

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 1 - 2 November 2006

Question: sbt 80(APRA)
Topic: Trustee investigations
Hansard Page: E55-56

Senator SHERRY asked:

Could you check it out for me, because if that is the sort of information that was being sought as part of the licensing process, I would like to know the basis on which it was being sought.

Mr Jones—Do you have a context?

Senator SHERRY—As part of the licensing process. My understanding is that, at least in the cases of some funds, that level of information was sought as part of the process by some APRA personnel.

Mr Jones—As part of the licensing process, APRA personnel asked trustees who paid for their meals?

Senator SHERRY—Yes, in one case—and also the class of air travel and the hotels they were staying at. I am just intrigued as to how that could possibly be a role for APRA in terms of a licensing process. It seemed to me that that degree of micromanaging in any superannuation fund would be absolutely ludicrous.

Mr Jones—If you would like to provide us with the example, I am sure we would be very keen to—

Senator SHERRY—What I would like you to do is to check on whether or not that sort of information was sought from any superannuation fund. It goes to the issue I raised earlier—not earlier today but in a previous hearing—of the fine line in issuing guidelines which contain guidance which does not appear to be in the SI(S) Act or the regulations but which nonetheless a fund has to comply with because it does not have a licence.

Mr Jones—We discussed that last one—

Senator SHERRY—We did. Just on that issue—and, again, perhaps you can deal with this at the corporations and financial services committee—I think it was the Law Council that was critical of APRA's licensing process and exceeding its powers in SI(S) and the regulations. I am not seeking a response today but, if you are not aware of that, could you have a look at it in this context.

Mr Jones—Yes.

Answer:

Questions such as those referred to would not be routinely asked when assessing licence applications and, in fact, the licence application form did not seek this level of detail. To gain a licence, applicants must demonstrate that they are compliant with the operating standards and will continue to be during the currency of the licence. In respect of this issue, two operating standards are relevant, one that relates to the fitness and propriety of the trustees, in particular that the trustees are using the funds under their trusteeship for the benefit of their

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beneficiaries. The other covers the Adequacy of Resources pursuant to which, APRA must satisfy itself that applicants have adequate resources to function effectively and that there are systems and controls around the deployment of these resources. There may be circumstances in which it would be appropriate for APRA to satisfy itself that the resources were being appropriately used and controlled.