

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates, 31 May to 2 June 2005

**Question: Bud 105**

**Topic: APRA - Recent case – Unit 11 Pty Ltd v Sharpe Partners Pty Ltd [2005] FCA 635**

**Hansard Page: Written**

Senator Watson asked:

1. Is APRA aware of the facts in the case of Unit 11 Pty Ltd v Sharpe Partners Pty Ltd [2005] FCA 635, which involves a claim for losses allegedly suffered as a result of breach of duty by an auditor? What action has APRA taken as a result?
2. Is the Arts Investment Trust of which Unit 11 Pty Ltd is the trustee, a related trust of TWU Super and subject to the ‘in house assets’ test of Part 8 of the *Superannuation Industry (Supervision) Act 1993*?
3. What disclosure is currently required under the law for related party transactions and does APRA consider this disclosure to be sufficient?

Answer:

1. Yes. APRA became aware of Unit 11 Pty Ltd (formerly Leisure Entertainment Tourism and Sports Trust (LETS)) in the course of the June 2005 Prudential Review of TWU Nominees Pty Ltd (TWU), conducted as part of the assessment of the RSE Licence Application received by APRA on 20 April 2005.
2. APRA understands that LETS was set up by TWU in 1996 as a vehicle for alternative investments such as theatre properties, musical productions, sport merchandising companies and art initiatives. Due to a number of investment failures, corporate governance concerns and administration problems LETS was placed in voluntary administration in 2000. All creditor claims have since been settled by the administrator. In March 2004 the trustee served a Statement of Claim on the fund's former auditor for breach of duty in the course of the audit work performed in respect of the 1996/97, 1997/98 and 1998/99 financial years. During the June 2005 Prudential Review APRA was advised that Unit 11 Pty Ltd is in a wind-up mode pending the settlement of the claim against the auditor, which is expected to be finalised in the 2005/06 financial year.

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As at 31 December 2004 TWU Superannuation Fund (TWUSUPER) had a direct holding in Unit 11 Pty Ltd of \$251,240 (0.02% of total assets of TWUSUPER) and \$149,290 (0.01% of total assets of TWUSUPER) indirectly via the Transport Investment Fund (TIF) (a wholly owned subsidiary of TWU Nominees Pty Ltd). The overall holding in Unit 11 Pty Ltd has been well below the 5% limit on in-house assets under the Superannuation Industry (Supervision) Act 1993 (SIS Act)

3. The TWUSUPER's holding in Unit 11 Pty Ltd is disclosed under related party transaction in the Fund's financial statements for the year ended 30 June 2004.