standard applies regardless of whether the custodian is independent of the trustee. In addition, a licence condition for trustees of public offer superannuation funds is that the custodian contract reflect APRA's Cross Industry Circular No.1 Custodian Requirements for APRA Supervised Entities.