



# Senate Select Committee on Superannuation and Financial Services

## Main Inquiry Reference (a)

**Submission No. 197**

(Supplementary to Submission No.121)

**Submittor:** Australian Prudential Regulation  
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Ms Sue Morton  
Committee Secretary  
Senate Select Committee on Superannuation and Financial Services  
Parliament House  
CANBERRA ACT 2600

Dear Ms Morton

**SENATE INQUIRY INTO COMMERCIAL NOMINEES AUSTRALIA LIMITED AND OTHER ISSUES**

I refer to our conversation this afternoon and your letter of 24 May 2001 inviting APRA to put forward a written submission prior to the Committee's public hearing on 12 June 2001.

With regard to information regarding HIH, APRA is unable in the time available, to provide a detailed statement for the Committee's hearing on 12 June.

You will appreciate that APRA is preparing its position for the Royal Commission whose terms of reference we expect will be released shortly. However, to assist the Committee I attach APRA's submission in relation to CNA and also Mr Thompson's opening statement to Senate Estimates of 5 June 2001.

If it will assist the Committee, I can also provide copies of media releases made on HIH.

Please contact me if I can be of further assistance.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Thea', written over a white background.

Thea Rosenbaum  
Company Secretary

Australian Prudential Regulation Authority



# Media Release

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*Australian Prudential Regulation Authority  
Statement to Senate Economic Legislation Committee  
5 June 2001*

## **Introduction**

I thank the Committee for the opportunity to make an opening statement.

APRA has been criticised heavily in recent weeks. Whether or not that is justified will be explored by official inquiries that are under way or coming.

One thing this criticism has demonstrated, however, is a poor understanding of the extent of APRA's activities and achievements and of prudential supervision.

I would like briefly to try to redress this imbalance, and then comment on a couple of topical issues.

## **APRA – background**

First, I note that APRA is still a very young agency. As a legal entity we date from July 1998. But as a restructured, integrated organisation with our full range of responsibilities we date only from the second half of 1999 – we are effectively less than two years old.

APRA supervises nearly 11,000 institutions - some 300 deposit-takers (banks, credit unions and building societies), 40 life insurers, 160 general insurers, about 50 friendly societies and, directly or indirectly, about 10,000 superannuation funds.

Between them they control assets worth some \$1 1/3 trillion.

## **Prudential supervision**

Prudential supervisors like APRA have, broadly speaking, three roles:

- First, to devise policies and standards that provide a set of operating rules for well-managed financial institutions – these cover such things as solvency and liquidity requirements, as well as more general standards for prudent management of the risks in running a financial business, and they underpin everything else we do;

- Second, to monitor compliance with finance sector legislation and those prudential standards – this involves both on-site observation and off-site analysis;
- Third, to take action to protect the interests of its customers if, notwithstanding our rules and our monitoring, a financial institution looks to be getting into serious trouble. Much of this work is unseen and never becomes public. At any time we would be working with upwards of 100 entities to resolve issues and problems in the interests of their policyholders, depositors and investors - by requiring them to have better management systems, restructure their business, get more capital or combine with a stronger entity.

With these roles, prudential supervisors like APRA promote the health of financial institutions, and *reduce the likelihood* of institutional failure.

I say “reduce the likelihood” because no prudential supervisory system has ever provided - or *can ever* provide - an absolute guarantee against failures of private financial companies. It is impossible to achieve that. (Indeed, because of the regulatory costs that would be involved for the community, it would be undesirable even to try to achieve it.)

If supervisory systems were to be judged as failures every time a private financial company went broke, then every supervisory system in the world has failed more than once in the past few years.

### Progress

In my view the achievements of APRA’s first two years have been outstanding.

On policies and standards:

- APRA introduced a comprehensive framework for supervising *conglomerate groups* that include banks – the key innovation here was a set of criteria for accepting non-financial or commercial activities within such groups.
- We have issued a single set of flexible prudential *standards for all deposit-takers* – banks, credit unions and building societies.
- We embarked on, and have just about completed, a major project to overhaul the supervision arrangements we inherited for *general insurance companies*. This had been a long-neglected area, well overdue for reform.
- We established a group to investigate the various *operational risks* incurred by financial institutions, one of the first such dedicated teams in the world.
- We have commenced a review of supervisory arrangements for *superannuation* (on which more later) and of the Life Insurance Act.

APRA has also been a major contributor to *better supervision internationally* through our work on the reform of international standards for banks’ capital adequacy and our leading role in the International Association of Insurance Supervisors. We were also a leader in contingency planning for the Year2000 computer problem.

In international forums of prudential supervisors APRA would be among the ten most influential and respected voices.

In supervisory practice, we have taken major strides to improve on what we inherited.

For instance, APRA conducts on-site reviews in *all* industry sectors. This was not done before APRA was established and was a major flaw in previous practice. Another example: a thorough review of statistics collected from regulated entities revealed serious gaps that we have begun to tackle.

Assessments of APRA against international standards for bank supervision show us in substantial compliance with recommended best practice. We have accepted recent recommendations from the Audit Office to introduce more *formal processes* in a couple of areas. I note that, importantly, the audit report had no criticism of *outcomes*.

All of this work has been directed to strengthening Australia's financial system and providing the best protection possible for Australian savers and investors.

On the organisational front, we have successfully managed the integration of the eleven Commonwealth and State agencies, large and small, that were folded into APRA over 1998 and 1999.

While we inevitably lost some experienced people from predecessor agencies in setting up and restructuring APRA we have retained a very strong core of experienced and talented people covering all the industries we supervise. Almost all of our senior staff worked in one of the predecessor agencies, and there is a healthy mix of people from different backgrounds.

And we are getting a big boost from the fresh ideas and energy of our recruits – many of whom have industry experience.

In a very competitive employment market we have had staff turnover of around 15 percent over the past year – about average for the finance sector – and we have not been able to fill all the positions in our structure. The shortfall on average has been about 8 per cent. Our latest recruiting drive has, however, been very promising.

I turn now to some topical issues.

### Current issues

- **HIH**

It is clearly inappropriate and unnecessary to canvass HIH's failure in any detail given the ASIC investigation that is under way and the imminent Royal Commission. But a couple of comments are in order for the record.

First, I have said publicly that, with the benefit of hindsight, APRA could have been more aggressive with HIH, and dug more into its financial condition, once we had identified concerns with its operation in the middle of 2000.

Second, I believe that APRA's supervisory staff conducted themselves professionally and reasonably on the basis of information available to them through the second half of last year. While we were working with HIH on a number of issues and concerns through the second half of 2000 we did not act publicly until earlier this year because until then *we did not assess that as being necessary or justified in law.*

However, as I've already noted, APRA inherited a flawed and out-of-date system of prudential regulation for general insurers. We recognised this early and have worked very hard to get a better system in place – that will happen next year and it will significantly reduce the likelihood of another HIH-like disaster.

I am not suggesting that if our new system had been in place six months or even a year earlier HIH's failure could have been averted. We won't know for sure until ASIC and the Royal Commission have done their work, but comments by the provisional liquidator about the timing of losses point to the likelihood that APRA inherited a company in HIH whose financial position was *already* seriously weakened when it was handed over from the former Insurance & Superannuation Commission's general insurance division into APRA's new structure in the second half of 1999.

I want to respond briefly to the accusation that everyone knew HIH was insolvent – so why didn't APRA? There's a lot of hindsight humbug of this kind going around.

It's certainly true that market sentiment about HIH was very negative through the past nine months. APRA was as aware of that as anybody. But negative market sentiment does not mean a company is insolvent. And I'm not aware of anyone who was saying publicly that this company was broke.

The Standard & Poor's rating of HIH up to November 2000 was A-. In February this year it was still in the BBB range which means "good financial security characteristics.....". The historical probability of default for insurers with that rating within three years is less than 1 percent. And if I recall correctly, the most common market forecast for HIH's December half-year loss was around \$500 million – which would have left it marginal on statutory solvency, but still commercially solvent.

APRA welcomes the Government's Royal Commission and will cooperate fully with it. The community – especially people directly hurt by HIH's failure – deserves a thorough explanation of the collapse and, in particular, how this company's true financial condition was hidden so comprehensively from us and everyone else. We do not believe it is appropriate or prudent for APRA to comment any further before the Commission begins its work.

- **Commercial Nominees**

Another topical company has been Commercial Nominees Australia Ltd.

There are several investigations under way into its failure. The only point I want to make now is the desirability of keeping some perspective on the problems here. Losses in CNAL – extraordinarily painful as they are for the fund members involved – are of the order of \$25 million in an industry with total funds under management of some \$500 billion.

This leads me to comments by Ian Macfarlane - in his capacity as an APRA Board member - about supervision of the superannuation sector.

- **Superannuation**

Mr Macfarlane was referring to recent discussions in APRA about the challenges we face in supervising superannuation funds with the intensity that the community expects.

These challenges mostly relate to the 3000 or so funds that are not associated with an Approved Trustee. They are mostly quite small and are mostly employer-sponsored. Unlike Approved Trustees, these funds are unlicensed, and often managed by part-time non-professional trustees. Unlike other industries, superannuation funds have to report to APRA only annually (except for the largest 360 or so funds that participate in a quarterly statistical survey) and delays in submitting returns have been endemic – we continue to have a struggle here. We can only visit each fund on average once every 5 years.

Given these features, such funds tend to present a higher risk than others. Most APRA/ISC enforcement actions over the past 6 years have involved funds with less than \$5 million in assets.

One needs, of course, to be careful with broad generalisations. Many small/mid-sized funds are very well managed with active trustee (employer and employee representative) involvement. On the other hand, APRA has outstanding enforcement actions against a couple of larger funds with Approved Trustees, one of these being CNAL.

Against this background, the APRA Board has considered the following areas where possible reforms could lead to a more robust and secure superannuation industry for the Australian community:

- better information provided to APRA
- stricter guidelines on funds' investment portfolios
- wider powers for APRA to seek information directly from third party service providers
- broader licensing arrangements
- reassessing minimum capital requirements in the superannuation sector.

I emphasise that we need to do further work internally on these matters before engaging in consultation as necessary with the industry, and developing any specific recommendations for Government.

### **The Wallis/APRA structure**

My final comment is on Australia's regulatory structure or organisation. Following HHH's failure some people have questioned the structure – including APRA - that the Government put in place following the Wallis Committee.

There is absolutely no logical connection here. I am totally confident that Australia has the right supervisory structure. In a relatively short time it has, in fact, become something of a model for the rest of the world.

Whatever emerges from investigations into HHH and into other particular problems that might occur in future, it would be a disastrous backward step to contemplate any unwinding of the reforms that have been made. These reforms are helping to keep Australia's regulatory arrangements up with the best in the world – in some fields we actually set the pace.

## Conclusion

The process of prudential regulatory reform in Australia did not end with APRA's formation. In an important sense, it *began* with APRA's formation as an integrated supervisory agency with the capacity to work across the whole financial system.

Financial systems are evolving and becoming more complex. In the face of this, the challenge for APRA is to make the innovations in regulatory policy and practice continually required to maintain the maximum practicable protection for savers and investors.

We are tackling this task energetically, with highly skilled resources, and we will continue to do so.

Thank you.

5 June 2001



**Submission to Senate Select Committee**

on

**Superannuation and Financial Services****Submission by: Australian Prudential Regulation Authority**

Commercial Nominees of Australia was licensed as an Approved Trustee for public offer superannuation funds in 1994. By April 2000 it was the trustee for twenty corporate and public offer superannuation funds and close to 500 family superannuation funds. CNA was trustee for around \$300 million in superannuation assets and around \$100 million in non-superannuation assets.

In March 2000 APRA had several discussions with the then new Chief Executive and director of CNA, Mr Roger Meikle. He informed APRA that he had become aware that three of the twenty corporate/public offer superannuation funds under CNA's trusteeship may have exposures to an investment vehicle (a unit trust) of which CNA was also the trustee called the Enhanced Equity Fund and that this vehicle may have impaired assets which might require a write down of the order of \$3 million. To put this in context the Enhanced Equity Fund had assets of around \$12 million so APRA was being alerted to a potential write down of around 25 per cent in that Enhanced Equity Fund. The three superannuation funds involved were The Australian Workforce Eligible Rollover Fund (AWERF) which had assets of around \$25 million of which about \$8 million was invested in the Enhanced Equity Fund, the MIDEN Superannuation Fund (MIDEN) with assets of \$2.8 million of which about 60 per cent was invested in the Enhanced Equity Fund and Network Superannuation Fund (Network) with assets of around \$7 million of which around 30 per cent was invested in the Enhanced Equity Fund. The potential losses to these superannuation funds were thus of the order of 8 per cent for AWERF, 15 per cent for MIDEN and 8 per cent for Network.

APRA was also informed that two of these superannuation funds had exposures to a second investment vehicle the Enhanced Cash Management Trust (ECMT) that in turn had some exposure to the Enhanced Equity Fund.

At a meeting with APRA on 15 March 2000, Meikle also provided background to the ECMT and existing exposures to the ECMT by small funds of which CNA was the trustee. He stated that while there were some management and operational problems with ECMT a recovery program had been specified and subject to a satisfactory outcome of the Peel Valley Mushroom investment program, CNA expected no loss. APRA expressed the view that no new monies should be contaminated by things done in the past. Meikle was a new director who had come to APRA with his assessment of the existing problems in CNA and expressed a strong commitment to remedying those problems. He appeared to have the appropriate background to do the job, said he was working full time on recovery for CNA, had no work other than the CNA clean up and was looking long term to stay with CNA and emphasised that he would be prepared to litigate where necessary to effect recoveries.

At a meeting on 23 March 2000 between Meikle and one of the other directors of CNA and APRA, APRA proposed that an investigator be appointed to AWERF, Network and MIDEN who would be expected to undertake an independent review of the impaired assets, including the identification of all superannuation monies invested. It was again a matter of discussion that mechanisms would need to be implemented to quarantine contributions from any new business so that they were not tainted by the exposure to any possible impaired assets.

At a further meeting between APRA and CNA on 30 March 2001, Meikle categorically stated that CNA was trying to quarantine its new business from the problems of the past.

APRA relied on these assurances from the new Chief Executive.

As we now know this assurance was not honoured by ceasing to place new superannuation money in the ECMT but by a flawed attempt to run "a notional second pool within ECMT for all monies received after 31 March 2000". APRA was not aware that CNA had used this as their mechanism for attempting to keep new money separate from potentially impaired assets.

Following a series of meetings between APRA and Meikle it was determined that CNA would appoint at APRA's request (under Section 257 of the *Superannuation Industry (Supervision) Act 1993*) an independent investigator to undertake an investigation into the three nominated superannuation funds. Mr Peter Hedge (Hedge), Insolvency Partner at PricewaterhouseCoopers was appointed on the 13 April 2000 to this role.

When the Investigator was appointed on 13 April 2000 the terms of the appointment covered whether in pursuing recovery actions the trustee was properly considering the interests of members, and that actions were being taken by the trustee to ensure no new monies from these three superannuation funds would be exposed to the risk of loss from these impaired assets in the Enhanced Equity Fund or the Enhanced Cash Management Trust.

The other larger funds of which CNA was the trustee had no exposure to either of these two trusts. In total CNA was trustee for \$300 million in superannuation funds and the impaired asset in the Enhanced Equity Fund brought to APRA's attention was \$3 million.

Initially Hedge reported that he was making little progress on the investigation due to a lack of records held by CNA in a number of areas and incomplete records in other areas. The unit trusts were not APRA-regulated entities and originally there was some doubt as to whether Hedge's appointment under the SIS legislation allowed him to delve into the assets that were held by the unit trusts, but this was resolved with the co-operation of CNA.

In May 2000 Hedge provided a preliminary report to APRA. He confirmed the indication received from the CEO of CNA that there was the likelihood of losses in the three superannuation funds he was investigating due to their exposure to the unit trusts, but there was not sufficient evidence to quantify those losses.

During the course of Hedge's investigation a number of people contacted APRA seeking information on "APRA's investigation into CNA" etc. Because of the secrecy provisions of the APRA Act that bind all APRA staff, no comment could be made. All people that called APRA were advised of the restrictions due to the secrecy provisions.

During the period of Hedge's investigation, a number of meetings were held with the new directors of CNA, Messrs Meikle and Cain (Chairman). Up to October 2000 the directors appeared to be working with Hedge and assisting him in his role as investigator. During this time, APRA was informed by the chairman of CNA, Cain, that a restructuring proposal for the Peel Valley Mushroom project was being evaluated. Recovery actions on the loans in the Enhanced Cash Management Trust were also said to be underway.

At the end of October 2000 APRA was advised that Meikle and Cain were no longer with CNA, having been replaced as directors of the company by the shareholders. APRA was subsequently advised that two then current employees of the CNA group had been appointed as replacement directors. The new directors met with APRA in November 2000 and requested a further period of time within which to undertake a review and rectification of any impaired assets identified by Hedge. APRA declined this request.

Hedge issued his report in November 2000 that stated that in his opinion some of the assets in the unit trusts were impaired which affected the values of the units that were held by the superannuation funds. Based on this report, APRA asked CNA to "show cause" why it should not be replaced as trustee of the three funds Network, MIDEN and AWERF.

In November 2000, APRA was advised that the directors of CNA had frozen transactions in the ECMT and were moving to revalue the assets in the trust to take account of the impairment of the assets. The assets were to be revalued resulting in a 79 per cent write down in their value.

It was only at this time that APRA became aware that its understanding that new superannuation money (i.e. from late March 2000) was being quarantined from the ECMT was wrong.

Thus with the three larger superannuation funds which had been the subject of discussions with the directors earlier in the year, "new money" was prevented from being exposed to impaired assets from March 2000 and CNA was removed as trustee. The investments to which these three funds had been exposed through their investments in the trusts had been made before the directors first brought the possibility of impairment to APRA's attention.

This result had not been achieved in the case of the small funds and the ECMT due to CNA's attempt to run a two tiered system within the ECMT rather than ceasing to place new superannuation money into that trust, and setting up a separate trust vehicle.

On the misunderstanding that new superannuation money was quarantined APRA considered that its principal task was to settle the ongoing dispute about whether the underlying assets were or were not recoverable. APRA needed a firm view on the true value of those assets if it was to take action to either remove CNA as trustee or revoke its Approved Trustee status. To appoint another Investigator to the 500 small funds or an Inspector to the whole of CNA's superannuation operations seemed unlikely to get such a firm view before the 2000 accounts were due to be completed by 31 October and so APRA's response was to insist on those accounts being completed promptly.

Since the investments in the assets in the Enhanced Cash Management Trust which were the subject of debate had all been made prior to the completion of the 1999 accounts the process of completing the 2000 financial year accounts would settle these valuation questions and provide APRA with firm evidence on which to decide whether action should be taken against CNA.

CNA was replaced in December 2000 as trustee of the three funds investigated by Hedge. An acting trustee was appointed, Oak Breeze Pty Ltd (a PricewaterhouseCoopers trust company) (Oak Breeze) was appointed to AWERF and ACT Super Management Pty Ltd (a KPMG trust company) (ACT Super) was appointed to Network and MIDEN. The appointment of two acting trustees was thought necessary due to a possible conflict of interest that may have arisen if the one acting trustee had been appointed to all three funds.

Prior to the appointment of Oak Breeze and ACT Super, APRA sought expressions of interest from PricewaterhouseCoopers, KPMG, Ferrier Hodgson and Sims Lockwood.

APRA issued to CNA a letter asking them to show cause as to why they should not have their status as an Approved Trustee revoked. CNA's period for response to this letter extended over the Christmas period and their legal advisors requested extensions of time on the basis that they could not get access to the necessary expertise over this period. On the basis of external legal advice that a judge would probably be sympathetic to these arguments APRA granted the extensions.

APRA did not find CNA's response to the show cause letter convincing and their status as Approved Trustee was revoked in February 2001. APRA appointed Oak Breeze as acting trustee to nearly 500 small APRA Funds. ACT Super were subsequently appointed to two public offer funds, Amana and Jardine Fleming International Rollover Fund, and the balance of the public offer funds had new trustees appointed with the help of their individual sponsors. None of the other public offer funds have an exposure to ECMT or EEF.

Oak Breeze with the assistance of the Australian Securities and Investments Commission (ASIC) replaced CNA as trustee of the EEF and ECMT with Ferrier Hodgson Management Services (Ferriers). ASIC replaced CNA as trustee of the Confidens Investment Trust with Prentice Parberry Barilla.

Oak Breeze and ACT Super subsequently encountered problems uplifting member superannuation fund records from CNA's fund administrator who made a claim for early termination fees under the contract they had with CNA.

Both Oak Breeze as trustee of the small APRA funds and AWERF, and ACT Super as trustee of Network and MIDEN superannuation funds have communicated with members through newsletters. ACT Super as trustee of Amana and Jardine Fleming International Rollover Fund superannuation funds are in the process of communicating with members. The member databases in readable form have only recently become available for Amana and Jardine Fleming International Rollover Fund. As well Oak Breeze called a meeting of members of the small APRA funds, in Sydney, on 15 May 2001. This meeting was held to allow fund members to ask questions of their acting trustee and for the acting trustee to update the members on events since the last newsletter. Oak Breeze and ACT Super will continue to communicate with members on a quarterly basis.

Both Oak Breeze and ACT Super have given undertakings to APRA that (subject to any unforeseen circumstances arising) they will have all of the funds for which they are acting trustees in a state of compliance (or wound up) at 31 October 2001 (the date for which audit sign off and annual return lodgment is due) and by which date they will retire as acting trustees.

APRA has appointed Mr Anthony McGrath (McGrath) of KPMG as an "Inspector" under the *Superannuation Industry (Supervision) Act 1993* to all of the small APRA funds (some 220) that have an exposure to the ECMT. The appointment of the "Inspector" is at the cost of APRA and not of the individual funds. The purpose of this appointment is for McGrath to undertake an investigation into each fund's dealings with ECMT and to report to APRA details of any suspect or possible unlawful transactions. The "Inspector" is helping APRA determine recovery action on behalf of the members of the funds. The new trustees and the "Inspector" are recreating the circumstances surrounding the impaired investments made over the period 1997 to 1999 and seeking to establish motivations for these transactions. Oak Breeze as the new trustee of the 475 small funds is repairing the state of the records of each of these funds and assembling any evidence of wrongdoing in the relationship between these funds and CNA. Since the investments in previous years were made by the trusts rather than directly from the superannuation funds Ferriers as new trustees of the two trusts are in the pivotal position to supply evidence about the transactions in earlier years. APRA is meeting regularly with each of these new trustees and the Inspector and with ASIC so that evidence on which recovery or other legal actions might be taken is available to APRA as soon as it becomes available. The poor state of the records of CNA complicates this assembling of evidence as does the complexity of some of the transactions undertaken by these two trusts involving dealings with other downstream trusts and loans backward and forward between these various trusts and individuals.

APRA has invited submissions from the acting trustees of the unit trusts Ferriers and both Oak Breeze and ACT Super for funding assistance to commence further recovery action on behalf of the superannuation funds. It is noted that recovery action has already commenced against the borrowers from the Enhanced Cash Management Trust.

**The Committee has requested clarification on the following issues**

**1. The experience of Oak Breeze Pty Ltd as a trustee.**

Oak Breeze Pty Ltd is a specialist vehicle for undertaking trust work within the PricewaterhouseCoopers group. Within the PricewaterhouseCoopers group there is extensive experience in trusteeship and superannuation combined with insolvency and reconstruction knowledge, all of which are needed for the CNA exercise. The principal officer of Oak Breeze Pty Ltd is an officer of the Supreme Court of NSW and the Federal Court of Australia and someone whose experience is suited to this situation.

**2. The issue has been raised regarding the fees being charged by Oak Breeze Pty Ltd.**

Oak Breeze Pty Ltd has engaged a team of professional administrative staff from PricewaterhouseCoopers. The size of the team is between 20-30 in number and has various people with different levels of skill and experience. Each member of the team's time is charged out on an hourly basis against the individual fund at a rate that is commensurate with his or her skill and experience. Oak Breeze have advised APRA that they considered the cost benefits of outsourcing the administrative process to an independent "do-it-yourself" fund administrator however this was not feasible due to the poor fund accounting and other records, the significant level of rectification required to bring the funds into compliance and the existence of the impaired assets.

**3. The issue has been raised as to whether or not Oak Breeze Pty Ltd hold a minimum of \$5 million in Net Tangible Assets as is required by an Approved Trustee of small APRA Funds.**

The legislation (*Superannuation Industry (Supervision) Act 1993*) requires small APRA funds to have an Approved Trustee. The legislation requires an Approved Trustee to either have \$5 million in Net Tangible Assets or use a custodian that has a minimum of \$5 million in Net Tangible Assets. Oak Breeze Pty Ltd is an acting trustee only and the superannuation legislation is silent on the requirements for acting trustees. Notwithstanding this the decision to appoint Oak Breeze Pty Ltd was made on the basis that we required an acting trustee with the resources, knowledge, superannuation experience and insolvency reconstruction expertise to deal with this large portfolio of funds.

**4. APRA should have consulted with the members of each fund prior to appointing an acting trustee.**

To have had to consult with the members of nearly 500 superannuation funds as to who would be appointed as their acting trustee would have imposed an inordinate delay on any appointment and would have left the funds "in default" without a trustee as once the removal notice was served it became effective immediately.

**5. The directors of Oak Breeze went on holiday at the same time they were appointed as acting trustees of the small APRA funds.**

There were two directors of Oak Breeze Pty Limited. One of the directors was on leave when the appointment of Oak Breeze Pty Ltd was made as acting trustee of the small APRA funds in February 2001.

There is a team of between 20-30 people contracted by Oak Breeze Pty Ltd from PricewaterhouseCoopers. The absence of one director on leave does not mean that the whole process being performed by the team ceases.

***The Committee has requested clarification on the following issues***

**6. Unanswered correspondence to APRA**

Mr Watts has alleged that he wrote to APRA in November 2000 raising some issues regarding CNA and his superannuation fund the "Watts Family Superannuation Fund" and to date has not received a response. A search of APRA's records shows that correspondence was received by APRA on 1 December 2000. APRA replied to that correspondence on 4 December 2000. Copies of these letters are held in APRA's files.

Mr Kaan has made an allegation that he received no acknowledgement of his correspondence of 20 December 2000. A search of APRA's records shows that APRA replied to that correspondence on 28 December 2000. Copies of these letters are held in APRA's files.

In response to Mrs Gregg's allegation that the only person who has been in contact with her is Senator Watson, APRA's records show that it responded to seven e-mails from Richard Gregg between 20 February 2001 and 17 May 2001.