

Submissions 90

APRA

Morton, Sue (SEN)

From: Hannon, Judy [judy.hannon@apra.gov.au]
Sent: Wednesday, 29 November 2000 12:54 PM
To: 'super.sen@aph.gov.au'
Subject: Hearing 17 October 2000 - Response to Questions Taken on Notice



SenComonSuper&FinS
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Enforcement Case
Summary Base....

Sue

As discussed herewith response to Item 6 following APRA's appearance before the Committee on 17 October 2000.

I also attach table of Enforcement cases from 1995 to 2000.

I will be forwarding the documents to you by mail overnight.

Regards

Judy

<<SenComonSuper&FinServResponsetoQustion6 17Oct00_29Nov00.doc>>

<<Enforcement Case Summary Base.doc>>

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SENATE COMMITTEE ON SUPERANNUATION AND FINANCIAL SERVICES
HEARING 17 OCTOBER 2000
RESPONSE TO QUESTIONS TAKEN ON NOTICE

Question 6: At Hansard P823 the Committee re-confirmed its request for data on APRA's performance.

The Committee has asked for five years of data on APRA's monitoring, investigation and examination of supervised entities and information on legal actions taken in that period. In this response we have provided as much useful information as we can, but for a variety of reasons it is not possible to provide consistent information over time and across all the industries supervised by APRA.

Firstly, APRA was only formed in 1998 and was only able to move its new internal structure in 1999 when the State-based supervisory agencies joined the merger of the former Insurance and Superannuation Commission and the former Bank Supervision Department of the Reserve Bank of Australia. APRA is thus the amalgam of eleven separate supervisory agencies each of which had its own way of defining supervisory activities such as inspections and detection of breaches of prudential requirements.

Equally important are the differences in supervisory framework in place for each of the different industries. For deposit-taking and insurance, supervision tends to be consultative and continuous. Correspondence with supervised entities generally relates to suggested improvements in risk management systems with outright breaches of prudential requirements rare and legal action against regulated entities rarer still. With superannuation, the vast numbers of individual funds means that supervisory activity falls into more easily defined categories. The Insurance and Superannuation Commission produced such data and Table 1 covers supervision activity in superannuation industry for the years 1994/95 to 1998/99.

Superannuation Reviews by Fund Type

The ISC maintained records, which provided the number of reviews undertaken, and the following table is provided for historical information. The data have been categorised based on the current regulator of the fund. After June 2000, responsibility for supervision of Self-Managed Superannuation Funds (SMSF) was transferred to the ATO and the table reflects this.

Table 1. Number of Reviews of Super Funds

Review Type	Fund Type	94/95	95/96	96/97	97/98	98/99
Onsite	APRA Fund	293	515	786	999	893
	SMSF	100	391	389	482	174
	All	393	906	1175	1481	1067
Desk	APRA Fund	44	21	39	36	200
	SMSF	109	39	46	42	167
	All	153	60	85	78	367
Total	APRA Fund	337	536	825	1035	1093
	SMSF	209	430	435	524	341
	All*	546	966	1260	1559	1434

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- May not agree with previously reported figures due to changes in data classification.

The data show a steady build up in the number of reviews of superannuation funds conducted by the ISC and maintained by APRA in its first year of operation. This five years of superannuation supervision activity has laid a platform on which APRA aims to apply a risk-based approach to its future work. Case selection based on risk criteria requires a body of information about each individual superannuation fund which was just not available when the ISC commenced its activities. There are still many thousands of superannuation funds to be supervised by APRA but the number continues to fall as trustees opt to wind up funds in the face of increasing complexity and responsibilities on trustees.

Rehabilitation and Enforcement Activity

Records of the number and type of action undertaken with respect to superannuation entities were maintained by the ISC and are summarised below for historical reference.

Table 2. Actions Taken

Type	94/95	95/96	96/97	97/98	98/99	Total
Refer to Police/ ASIC/DPP	3	3	5	2	8	21
Refer to ATO	0	4	1	3	5	13
Show cause letter issued	1	4	2	3	5	15
Wind up	2	3	1	1	4	11
Replace trustees	1	2	0	3	2	8
Transfer of assets	3	3	0	3	5	14
Payments of benefits due	1	2	0	1	5	9
Investigator/ liquidator/ Inspector appointed	2	6	1	3	2	14
Disqualify auditor/ exit industry/refer to industry body	1	2	7	4	6	20
Funds made non-complying	0	3	3	5	5	16
Other*	3	7	4	7	4	25
Total	17	39	24	35	51	166

- Other includes revoke approved trustee, notice to produce books, freeze assets, direct trustees not to accept contributions, meet with board.

This table summarises the enforcement activity undertaken in that same five-year period. It is difficult to discern any firm conclusions or trends. There is no evidence that the amount of enforcement action has declined but the amount of activity is small relative to the number of funds reviewed each year. With the large number of individual funds to be supervised, the discretion allowed trustees to select investments for the fund and the small size of many funds meaning that administrative checks and balances do not work as effectively as in large organisations, we would expect to continue to find problems in a small proportion of funds for some years yet.

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To provide the Committee with some extra insight into the nature of problems which the ISC/APRA have had to tackle in the superannuation industry we have included as an attachment a detailed summary (with names deleted) of each of the 99 enforcement activities undertaken between 1995 and 2000.

1999/2000

This was the first full year for APRA with all its new responsibilities. Rather than organise itself into “silos” dedicated to supervision of the traditional functions within the regulated entities (of deposit-taking, superannuation, general insurance, life insurance and friendly societies) APRA chose to adopt a structure where one front line Division supervised Diversified institutions (conglomerates and entities with an international dimension to their business) and the other deals with Specialised institutions (mainly confined to Australia and to one of the traditional industries within the financial sector). APRA’s intention is to harmonise its supervisory approach across all the industries it supervises.

The financial year was one where considerable supervisory resources were occupied by the preparations for Y2000 and in setting up APRA’s new organisational structure. Establishing contact with the 200,000 super funds who were candidates for transfer to the ATO also absorbed considerable resources. Of the approximately 600 staff who worked in APRA’s predecessors only around 200 remain with APRA (with departures due to restructuring and normal turnover since July 1998), requiring recruitment of close to 200 new staff to fill APRA’s current requirement of around 400. Extensive amounts of training and retraining have been required.

The numbers of institutions supervised by APRA are set out in Table 3. Table 4 records the number of on site visits conducted by APRA in 1999/2000. In addition to the on site work, around 300 desk reviews of superannuation funds were carried out and detailed reviews were conducted of the quarterly information supplied to APRA by the deposit-taking institutions and insurance companies.

Table 3. APRA-regulated institutions

At 30 June 2000	Number of institutions		Total assets (\$ billions)	
	Diversified institutions	Specialised institutions	Diversified institutions	Specialised institutions
Authorised deposit-taking institutions	49	241	690	48
Friendly societies	1	53	-	6
General insurers	120	39	59	4
Life insurers	40	3	183	3
Representative offices of foreign banks	-	26	-	0
Superannuation entities	130	2,800	141	138
Total	340	3,162	1,073	200

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Table 4. **Number of visits to financial institutions**

	Specialised Institutions Division Total visits	Diversified Institutions Division			
		Total visits	Consultations	On-site reviews	Tripartites
Authorised deposit- taking institutions	143	80	36	12	32
Friendly societies	46	0	0	0	0
General insurers	18	15	14	1	0
Life insurers	2	6	3	2	1
Representative offices of foreign banks	3	0	0	0	0
Superannuation entities	322	11	10	1	0
Total	534	112	63	16	33

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Enforcement and rehabilitation activity undertaken during 1999/2000 is summarised in the table 5 below.

Table 5. Actions

	ADIs	Super	General Insurance	Friendly Society	Section 66 Banking Act	Bank/ Foreign Rep Offices	Total
Refer to Police/ ASIC/DPP	0	10	4	0	0	0	14
Refer to ATO	0	5	0	0	0	0	5
Show cause letter issued	0	2	1	0	0	0	3
Wind up/ Liquidated/ Terminated	4	6	2	11	0	0	23
Breach of Prudential Standards	3	0	4	5	0	1	13
Replace Trustees	0	5	0	0	0	0	5
Transfer of assets	5	7	0	5	0	0	17
Payments of benefits due	0	2	0	0	0	0	2
Investigator/ liquidator/ Inspector appointed	1	3	1	0	0	0	5
Lack of strategic plan	10	0	0	0	0	0	10
Start-up institution	2	0	0	1	0	0	3
Low profits/ Delinquent loans	19	0	1	0	0	0	20
Disqualify auditor/ exit industry/refer to industry body	0	3	0	0	0	0	3
Funds made non complying	0	1	0	0	0	0	1
Other*	10	3	3	0	4	2	22
Total	54	47	16	22	4	3	146
Number of Institutions	31	34	6	15	4	3	93

* Other includes revoke approved trustee, notice to produce books, freeze assets, direct trustees not to accept contributions, meet with board, managers and external auditors.

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1994	Action 1	15	\$191,000	Accumulation	<ul style="list-style-type: none"> Fraud by accountants and false statements to regulator. 	<ul style="list-style-type: none"> Fraud referred to Queensland Police. Fund wound up. 	Complete
1995	Action 2		\$43,500,000	Approved Trustee	<ul style="list-style-type: none"> Poor financial position of funds. Lack of knowledge of due diligence process requirements. Lack of board competence, poor disclosure issues and investment strategy. 	<ul style="list-style-type: none"> Show cause letter issued 25/10/95. Rectification achieved under threat of imposed variations to the Instrument of Approval. 	Complete
1995	Action 3	47	\$1,500,000	Excluded Defined Benefit	<ul style="list-style-type: none"> Failure to consult with members in relation to transfer from one fund to another and calculation of entitlements. Failure to disclose implications of compulsory transfer. 	<ul style="list-style-type: none"> Intensive negotiation led to transfer of \$1M to an associated fund for the benefit of arm's length members. 	Complete
1995	Action 4			Administrator to 3 self managed super funds	<ul style="list-style-type: none"> Cash assets of funds used by parties associated with administrators. 	<ul style="list-style-type: none"> Appointment of Inspector (s265) 8/11/94. Matter referred to Queensland Police. Two people associated with administrator were jailed. 	Complete
1995	Action 5	20,000	\$200,000,000	Approved Trustee	<ul style="list-style-type: none"> Major computer difficulties led to inability to reconcile member balances for several years. 	<ul style="list-style-type: none"> Notice requiring Appointment of Investigators issued under s257 12/1/96. Investigation Committee appointed. Rectification eventually completed in accordance with recommendations of Investigation Committee. 	Complete
1995	Action 6	5,000	\$9,000,000 @ 30/6/95	Multi-employer accumulation	<ul style="list-style-type: none"> Dispute between partners in the administrator led to 	<ul style="list-style-type: none"> Replacement trustee appointed with 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
				fund with "equal representation"	<ul style="list-style-type: none"> incapacity of the trustee to act, as the partners' proxies on the trustee board could not agree. Appointment of provisional liquidator trustee a corporate trustee a disqualified person. Continuing involvement in the superannuation industry of people associated with the fund. 	<ul style="list-style-type: none"> Ministerial approval. Members rolled into a successor fund. Former administrator created "phoenix fund" and attempted to market it to employer-sponsors. (Unenforceable) undertakings accepted from board to desist from this practice. 	
1995	Action 7			Auditor	<ul style="list-style-type: none"> Poor performance. 	<ul style="list-style-type: none"> Letter to auditor stating work practices deficient. Auditor retired. Referred to professional body with auditor's consent. 	Complete
1995	Action 8	13	\$860,000 @ 30/6/94	Standard employer-sponsor Accumulation	<ul style="list-style-type: none"> Member complaint to ISC led to identification of fraud by employee of employer-sponsor. Fund wound up and money was transferred to industry fund. Bank records showed that money had been removed. Letters allegedly from industry fund and bank proved to be forgeries. 	<ul style="list-style-type: none"> Referred to police who investigated. Employer's financial controller confessed to theft from fund, employer sponsor and trust accounts under his control, and was jailed. Employer restored stolen assets to fund. Fund wound up 30/6/94. 	Complete
1995	Action 9	26	\$2.8M @ 31/12/93	Defined Benefit	<ul style="list-style-type: none"> Trustees not abiding with covenants (s52). Employer not a standard employer-sponsor – highlights possible problems. Members wanted more of 	<ul style="list-style-type: none"> Trustee advised of concerns. Meeting of current and former members convened and distributions to members exceeded entitlements. 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1995	Action 10	35	\$1.3M @ 30/6/95	Defined Benefit	<ul style="list-style-type: none"> surplus to be distributed but money was to be transferred back to employer-sponsor in US. Employer-sponsor also trustee placed into administration. Recoverability of superannuation monies under s556 Corporations Law. 	<ul style="list-style-type: none"> Confirmed s117 does not apply. Policy Issue. 	Complete
1995	Action 11	46	\$16,900 @ 30/6/95	Accumulation	<ul style="list-style-type: none"> \$5,000 credited to one member leaving only \$150 for each remaining member. 	<ul style="list-style-type: none"> Issued letter and s63 notice (direction not to accept employer-contributions). Acceptable rectification finally implemented. 	Complete
1995	Action 12	26,037	\$19,135,662 @ 30/6/99	Public Offer Accumulation	<ul style="list-style-type: none"> Failure to keep proper financial records. Inability to verify assets. Failure to administer fund. Evidence of alleged breaches of SIS. No independent director. Investments allegedly not at arms length. Conflict of interest by director of trustee company of approved trustee. 	<ul style="list-style-type: none"> Considered variation to Instrument of Approval. In view of Board restructure, decided to allow AT to continue with close monitoring. 	Continuing, with ASIC litigation
1996	Action 13	66	\$42,046 @ 30/6/95	Multi-employer accumulation	<ul style="list-style-type: none"> No equal representation (s89). No records of administration procedures for the Fund. 	<ul style="list-style-type: none"> Show cause under s63 issued. Referred director of corporate trustee to ASC. Provided information to director of corporate 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1996	Action 14			Standard employer-sponsor	<ul style="list-style-type: none"> • Non remittance of member contributions and SG contributions breach of s64. 	<p>trustee regarding wind up with disclaimer.</p> <ul style="list-style-type: none"> • Advised members most cost effective way to proceed. • Suggested members to withdraw authority to deduct employee contributions. • Referred SG matter to DIR/ATO. 	Complete
1996	Action 15			Employer	<ul style="list-style-type: none"> • Non remittance of member contributions (s64) – employer ceasing to operate and time to lay charges has lapsed under the Crimes Act. 	<ul style="list-style-type: none"> • Liaison with employer finds they are unable to secure payment of monies. • Advised complainant to take matter to Small Claims Court as now outside jurisdiction. • Continuing negotiation with employer-sponsor led to repayment of most money not previously remitted. 	Complete
1996	Action 16	250 for one staff fund and 30 excluded funds	\$824K	Trustee for one staff fund and 30 excluded funds)	<ul style="list-style-type: none"> • Possibly issuing interest in public offer fund (s152). • Not completing audited accounts within specified period (s113). • Failure to respond adequately to notices (s254). • Giving false and misleading statements (s303). • Failure to demonstrate that the requirements of equal 	<ul style="list-style-type: none"> • Notice to Commence Investigation issued 31/3/96 (s263). • Direction to Provide Information under s264 and Notice Requiring Production of Books (s269) in respect of 30 funds issued 5/8/96. • Direction to Freeze Assets (s264) issued to all related funds on 1/10/96. 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
					<ul style="list-style-type: none"> representation have been met (s89). Breach of In house asset rules (s84). Sole purpose issues (s62). Trustee covenants (formulating an investment strategy) (s52). 	<ul style="list-style-type: none"> Appointment of Inspectors 2/4/96. Determination that Shares are investment in Standard Employer-Sponsor issued under s71(4) dated 30/6/98. Trustee resigned as trustee of all funds before it could be replaced. Secured undertaking from former trustee directors to provide put option without cost to new trustees of funds, enabling them to redeem shares in trustee (accountancy firm) parent at purchase price after 12 months. Recommended prosecution but DPP declined. Notice Requiring Trustee to Appoint Investigator issued under s257 on 18/8/99. ATO requested access to records of ISC investigation. Former trustee injunctioned ISC; change of legislation meant that material could not be given to ATO. Declared shares in trustee's parent to be an in house asset of the Staff 	

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
						<p>Super Fund under s271 of SIS.</p> <ul style="list-style-type: none"> Require Trustees to appoint an investigator to report on value of shares in a company related to the parent and units in a related unit trust. 	
1996	Action 17			Auditor	<ul style="list-style-type: none"> Auditor dealing with small funds which were defrauded by their administrator. Lack of proper documents. Audit papers. Failure to verify assets for PEG funds. 	<ul style="list-style-type: none"> Disqualification under s131 and referral to professional association under s131A issued on 6/9/96. Disqualification order confirmed on review in November 1997. 	Complete
1996	Action 18			Auditor	<ul style="list-style-type: none"> Whether admissions made to a court can be used to take enforcement action. Whether 'fit and proper person'. 	<ul style="list-style-type: none"> Disqualification under s131 and referral to professional association under s131A occurred in January 1997. 	Complete
1996	Action 19			Auditor	<ul style="list-style-type: none"> Poor auditor performance. Limited/incorrect compliance testing. 	<ul style="list-style-type: none"> Issued show cause letter canvassing disqualification under s131 and referral to professional association under s131A. Due to further analysis decision made not to proceed. Advised auditor that practitioner review will be conducted in future. 	Complete
1996	Action 20	3	\$100K in fund 3	Trustee of 3 single member excluded funds	<ul style="list-style-type: none"> Liquidator appointed to corporate trustee therefore disqualified under s120(2) 	<ul style="list-style-type: none"> Advised liquidator of company's role as trustee status. 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
					and 121(2).	<ul style="list-style-type: none"> Monitor court proceedings re replacement of trustee. Raise liquidator awareness of superannuation issues. 	
1996	Action 21	1	\$78,200 @ 30/6/95	Excluded Defined Benefit	<ul style="list-style-type: none"> Review found trustees breached in house asset rules (s84) during 1994/95 year of income. 	<ul style="list-style-type: none"> Notice of non-compliance under s40 and statement of reasons for 1994/95 issued on 30/6/96. 	Complete
1996	Action 22	2	\$26,568 @ 30/6/96	Excluded Accumulation	<ul style="list-style-type: none"> 100% in house assets (s84). Trustee fails culpability test. Failure by auditor to discharge his obligations. 	<ul style="list-style-type: none"> Issued show cause to trustee. Letter sent to auditor bringing his attention to SIS compliance auditing requirements. Notice of non-compliance under s40 and statement of reasons for 1994/95 issued December 1996. 	Complete
1996	Action 23	12	\$158,447 @ 30/6/96	Standard employer-sponsor Accumulation	<ul style="list-style-type: none"> Unsatisfactory equal representative arrangements (s89). Breach of in house asset rules (s84). Failure to keep appropriate minutes (s103). Changes to deed without referral to members. Election validity. 	<ul style="list-style-type: none"> Issued s63 show cause. Notice Seeking Information issued. Referral to ATO re possible taxation issues. Rectification largely achieved. 	Complete
1996	Action 24	43	\$1.4M @ 30/6/96	Excluded Accumulation	<ul style="list-style-type: none"> Member complaints to SCT for outstanding amount of \$4,279. Credibility of SCT. 	<ul style="list-style-type: none"> Member complaint resolved by payment being made to member's nominated complying 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1996	Action 25	73	\$228,428 @ 30/6/95	Public Offer Defined Benefits	<ul style="list-style-type: none"> Failure of SCT to identify time frame in which Trustee was to pay determined amount to member. Possible prosecution under s34(2) and injunction under s315(3). Under transitional provisions. Possible breaches of numerous provisions of SIS. Failure to lodge annual returns from 1988 – 1998. Failure to properly discharge all responsibilities to members. Failure to comply with s255 notice. 	<ul style="list-style-type: none"> Trustee agreed to wind-up fund and transfer out all members' benefits once Court proceedings finalised. Annual returns for 1988 to 1994 lodged and discretion exercised by regulator to deem the fund complying. Prosecution of trustee contemplated but not proceeded with due to difficulty in proving fault liability offences. Notices under s254 and s255 issued to sole director of trustee on 24/8/00 and undertaking received stating outstanding issues will all be dealt with by 30/9/00 and wind up will be effected within 4 weeks of dividend distributions. 	Ongoing monitoring to ensure completion of wind up
1996	Action 26	92	\$278,772 @ 30/6/96	Standard employer-sponsor Accumulation	<ul style="list-style-type: none"> Operating without approved trustee. Want comfort that undertakings given by 	<ul style="list-style-type: none"> Appointment of Investigator (s257). As a result of regulator's concerns, employees 	Complete

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1996	Action 27	120	\$6M - \$18.5M @ 30/6/99 depending on asset realisation	Trustee for 183 Excluded funds	<p>trustee have been carried out.</p> <ul style="list-style-type: none"> Liquidator appointed following Federal Court action. Loss of between 23% and 71% of benefits held in various funds under trusteeship of trustee as a result largely due to poor investment decision and mismanagement of companies' trust business. 	<p>were rolled out of fund and executive remained in as an excluded fund.</p> <ul style="list-style-type: none"> Acting Trustee appointed. Liaison with Acting Trustee concerning discussions with the ATO concerning tax payable by the numerous entities involved with AT. Regulator constrained by activities of acting trustee and liquidator and accordingly ongoing monitoring only function. 	<p>Ongoing – freeze on benefit payments to be progressively lifted over next 9 months as assets of various member classes are realised. Funds to be wound up</p>
1996	Action 28	147	\$50,000 @ 30/8/99	Corporate	<ul style="list-style-type: none"> Failure by trustee and administrator to provide comfort as to whereabouts and security of assets of fund. 	<ul style="list-style-type: none"> Notice to Commence Investigation 18/10/96 (s263). Appointment of Inspector issued 23/10/96 (s266). Direction to Freeze Assets issued to fund and relevant parties 22/10/96 and further direction issued 17/4/97. Notice Requiring Trustee to Appoint Investigator under s257 issued 11/11/96. Notice Requiring Production of Books (s269) issued 14/11/97. Certification of non-compliance under s289 issued. MLC as successor fund now holds assets and 	<p>Complete</p>

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1996	Action 29	1,032	\$308,000 @ 30/6/96	Accumulation	<ul style="list-style-type: none"> Prima facie evidence of a contravention of s146 (misleading conduct). Impact of misleading information of current and prospective members. Possible contravention of equal representation requirements (s89). 	<ul style="list-style-type: none"> possible surplus. Inspector's Report issued. Liquidator of corporate trustee completed the transfer of assets and allocation of benefits to members. See under Action 6. 	Complete
1997	Action 30			Approved Trustee	<ul style="list-style-type: none"> AT has limited approval to act and must seek approval for any variation. AT has breached the conditions of approval by action for more than 3 funds. 	<ul style="list-style-type: none"> Trustee agreed to exit the industry. Revocation of Approved Trustee status. 	Complete
1997	Action 31	3	\$81,000	Excluded, accumulation	<ul style="list-style-type: none"> Failure to comply with in house asset provisions (s84). 	<ul style="list-style-type: none"> Compliance status withdrawn under s40 for 1994/95. Appeal to AAT dismissed in 1999-2000. 	Complete
1997	Action 32			Accountant and adviser for 70 funds	<ul style="list-style-type: none"> Fraudulent misappropriation of client assets. 	<ul style="list-style-type: none"> Release of protected information and documents under s56 to Police. Individual convicted and imprisoned. Disqualification notice under s131 issued 6/3/00 to take effect on 15/3/00. 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1997	Action 33			Auditor of 25 funds and contact for 37 funds	<ul style="list-style-type: none"> Conducted audit of fund and signed auditor certificate while director of corporate trustee therefore failure of auditor independence test. After resigning from ASCPA, further audit reports where signed one for a non-excluded fund and 2 for excluded funds. Subsequently found to have promoted scheme to avoid operation of preservation requirements, involving up to 500 small superannuation funds. 	<ul style="list-style-type: none"> Referral under s131A to ASCPA but resignation occurred before consideration. Release of information under s55 to Victoria Police and ATO to assist in investigation of alleged corrupt dealings. Possible prosecution under s145. Disqualification notice under s131 and statement of reasons issued 8/1/99. ASIC prosecuted under SIS and Crimes Act. Individual pleaded guilty in September 2000. 	Ongoing – actions of colleagues remain under review
1997	Action 34			Auditor of 45 funds	<ul style="list-style-type: none"> Imprisoned upon convictions of misappropriation. 	<ul style="list-style-type: none"> Disqualification under s131. Excluded from Institute of Chartered Accountants. 	Complete
1997	Action 35			Auditor of 64 funds	<ul style="list-style-type: none"> Lack of auditor independence. Lack of auditor competence and integrity. 	<ul style="list-style-type: none"> Referral to professional association under s131A. ICAA reprimanded and fined auditor. 	Complete
1997	Action 36			Auditor	<ul style="list-style-type: none"> As auditor of a regulated superannuation fund, failure to comply with SIS Act regarding qualification to act as Trustee. Fraudulently inducing a person to engage in a regulated act. Issuing interests in a public offer entity. 	<ul style="list-style-type: none"> Exchange of information under MOU with ASC. Consent obtained to exchange information with Victoria Police. Consider possible prosecution for SIS breaches. Add s121 contravention to charges laid by 	Charges in abeyance after auditor departed overseas.

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1997	Action 37	98	\$2,500,000	51 excluded funds	<ul style="list-style-type: none"> Disqualified person pursuant to s120 as convicted of charges in respect of dishonest conduct. Director of corporations and is an undischarged bankrupt. Investigation ongoing by ASC and Victoria Police. Non lodgement of annual returns (s36). Use of unit trusts for avoidance of in house asset provisions. <p>In respect of 19 funds:</p> <ul style="list-style-type: none"> Failure to lodge annual returns (s36). Breach of in house asset provisions (s84). Breach of anti-avoidance provisions (s85). 	<ul style="list-style-type: none"> Victoria Police – subsequently retracted by Victoria Police so referred to DPP for its view. Notice of Investigation under s263 issued 26/3/97. Inspector appointed (s265). Notice requiring production of books under s269 issued 1/5/97. Notice Requiring All Reasonable Assistance and Appearance for Examination issued 14/7/98. Disqualification under s131. Commence s289 action. Examination of various trustees under s270. Certificate of Failure to Comply issued to director of one of the related funds issued under s289 dated 10/9/97 and Federal Court injunction subsequently obtained. Search warrants obtained and executed. 	Ongoing – action likely to be required to secure payment of fines

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1997	Action 38			Auditor of 19 excluded funds	<ul style="list-style-type: none"> Lack of independence and competence as approved auditor. Audit conducted for fund in 1995 when director of the corporate trustee, member of fund and partner of employer-sponsor. 	<ul style="list-style-type: none"> Civil penalty orders obtained in Federal Court under SIS anti-avoidance provisions. Fines totalling \$227K imposed. Notices of non compliance under s40 and statement of reasons issued in respect of 18 of 19 related funds which formed the basis of Federal Court action. Auditors disqualified. Referred to professional associations (ASCPA & ICAA) under s131A. 	Complete
1997	Action 39			Auditor	<ul style="list-style-type: none"> Sentenced to 3 years jail after pleading guilty to charges of theft and making false and misleading statement regarding capital under s1308(1) Corporations Law – approx. \$454K stolen. Resigned from ICA. 	<ul style="list-style-type: none"> Disqualification notice under s131 and statement of reasons issued 3/2/99. 	Complete
1997	Action 40	2	\$168,388 @ 30/6/96	Excluded Combination / Accumulation / Defined Benefit	<ul style="list-style-type: none"> Failure to comply with SIS Act in relation to acquisition of member assets (s66). 	<ul style="list-style-type: none"> Compliance status withdrawn under s40 for 1995/96. 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1997	Action 41	9	\$2.5M @ 30/6/98	Two family based accumulation funds, one excluded	<ul style="list-style-type: none"> Breach of sole purpose test (s62). Possible contravention of in house asset provisions. Request to enter into Deed of Adherence with ATO. 	<ul style="list-style-type: none"> Referred to ATO for amended assessment of employer-sponsor status under s.82AAC and Part IVA Tax Act (anti-avoidance). Decision by APRA not to enter into Deed with ATO and rights reserved to pursue contraventions as appropriate. Negotiation currently underway with ATO re a global settlement. 	Ongoing
1997	Action 42	4	\$407,051 @ 30/6/97	Excluded Accumulation	<ul style="list-style-type: none"> Review found: <ul style="list-style-type: none"> Investment strategy failed to reflect the investments of fund; <ul style="list-style-type: none"> Sole purpose; Borrowings by trustee; Failure to deal with parties at arm's length; Failure to keep records. Charges over assets. 	<ul style="list-style-type: none"> Insufficient evidence to take enforcement action. 	Complete
1997	Action 43	71	\$17,251 @ 30/6/97	Standard employer-sponsor Accumulation	<ul style="list-style-type: none"> No equal representation (s89). No annual returns lodged for 1995 & 1996 (s36). Trustee unaware of SIS requirements. 	<ul style="list-style-type: none"> Show cause letter issued under s63 in October 1997. Response to show cause advising fund would wind up. Wind up process commenced but delays experienced. Wind up eventually completed. 	Complete
1997	Action 44	97	\$302,273 @ 30/6/97	Corporate Accumulation	<ul style="list-style-type: none"> Equal representation issues (s89). Review of fund found 	<ul style="list-style-type: none"> Issued s63 notice. Trustees agreed to rectify contraventions and 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1998	Action 45			Auditor of 5 excluded funds	<ul style="list-style-type: none"> breaches of SIS – no administration process, no disaster recovery plan. Trustee requested to rectify but no action taken. Adverse comments passed by Judge in Supreme Court of NSW resulted in disciplinary action by ICA. Whether 'fit and proper person'. 	<ul style="list-style-type: none"> appointed member representatives and formed new investment strategy. On this basis, s63 sanction lifted with continuing monitoring. Request citation from ICA. Conduct practitioner review. Disqualification notice under s131 and statement of reasons issued 12/11/98. 	Complete
1998	Action 46			Employer-sponsor	<ul style="list-style-type: none"> Failure to remit contributions. Now in receivership. No funds available to pay outstanding contributions. Issues raised concerns about effectiveness of s64. 	<ul style="list-style-type: none"> Unable to assist member. 	Complete
1998	Action 47			Auditor	<ul style="list-style-type: none"> Review of 2 funds which individual was approved auditor for indicated not adequately and properly fulfilling duties as an auditor therefore not a fit and proper person. 	<ul style="list-style-type: none"> Show cause letter for disqualification under s131 and referral to professional association under s131A issued 30/10/98. Disqualification not to proceed on basis of undertaking being provided from auditor. Referral to professional association (ASCPA) proceeded. 	Complete
1998	Action 48			ROB applicant	<ul style="list-style-type: none"> Prima facie evidence of a case of forge and/or utter of Commonwealth document 	<ul style="list-style-type: none"> Referred to AFP for investigation. Advised applicant matter 	Complete

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1998	Action 49	N/A	N/A	N/A	<ul style="list-style-type: none"> contrary to s67 Crimes Act involving ROB letter from Regulator. In-house asset contraventions (s84) and multiple others. No annual return ever lodged. Liquidation of employer-sponsor. Failure by trustee to make claim on liquidator as deposit monies, as a loan obtained from fund assets is unrecoverable. 	<ul style="list-style-type: none"> has been referred to AFP. Lack of fund assets means replacement of trustee to fix fund not possible therefore no actions to be taken. 	Complete
1998	Action 50			Auditor	<ul style="list-style-type: none"> Criminal conviction for 18 charges of defrauding Commonwealth. 	<ul style="list-style-type: none"> Disqualification notice under s131 and statement of reasons issued 16/12/98. 	Complete
1998	Action 51			Auditor	<ul style="list-style-type: none"> Criminal conviction. Not properly and adequately fulfilling duties as Auditor. 	<ul style="list-style-type: none"> Disqualification under s131 and referral professional association ICAA under s131A issued 22/6/99. 	Complete
1998	Action 52		\$40,000	ROB applicant	<ul style="list-style-type: none"> Provided 3 certifications by each applicant's 2 doctors however doctor records indicate only 1 certificate provided each. Prima facie evidence of case of forge and/or utter a document deliverable to Commonwealth contrary to s67 of Crimes Act. 	<ul style="list-style-type: none"> Referred to AFP pursuant to subsection 346(6AB)(a). Advised applicant of referral to AFP. 	Complete
1998	Action 53	1	\$183,749 @ 30/6/96	Excluded Accumulation	<ul style="list-style-type: none"> Non compliance notice issued for 1993/94 based on breach of Regulation 16B 	<ul style="list-style-type: none"> Reconsideration of original non compliance decision upheld 4/12/97 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1998	Action 54	2	\$885,932 @ 30/6/98	Excluded Accumulation	<ul style="list-style-type: none"> of OSSR. In house asset breach continues. Non lodgement of annual returns (s36). Failure to prepare accounts and statements (s112). No arrangements for auditor to give report to trustee (s113). 	<ul style="list-style-type: none"> but varied after identifying breach of 16A as well. Advised trustee and ATO of intent not to issue compliance status of 95/96. Notice of non compliance under s40 and statement of reasons for 94/95, 95/96 and 96/97 issued on 1/10/98. 	Complete
1998	Action 55	2	\$112,988 @ 30/6/96	Excluded Accumulation	<ul style="list-style-type: none"> Fund was not established for sole purpose of providing retirement income in that funds transferred into fund were used to meet business and family debts. 	<ul style="list-style-type: none"> Notice of non-compliance under s40 and statement of reasons for 1995/96 & 1996/97 issued 3/2/99. Referred to ATO for possible investigation. 	Complete
1998	Action 56	2	\$148,402 @ 30/6/97	Excluded Accumulation	<ul style="list-style-type: none"> Definition of 'resident'. Doesn't meet definition of regulated superannuation fund. 2 members moved overseas in 1992 for work activities but directed contributions into fund to continue. 	<ul style="list-style-type: none"> Notices of non-compliance under s40 and statement of reasons for 1994/95, 1995/96, 1996/97 and 1997/98 issued 22 December 1998. 	Complete
1998	Action 57	5	\$6,782 @ 30/6/97	Corporate Accumulation	<ul style="list-style-type: none"> Review found contraventions of equal representation requirements, poor investment strategy, trustee minutes inadequate, absence of procedures to appointment of member 	<ul style="list-style-type: none"> Required evidence of members transferring out of fund. Fully audited account from independent auditor stating wind up required. Fund wound up effective 30/6/98. 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1998	Action 58	8	\$721,057 @ 30/6/98	Corporate Excluded	<p>representatives, financial statements not audited in prescribed time and inadequate member reporting.</p> <ul style="list-style-type: none"> Review of fund found Trustee lacking in compliance focus. Lack of understanding of sole purpose. Use of fund as tax minimisation project. 	<ul style="list-style-type: none"> Notice of non compliance under s40 and statement of reasons for 1994/95, 1995/96, 1996/97 issued 20/9/99. 	Complete
1998	Action 59	24	\$41,585 @ 30/6/97	Corporate Accumulation	<ul style="list-style-type: none"> Poor financial position. Contravention of basic equal representation rules (s89). 	<ul style="list-style-type: none"> Examination of evidence. Show cause letter issued concerning failure to comply with section 92 on 24/12/98. Trustee advised following receipt of show cause that all arm's length members have been rolled out and the director of trustee will remain sole member. 	Complete
1998	Action 60	31	\$50,204 @ 30/6/95	Corporate Accumulation	<ul style="list-style-type: none"> Contraventions of equal representation rules, accounting standards, investments, member reporting and protection of small amounts. 	<ul style="list-style-type: none"> Show cause under s63. Election deemed to be defective and trustee not willing to co-operate with APRA. Due to defective election, fund not a regulated entity and therefore ATO advised. 	Complete
1998	Action 61	34	\$239,000 @ 30/6/99	Corporate Accumulation	<ul style="list-style-type: none"> Majority of fund assets are in speculative investments as well as 25% being in office furniture. Employer-sponsor became insolvent on 8/5/98. 	<ul style="list-style-type: none"> Direction to Freeze Assets under s264 issued 26/6/98 and revoked on 20/8/98. Notice of Investigation under s263 issued on 	Ongoing - Acting Trustee still in process of winding fund up

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
					<ul style="list-style-type: none"> Breach of sole purpose requirement (s62). Unsatisfactory financial position. Nominal fund assets of \$453K of which \$162K invested in life policy for 2 members who are also employer representative directors of corporate trustee. Remaining \$290K available to discharge employee member benefits consists of \$270K invested in speculative investments of which \$117K is office furniture and equipment leased to employer-sponsor. 	<ul style="list-style-type: none"> 25/6/98. Consent to Removal of Trustee under s133 dated 6/8/98. Removal of trustee pursuant to s133 dated 20/8/98. Notice of Appointment of Acting Trustee under s134 dated 20/8/98. Property Vesting Order under s138 issued 20/8/98. Direction to Acting Trustee issued under s141 20/8/98. Benefits for all fund members transferred to a rollover fund. 	
1998	Action 62	36	\$74,977 @ 30/6/99	Corporate Accumulation	<ul style="list-style-type: none"> Poor investments decisions by trustee. Failure to deal at arms' length (s109). 	<ul style="list-style-type: none"> Acting Trustee has had investments realised to cash and financial statements prepared in November 1999. Independent audit firm appointed to conduct audit of fund in April 2000. Distribution of assets to members occurred in July 2000 and audit completed. Fund to be audited then Acting Trustee will resign and fund will be closed. Removal of trustee pursuant to s133 dated 	<ul style="list-style-type: none"> Ongoing – awaiting lodgment of wound up Annual Return from Acting Trustee

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1998	Action 63	48	\$108,836 @ 30/6/97	Corporate Accumulation	<ul style="list-style-type: none"> Lack of equal representation (s89). Non lodgement of annual returns (s36). Concerns that assets exposed to risk. 2 of 3 trustee directors previously involved in Action 6. 	<ul style="list-style-type: none"> Direction not to accept employer contributions under s63 and statement of reasons issued to Trustee on 24/11/98. 	Complete
1998	Action 64	74	\$110,000 @ 30/4/00 (with realisation of claim against Bank)	Corporate Accumulation	<ul style="list-style-type: none"> Director of corporate trustee may have used fund assets for his own benefit. Fund's bank failed to verify authorities on cheque drawings in that single signatory accepted on dual signatory account. Acting Trustee has made allegation of the alleged fraudulent misuse of funds by the former trustee to QLD CIB. 	<ul style="list-style-type: none"> Notice of Investigation under s263 issued on 27/7/98. Direction to Freeze Assets under s264 issued 30/7/98 and revoked on 29/9/98. Removal of trustee pursuant to s133 dated 29/9/98. Notice of Appointment of Acting Trustee under s134 dated 29/9/98. Property Vesting Order under s138 issued 29/9/98. Offer from fund's bank to reimburse \$110,000 in full settlement of claim against them. 	<ul style="list-style-type: none"> Ongoing – Acting Trustee still in process of winding fund up
1999	Action 65			Auditor 34 funds	<ul style="list-style-type: none"> Convicted in Supreme 	<ul style="list-style-type: none"> Disqualification order 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1999	Action 66			Auditor 6 excluded funds	<ul style="list-style-type: none"> Court of Tasmania on four counts of falsification of books. Not a fit and proper person. Criminal conviction for 4 counts of defrauding Commonwealth. Registration with Tax Agents Board suspended for 6 months. ASCPA membership suspended for 3 months. Acting as trustee while disqualified person. 	<ul style="list-style-type: none"> under s131 issued 9/8/99 to take effect on 23/8/99. ASCPA & ICAA aware of conviction and took disciplinary action. Issued notice on ASCPA requesting basis for their suspension of auditor. Disqualification notice under s131 and statement of reasons issued 6/3/00 to take effect 15/3/00. 	Complete
1999	Action 67			Auditor	<ul style="list-style-type: none"> Review of four funds audited found contraventions. Rules not established and published for appointment of member representatives in 3 funds (s107). Lack of equal representation in 2 funds (s92). Cash flow statement not prepared for 2 funds (s112). Contravention of in-house asset rules for 1 fund (s84). Special purpose accounts prepared instead of accounts and statement for 1 fund (AAS25). 	<ul style="list-style-type: none"> Disqualification notice under s131 and referral to professional association (ICAA) under s131A and statement of reasons issued to auditor on 6/3/00 to take effect on 15/3/00. 	Complete
1999	Action 68			Director of Corporate	<ul style="list-style-type: none"> Acted as director of corporate trustee for over 1 	<ul style="list-style-type: none"> Possible prosecution under s121. 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
				Trustee	year after becoming disqualified person as was declared bankrupt on 26/8/97.	<ul style="list-style-type: none"> • Referred to DPP however they declined to prosecute. Based their decision on: <ul style="list-style-type: none"> ⇒ The offence is of a technical nature; ⇒ Director was not a professional director but a member appointed director; ⇒ They reached this decision based on lack of intent; ⇒ When advised of the contravention, the fund took immediate steps to notify APRA and sought Director's resignation ⇒ Absence of any relevant prior convictions. • Referred to ASIC but it chose not to action under breach of s229 Corps Law. 	
1999	Action 69	N/A	N/A	N/A	<ul style="list-style-type: none"> • Failure by employer to pay employee contributions (\$30K) deducted from salary (s64). 	<ul style="list-style-type: none"> • Insufficient evidence to take enforcement action. 	Complete
1999	Action 70			Auditor	<ul style="list-style-type: none"> • Conviction for theft related charge. • Whether 'fit and proper person'. 	<ul style="list-style-type: none"> • Show cause letter for disqualification under s131 and referral under 131A issued 1/3/00. • Following consideration of response from auditor, a decision not to proceed with disqualification was made on the basis of 	Complete

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1999	Action 71			Approved Auditor of 6 excluded funds	<ul style="list-style-type: none"> Criminal conviction of 'obtaining a benefit by deception'. 	<p>auditor providing an undertaking not to conduct superannuation fund audits.</p> <ul style="list-style-type: none"> Undertaking signed by auditor and APRA. A written undertaking was obtained from auditor on 24/9/99 stating he will no longer conduct audits on any superannuation funds. Undertaking also required resignation from professional association (ASCPA) which has occurred. 	Complete
1999	Action 72			Auditor	<ul style="list-style-type: none"> Incompetence - as a trustee of a fund with arms length members contravening the SIS Act over a period of years. 	<ul style="list-style-type: none"> Show cause letter for disqualification under s131 and referral to professional association under s131A issued 28/1/00. Response to show cause received and decision made not to proceed with disqualification or referral. 	Complete
1999	Action 73			Auditor	<ul style="list-style-type: none"> Abandoned accounting practice and failure to conduct proper due diligence concerning breaches of SIS. 	<ul style="list-style-type: none"> Show cause letter for disqualification under s131 issued on 10/2/00. Auditor advised he would not respond to show cause letter as he has no intention to work in superannuation again. ASCPA has taken over 	Complete

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1999	Action 74			Auditor	<ul style="list-style-type: none"> Acting as auditor of a fund for which he is a trustee director (lack of independence). Failure to report the breach of equal representation rules and to comply with auditing standards (incompetence). 	<p>the distribution of auditor's practice and cancelled his membership.</p> <ul style="list-style-type: none"> Show cause letter proposing disqualification under s131 and referral to professional association under s131A was issued to auditor on 15/3/00. Met with auditor who agreed to exit the industry voluntarily and provided signed undertaking on 29/6/00. 	Complete
1999	Action 75	1	\$286,941 @ 30/6/98	Excluded Accumulation	<ul style="list-style-type: none"> Continuing in-house asset breach despite fund advising in "Notice of Contravention" that they were now fully aware of in house asset requirements. No action letter was provided for 1994/95 on basis of 'Notice of Contravention'. 	<ul style="list-style-type: none"> Show cause letter for non-compliance under s40 for 1995/96 and 1996/97 prepared but due to passage of SLAB3 this fund now meets definition of SMSF and accordingly was referred to ATO on 20/12/99. 	Complete
1999	Action 76	2	\$141,974 @ 30/6/98	Excluded Accumulation	<ul style="list-style-type: none"> Repetition of scheme to breach anti-avoidance provisions. s66(3) prohibition of avoidance schemes to acquire assets from members. Breach of sole purpose provisions (s62). 	<ul style="list-style-type: none"> Issued s255 notice seeking production of trust deed. Notice of non compliance under s40 and statement of reasons for 1994/95 issued 13/8/99. 	Complete
1999	Action 77	2	\$365,590 @ 30/6/98	Excluded Accumulation	<ul style="list-style-type: none"> Repetition of scheme to breach anti-avoidance 	<ul style="list-style-type: none"> Notice of non compliance under s40 and statement 	Complete

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1999	Action 78	2	\$429,065 @ 30/6/97	Excluded Accumulation	<ul style="list-style-type: none"> provisions. Prohibition of avoidance schemes to acquire assets from members s66(3). Breach of sole purpose provisions (s62). No action letter issued to Trustees in respect of in-house asset contravention but rectification program not adhered to. 	<ul style="list-style-type: none"> of reasons for 1995/96 issued 13/8/99. Notice of non compliance under s40 and statement of reasons for 1994/95 issued September 1999. 	Complete
1999	Action 79	2	\$205,817 @ 30/6/98	Excluded Accumulation	<ul style="list-style-type: none"> Contraventions of s34 and s65. 	<ul style="list-style-type: none"> Show cause letter for non-compliance under s40 for 1996/97 and 1997/98 prepared but due to passage of SLAB3 this fund now meets definition of SMSF and accordingly was referred to ATO on 20/12/99. 	Complete
1999	Action 80	2	Nil @ 30/6/99	Excluded Accumulation	<ul style="list-style-type: none"> Perth CIB allegations that trustee has withdrawn \$11,938 from fund without authority and used it for private purposes. 	<ul style="list-style-type: none"> Assisted CIB with their enquiries. Formal charges of forgery relating to withdrawal of fund assets laid against trustee and on 18/7/00 a conviction was recorded and restitution is required to be paid. 	Ongoing
1999	Action 81	3	\$16,124 @ 30/6/98	Excluded Accumulation	<ul style="list-style-type: none"> Existence of an arms length member with majority of fund's member benefits in his account, whether the culpability test could be satisfied. Breach of in house asset provisions (s84). 	<ul style="list-style-type: none"> Matter of false statement referred to DPP however DPP will not prosecute due to lack of evidence. Notice of non compliance under s40 and statement of reasons for 1997/98 issued 29/12/99. 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1999	Action 82	3	\$120,490 @ 30/6/98	Excluded Accumulation	<ul style="list-style-type: none"> False statements made to APRA regarding repayment of loan to employer-sponsor. Breach of acquisition of assets from member rule (s66). 	<ul style="list-style-type: none"> Commissioner of Taxation advised of fund's non-complying status. Notice of non-compliance under s40 and statement of reasons for 1996/97 issued 20/6/00. ATO advised of fund's non-complying status. 	Complete
1999	Action 83	4	\$444,853 @ 30/6/98	Excluded Accumulation	<ul style="list-style-type: none"> Breach of in house asset rules (s84). Failure to comply with arm's length requirements (s109). 	<ul style="list-style-type: none"> Fund has restructured and now meets definition of SMSF and accordingly referred to ATO with recommendation to proceed with the removal of the compliance status of the fund due to contraventions of s84 and s109. 	Complete
1999	Action 84	18	\$93,087 @ 30/6/99	Corporate Accumulation	<ul style="list-style-type: none"> Absence of equal representation (s89). Internal control inadequacies. Failure to submit annual returns (s36). Inadequate disclosure to members. 	<ul style="list-style-type: none"> Trustee ceased to receive contributions from 29 February 2000. Notices under s254 and s255 issued to trustees on 15/8/00. Trustees complied with above notices on 23/8/00 and evidence provided confirmed transfer out of all members' benefits and completion of the wind up. 	Complete
1999	Action 85	19	\$86,344 @ 30/6/98	Corporate Accumulation	<ul style="list-style-type: none"> Breach of liquidity in investment strategy requirements (s52). Referral from ASIC under 	<ul style="list-style-type: none"> Trustee has rolled out the benefits of all arms length members. This has been confirmed by the member 	Complete

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1999	Action 86	20	NIL	Corporate Accumulation	<ul style="list-style-type: none"> • s127 ASIC Act. • Contravention of sole purpose test (s62). • Possibly lending to members in contravention of s65. • Accepting non-standard employer members while not having an approved trustee (s152). • Redemption of superannuation interests (s144). 	<ul style="list-style-type: none"> • who made original complaint. • Preparation of brief to DPP for criminal charges to be laid against directors of corporate trustee for a contravention of s62. • Monitor role of liquidator with possibility of arranging for a replacement trustee whose functions are currently be carried out by liquidator. • Charges laid against directors and a joint press release with ASIC issued on 13/10/99. • Former directors committed for trial on 5/6/00 for multiple charges under s145 & s152. 	Ongoing – trial scheduled for December 2000
1999	Action 87	22	\$3,649,375 @ 30/6/99	Corporate Defined Benefit Fund	<ul style="list-style-type: none"> • Defined benefit scheme with ongoing funding shortfalls. • Disagreements between employer-sponsor as to their share of funding obligations. • Fund in process of winding up and benefits are transferring into successor fund that provides accumulation benefits. • Numerous member queries 	<ul style="list-style-type: none"> • Member nominations have been received and all assets redeemed in anticipation of transfer out of 90% of member benefits. Balance of funds will be transferred out following actuarial review. • Actuarial report identified funding deficit of \$76K which was paid into fund by employer on 21/3/00. 	Complete

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1999	Action 88	300	\$700K @ 30/6/99	Corporate	<p>and complaints about apportionment of benefits and implementation of wind up.</p> <ul style="list-style-type: none"> Financial position of fund unsatisfactory. Employer (who went into liquidation in November 1998) failed to pay contributions to the Fund of \$244,000. Member benefits of \$187K can not be paid due to lack of liquidity. Main asset of fund valued at \$410K is an investment in a unit trust related to the failed employer's group. It's sole asset is equity in a car parking station. Both ex-employer nominated trustee directors are now bankrupt. 	<ul style="list-style-type: none"> Confirmation received from trustee that all outstanding member benefits have been transferred out. Member complaint relating to historical issues was responded to with advice to contact the SCT. Acting Trustee appointed. Acting Trustee sought advice from counsel on possible action against trustee of the unit trust and other related parties. Acting Trustee received investment in unit trust (\$390K). Acting Trustee to make partial distribution to members. Consider legal action against former trustee and administrator. 	<p>Ongoing monitoring to ensure wind up of fund</p>
1999	Action 89	324	\$676,021 @ 28/2/98	Corporate Accumulation	<ul style="list-style-type: none"> External auditor issued notice under s129 identifying following breaches: failure to keep trustee minutes (s103); 	<ul style="list-style-type: none"> Met with trustee and external administrator and negotiated resolution for distribution of surplus benefiting all members 	<p>Ongoing monitoring to ensure completion of wind up</p>

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1999	Action 90	333	\$1,694,554 @ 30/6/98	Corporate Accumulation	<p>failure to keep records of changes of trustees (s104); possible breach of equal representation rules (s89); failure to arrange for completion of audit (s113).</p> <ul style="list-style-type: none"> Trustee appears to have attempted distribution of surplus of \$65K in a way that benefits new members only. 	<p>and winding up of fund.</p> <ul style="list-style-type: none"> Obtained undertaking from external administrator to carry out wind up tasks regardless of their Melbourne office closure. Ongoing delays have been experienced mainly due to performance of administrator. Concerns regarding administrator's performance have been raised with management of its parent company. 	<p>Ongoing -- continue to have concerns about the operation of the fund</p>
					<ul style="list-style-type: none"> Alleged delays in making benefit payments. Possible breaches of equal representation requirements (s89). Alleged breached of payment standards and inadequate disclosure to members. Fund may be a public offer fund without having an approved trustee in place (Part 19). Accounting and administration systems are delaying completion of audit and production of members' annual statements for 1998/99. Inadequate control and oversight of fund by trustee 	<ul style="list-style-type: none"> Full prudential review undertaken. Met with trustee chairman and 2nd member representative on 17/12/99 who advised firm commitment to address all risks identified in review of fund. Response from trustee to APRA's report of findings unsatisfactory. Disclosure related issues referred to ASIC on 7/6/00. Additional information and documents sought from Board via s254 and s255 notices. 	

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1999	Action 91	Approx 900	\$1.336M @ 30/4/00	Industry	board. <ul style="list-style-type: none"> Anonymous complaint alleging employer using assets of fund as working capital. Fund assets concentrated in a property development and do not appear to be adequately secured. Unable to establish value or location of assets. Failure to submit annual return. Failure to audit Fund 1996/97 and 1997/98. Failure to appoint an auditor for 1996/97 and 1997/98. Failure to complete and submit taxation returns 96/97 and 97/98. Failure to provide members with annual member statements, annual fund reports and statements relating to significant matters. Apparent failure to separate superannuation fund assets from non superannuation fund assets and to hold them in trust. Apparent failure to prepare investment strategy. Apparent failure of trustee to meet and keep minutes of meetings. 	<ul style="list-style-type: none"> Notices Requiring Production of Books and Documents under s255 issued on 2/3/99. Response letter from trustee on 19/3/99 did not meet requirements. Notice of Investigation under s263 issued 7/4/99. Appointment of Inspector under s265 and Delegations by Inspector dated 7/4/99. Issued s63 Notice to Trustees. Formal referral to ATO and ASIC. Removal of Trustee pursuant to s133 issued 2/7/99. Notice of Appointment of Acting Trustee under s134 issued 2/7/99. Property Vesting Order under s138 issued 2/7/99. 	Ongoing – awaiting final distribution of realised assets to members and wind up of fund

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
1999	Action 92	940	\$427,513 @ 30/6/99	Corporate Accumulation	<ul style="list-style-type: none"> Failure to lodge annual returns from 1995 – 1998 (s36). Failure by trustee to keep adequate books and records on the affairs of the fund. Poor trusteeship and overall management of the fund. 	<ul style="list-style-type: none"> APRA and trustee co-operating to ensure all concerns are addressed prior to winding up of fund. Rectification plan agreed to. External consultants reconstructed records and financial statements for the fund and found a shortfall of \$22,400 in fund assets. Negotiations held with employer and agreement reached that employer would make up 100% of the shortfall and contribute \$10,000 towards fund expenses. ASIC advised of disclosure related issues. 	Ongoing monitoring to ensure completion of wind up
2000	Action 93		\$2.613M @ 31/12/99	Standard employer-sponsor	<ul style="list-style-type: none"> Possible contravention of equal representation requirements (s89). 	<ul style="list-style-type: none"> Trustees provided undertaking to transfer funds and members should the issues remain unresolved. Trustees decided to wind up fund and contractual arrangements made with AMP to permit the rollover of member benefits. 	Ongoing
2000	Action 94	5	\$158,129 @ 30/6/98	Other Combination accumulation and defined benefit	<ul style="list-style-type: none"> Failure to respond to notices issued for the production of information. 	<ul style="list-style-type: none"> Advice requested from Legal. 	Ongoing

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
2000	Action 95	6	\$330,364 @ 30/6/99	Corporate Accumulation	<ul style="list-style-type: none"> Breach of in-house asset provisions. Lack of equal representation. inadequate member reporting. 	<ul style="list-style-type: none"> Notice Requiring Production of Books issued. Fund was to be a SMSF but now will remain as an APRA regulated fund as it has 6 members. Currently preparing letter of issues for the trustee/auditor. 	Ongoing
2000	Action 96	139	\$523,635 @ 30/6/99	Corporate Accumulation	<ul style="list-style-type: none"> Possible contravention of equal representation requirements (s89). Trustee failing to meet is responsibilities under SIS and failing to co-operate with APRA. 	<ul style="list-style-type: none"> Two additional trustees were appointed which may address equal representative requirements. Meeting with trustee director of fund on 29/5/00 and advised review to occur on this fund, and 2 other funds that had recently rolled into fund. 	Ongoing – review to commence September 2000
2000	Action 97	195	\$1.7M	Approved Trustee	<ul style="list-style-type: none"> Assets not custodially held in breach of Instrument of Approval. Sole signatory for fund authorisations. Lack of investment strategy. Dominant director. Blurring of responsibility between trustee and administrator. Disclosure issues. 	<ul style="list-style-type: none"> Information gathering. Trustee proposes sale of entity. Consider variation of Instrument of Approval. 	Ongoing
2000	Action 98	200	\$751,481 @ 30/6/00	Corporate Accumulation	<ul style="list-style-type: none"> Director of corporate trustee made admissions to co-director and police that 	<ul style="list-style-type: none"> Internal audit report received on 3/8/00 indicated assets to be 	Ongoing – Federal Court Proceedings have commenced

YEAR OF REF	NAME OF ENTITY / INDIVIDUAL	MEMBERS	ASSET ESTIMATES	TYPE	ISSUES	ACTION TAKEN	CURRENT STATUS
					<p>he has converted assets of the Fund for his own use and can not repay them.</p> <ul style="list-style-type: none"> • \$510,000 of assets cannot be accounted for. • Auditors of the fund failed to identify the alleged fraud and have resigned and a new firm has been appointed. 	<ul style="list-style-type: none"> • \$251K and member entitlements to be \$751K. • Show cause letter issued 3/8/00 requesting the trustee give reasons why APRA should not seek consent of Minister to remove it under s133. • Trustee made application to the Minister seeking financial assistance under Part 23 on 8/8/00. • Response to show cause letter received 11/8/00. • Minister consented to APRA removing the trustee on 28/8/00 and on 29/8/00 APRA proceeded with Removal of Trustee and Appointment of Acting Trustee on 29/8/00. • Attended General Meeting of members of fund with Acting Trustee on 29/8/00. 	
2000	Action 99	29,352	\$44.8M @ 30/6/99 (total for 3 funds)	Approved trustee	<ul style="list-style-type: none"> • Poor investment strategy. • Corporate governance issues. • Impaired assets. • AT accepted 220 funds into their trusteeship which may be in breach of conditions in their Instrument of Approval. 	<ul style="list-style-type: none"> • AT appointed an Investigator to report to AT and APRA. 	Ongoing