

16 March 2020

**Committee Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600**

Dear Committee,

RE: Responses to Questions on Notice concerning Treasury Laws Amendment (Your Super, Your Choice) Bill 2019

TWUSUPER thanks the Committee for the opportunity to appear before it on 9 March 2020 in Sydney, and further thanks the committee for the Questions on Notice provided subsequent to that hearing.

In answer to the Committee's Questions on Notice, we can advise:

1. As an RSE licensee, TWUSUPER ensures that its Responsible Persons meet the fit and proper requirements set out set out in and supported by APRA Prudential Standard SPS 520 - Fitness and Propriety (SPS 520) and take into account the guidelines in APRA Prudential Practice Guide SPG 520 - Fitness and Propriety.

TWUSUPER's Fit and Proper Policy was initially approved on 7 April 2005 and has been updated several times since. Attached is the current version of TWUSUPER's Fit and Proper Policy, last updated on 5 December 2019.

2. Further to the Fit and Proper Policy provided in answer to the question above, please find attached the Fit and Proper Report provided to TWUSUPER's Audit, Risk, & Compliance Committee meeting of 7 June 2016 in respect of Mr Berger's appointment.
3. APRA engaged with TWUSUPER during the second half of 2019 in preparation for commencement of SPS 515 on 1 January 2020. By the end of 2019, TWUSUPER updated its strategic objectives, business plans, and expenditure management processes so as to comply with the new standard from 1 January 2020.

For the proposed business performance review (BPR) requirements, TWUSUPER will provide APRA with an understanding of its proposed design and plans for the timing of the first BPR, required to be undertaken by 31 December 2020. TWUSUPER will approach the design of the BPR as one of continuous improvement, encompassing the identification of new and enhanced sources of data.

TWUSUPER will assist APRA to understand how it is undertaking the legislated outcomes assessment for its MySuper and choice products, including the timing and publication of the assessments and data sources.

4. To facilitate cost effective, targeted marketing, brand promotion, and member communication TWUSUPER and TWU have made formalised arrangements for TWU to provide the services described below.

This includes the appointment of Superannuation Services Officer (SSO) in each TWU branch to act as an operational conduit between that branch and TWUSUPER, subject to a set of conditions including but not limited to:

- Enabling access between TWUSUPER and the TWU distribution network of officials and workplace delegates – including enabling linkages between the TWU network and Fund field staff;
 - Co-ordinating distribution of TWUSUPER education materials to TWU Officials and workplace representatives – for example, flyers and posters;
 - Co-ordinate workplace meetings and training on superannuation, insurance and retirement planning issues;
 - Assisting employees and employers in the transport industry with queries on general superannuation matters (but not provide advice);
 - Providing information about the Fund to employees and at times employers;
 - Assisting TWU to educate Officials and Delegates on superannuation and the role the TWUSUPER performs in relation to the transport industry;
 - Observing the perception of the Fund by members and participating employers and inform TWUSUPER with feedback on any problem or issue that the SSO believes may require attention;
 - Acting as a point of initial reference for Officials, Delegates and TWU members in respect of TWUSUPER and answer inquiries about it as appropriate;
 - Co-ordinating and obtaining material from TWUSUPER for placement in newsletters, websites and other publications;
 - Assisting TWUSUPER at TWU events and training where the Fund is involved, to ensure a positive contribution and optimal outcome;
 - Providing input to TWUSUPER management, as required, on strategic TWU initiatives being both planned and undertaken as well as contributing to Fund education campaigns;
 - Displaying TWUSUPER signage, brochure displays and materials at TWU offices and events.
5. As detailed above, TWUSUPER has an arrangement with TWU to provide distribution of materials relating to products but not the products themselves.

TWU and its representatives do not need AFS licences to provide the services they are engaged to provide under the arrangement with TWUSUPER. Products are issued by TWUSUPER, not the TWU, and TWU representatives are not engaged to provide financial product services on behalf of the Trustee.

We trust the answers provided above answer the Committee's questions. Thank you again for your consideration of our submission and evidence in your deliberations.

If TWUSUPER can be of further assistance to the Committee please contact Matthew Rocks at TWUSUPER on [REDACTED]

Yours Sincerely,

[REDACTED]

Frank Sandy
Chief Executive Officer

Encl.

Fit and Proper Policy

TWU Nominees Pty Ltd, ABN 67 002 835 412

as trustee of

TWU Superannuation Fund, ABN 77 343 563 307

5 December 2019

Document Control Index

Description	Creation date	Author(s)
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11	15 November 2019	TWU Nominees Pty Ltd

Document sign-off

Name	Date
Audit and Compliance Committee	25 September 2012
Trustee Board	4 October 2012
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1. Overview

1.1 Purpose

- 1.1.1 TWU Nominees Pty Ltd (“**Trustee**”) is the trustee for the TWU Superannuation Fund (“**Fund**”) and holds an a registrable superannuation entity licence (**RSE Licence**) issued by APRA and an Australian Financial Services Licence (**AFS Licence**) issued by ASIC.
- 1.1.2 As an RSE licensee, the Trustee must ensure that its Responsible Persons meet the fit and proper requirements set out set out in and supported by *APRA Prudential Standard SPS 520 - Fitness and Propriety (SPS 520)* and take into account the guidelines in *APRA Prudential Practice Guide SPG 520 - Fitness and Propriety*. The aim of these requirements is to ensure that Responsible Persons have appropriate skills, experience and knowledge and act with honesty and integrity in order to strengthen the protection afforded to beneficiaries and other stakeholders. The Trustee is also required to prudently manage the risk that Responsible Persons might not be fit and proper.
- 1.1.3 As an AFS Licensee, the Trustee is required to maintain competence to provide financial services covered by its AFS Licence (s912A(1)(e) of the Corporations Act 2001). ASIC assesses compliance with this obligation by looking at the competence of the Trustee’s Responsible Managers in accordance with *ASIC Regulatory Guide RG 105 Licensing: Organisational competence (ASIC RG 105)*.
- 1.1.4 The purpose of this Policy is to describe the Trustee’s policy and procedures:
- (a) relating to the fitness and propriety of its Responsible Persons that meet the requirements set out in SPS 520; and
 - (b) relating to the competence requirements of its Responsible Managers that meet ASIC RG 105.

1.2 Review of Policy

- 1.2.1 The Policy was initially approved by the Trustee on 7 April 2005 and has been reviewed at periodic intervals in line with this section 1.2.
- 1.2.2 The Trustee will review this Policy at least every twelve (12) months or earlier if considered appropriate.
- 1.2.3 The Trustee will engage an external party to review the Trustee’s Policy every three (3) years.

1.3 Relationship to other policies and procedures

- 1.3.1 The Policy forms part of the Trustee’s Risk Management Framework and, in addition, should be read and used in conjunction with the Trustee’s:
- (a) Policies and procedures on any other related RSE licensee matters;

- (b) Constituent Documents;
- (c) Appointment and Renewal Policy;
- (d) Board Charter;
- (e) Code of Conduct;
- (f) Fund Governance Framework;
- (g) Conflicts Management Policy;
- (h) Privacy Policy; and
- (i) Compliance Plan.

1.4 Responsible Persons to whom this Policy applies

1.4.1 For the purpose of this Policy, “Responsible Persons” are the following persons:

- (a) the directors (including alternate directors) of the Trustee;
- (b) a Company Secretary of the Trustee;
- (c) a Senior Manager (refer to 1.4.2 below); and
- (d) an approved auditor who is appointed by the Trustee to conduct any audit of the Fund, or of any connected entity of the Trustee.

1.4.2 A Senior Manager is a person (other than a director of the Trustee) who:

- (a) makes, or participates in making, decisions that affect the whole, or a substantial part, of Trustee’s business operations;
- (b) has the capacity to affect significantly Trustee’s business operations or its financial standing;
- (c) may materially affect the whole, or a substantial part, of Trustee’s business operations or its financial standing through their responsibility for:
 - i. enforcing policies and implementing strategies approved by the Board;
 - ii. the development and implementation of systems used to identify, assess, manage or monitor risks in relation to TWUSUPER’s business operations; or
 - iii. monitoring the appropriateness, adequacy and effectiveness of risk management frameworks; or
- (d) is otherwise an executive officer of the Trustee.

The current Senior Managers are listed in Schedule C.

1.4.3 The fit and proper requirements set out in this Policy apply to all Responsible Persons.

1.5 Responsible Managers to whom this Policy applies

1.5.1 Responsible Managers are persons nominated by the Trustee and who:

- (a) have direct responsibility for significant day-to-day decisions about the ongoing provision of the financial services authorised by the Trustee's AFS Licence¹;
- (b) meet the necessary knowledge and skills requirements as set out in ASIC RG 105; and
- (c) are of good fame and character.

The current Responsible Managers are listed in Schedule C.

¹ For APRA regulated bodies, such as the Trustee, the people with direct responsibility would usually include those who are 'responsible persons' for the purposes of APRA's 'fit and proper' standard (RG105.23)

2. Fit and Proper Standard – Responsible Persons

2.1 Fit and Proper Criteria

2.1.1 The criteria for determining whether a person is fit and proper and eligible to be a Responsible Person, are whether:

- (a) it would be prudent for the Trustee to conclude that the person possesses the competence, character, diligence, experience, honesty, integrity and judgement to perform properly the duties of the responsible person position;
- (b) it would be prudent for the Trustee to conclude that the person possesses the education or technical qualifications, knowledge and skills relevant to the duties and responsibilities of an RSE licensee;
- (c) the person is not disqualified under the SIS Act from holding the position;
- (d) the person either:
 - (i) has no conflict of interest in performing the duties of the responsible person position; or
 - (ii) if the person has a conflict of interest, it would be prudent for the Trustee to conclude that the conflict will not create a material risk that the person will fail to perform properly the duties of the position.

2.2 Additional Criteria for Approved Auditor

2.2.1 The additional criteria which must be met for an approved auditor to be fit and proper are that the person:

- (a) be registered as an auditor under the Corporations Act 2001 (Cth) or be the Auditor-General (or a delegate of the Auditor-General) of the Commonwealth, a State or Territory;
- (b) not be the CEO nor a director of the Trustee, or of a related body corporate or a connected entity;
- (c) have a minimum of five years' relevant experience in the audit of the business operations of the Trustee;
- (d) have experience relating to the business operations of the Trustee that is sufficiently relevant and recent to provide reasonable assurance that the person is familiar with current issues in the audit of the business operations of the Trustee;
- (e) not be:
 - (i) an actuary of the Trustee or the Fund;
 - (ii) an employee or director of a body corporate, statutory body, partnership, trustee, or commercial or professional enterprise of any kind of which the actuary is an employee or director; or

- (iii) a partner of the actuary;
- (f) be a member of a recognised professional body;
- (g) be ordinarily resident in Australia; and
- (h) must not be an employee of the Trustee.

2.2.2 The additional criteria for an auditor do not apply if the following conditions are met:

- (a) the Trustee reasonably considers that there are exceptional circumstances;
- (b) the Trustee has promptly notified APRA of which eligibility criteria are not satisfied and of the exceptional circumstances; and
- (c) APRA has notified the Trustee in writing that APRA has no objections to the person holding the position.

2.3 When to conduct the fit and proper assessment

2.3.1 The fit and proper assessment is to be conducted:

- (a) before a person becomes the holder of a Responsible Person position unless they hold the position because APRA has determined that the person is a responsible person under paragraph 13 of SPS 520. In such cases, an assessment is to be completed within 28 days of the person becoming a Responsible Person position; and
- (b) annually (or as close to annual as is practicable) for each Responsible Person.

2.3.2 Interim appointment of a Responsible Person may be made without a full fit and proper assessment for a period of up to 90 days (or longer with APRA's written agreement) including any prior period of interim appointment. Prior to making such an appointment, reasonable steps must be taken to assess the fitness and propriety of the person in accordance with this Policy. The full fit and proper assessment must be completed prior to appointing the person as a Responsible Person on a permanent basis.

2.3.3 At each Board meeting, Directors in attendance are required to provide a declaration that they are not a disqualified person under the SIS Act.

2.4 Competency Requirements – Skills Matrix

2.4.1 The competency requirements for Responsible Persons are set out in Schedule B. These requirements have been identified having regard to:

- (a) the Trustee's legal obligations;
- (b) the Fund's strategy as applicable from time to time;
- (c) the environment in which the Fund operates;
- (d) the structure, size, complexity and nature of the Fund and Trustee's operations; and

(e) the identified risks.

2.4.2 The Trustee will maintain a skills matrix showing the skills, relevant experience and diversity of the Board. A sample template of a skills matrix is included in Schedule B.

2.4.3 The skills matrix will be reviewed annually by the Audit, Risk and Compliance Committee.

2.5 Process for fit and proper assessment

2.5.1 The process for assessing whether a Responsible Person is fit and proper is set out in Schedule A. Note that different but equivalent procedures for assessing the fitness and propriety of the approved auditor may be undertaken, at the option of the Chief Governance Officer (CGO).

2.5.2 Responsibility for conducting fit and proper assessment of Responsible Persons on behalf of the Trustee is as follows:

(a) in the case of Responsible Persons who are directors, approved auditor, and senior managers, the CGO;

(b) in the case of a Responsible Person who is the CGO, the CEO;

(c) in the case of a Responsible Person who is the CEO, the CGO in consultation with the Chairman of the Board.

2.5.3 Following any fit and proper assessment of a Responsible Person, the Audit, Risk and Compliance Committee will review the assessment that has been made. If the CGO or the Audit, Risk and Compliance Committee is of the view that the Responsible Person does not meet the fit and proper requirements, then the matter will be dealt with under paragraph 2.6 below.

2.6 Where a Responsible Person is not Fit and Proper

2.6.1 Where a Responsible Person has been assessed as fit and proper, but the Trustee subsequently becomes aware of information that may result in the person being assessed as not fit and proper, the Trustee must take all reasonable steps, including collecting sensitive information as defined in the *Privacy Act 1988* if relevant, to ensure that it can prudently conclude that no material fitness and propriety concern exists. Where a concern exists, a full fit and proper assessment must be conducted.

2.6.2 Where an assessment is made that a Responsible Person is not fit and proper, the Trustee must take all reasonable steps it reasonably can to ensure that the person:

(a) is not appointed as a Responsible Person; or

(b) for an existing Responsible Person, does not continue in the Responsible Person position.

2.7 Documentation

- 2.7.1 The CGO is responsible for ensuring that sufficient documentation for each fit and proper assessment is retained to demonstrate the fitness and propriety of the Trustee's current, and recently past, Responsible Persons.

3. Organisational Competencies – Responsible Managers

3.1 Organisational Competency Requirements

3.1.1 Responsible Managers must have the following competencies:

- (a) collectively, have appropriate knowledge and skills for all of financial services and products covered by the Trustee's AFS Licence; and
- (b) individually, meet one of the five options for demonstrating appropriate knowledge and skills under ASIC RG 105 and set out in section 3.2.2.

3.2 Assessment of Responsible Managers

3.2.1 The competency assessment will be conducted:

- (a) prior to appointing a person to a Responsible Manager position;
- (b) when a Responsible Manager ceases (whether through cessation of employment with the Trustee or for other reasons);
- (c) upon the Trustee changing the financial products or financial services it uses in its business; and
- (d) in any event, annually (or as close to annual as is practicable) for each Responsible Manager.

3.2.2 Each Responsible Manager is required to meet one of the skills criteria as required by ASIC in RG 105.

3.2.3 The CGO is responsible for assessing the competency of Responsible Managers.

3.2.4 There should be at least two Responsible Managers to cover each financial service and product authorised by the Trustee's AFS Licence.

3.2.5 As Responsible Managers will also be Responsible Persons, the good fame and character requirement will be met by meeting the propriety test for Responsible Persons².

3.3 Measures for maintaining Organisational Competence

3.3.1 The training requirements set out in Section 4 of this Policy will be used to maintain and update the knowledge and skills of Responsible Managers on an ongoing basis.

² An APRA regulated body does not have to provide ASIC with a bankruptcy check, national criminal history check or business references for Responsible Managers (ASIC RG2.283)

4. Training Requirements

4.1 Purpose of Training

- 4.1.1 The Trustee accepts the importance of ongoing training for all Responsible Persons and Responsible Managers as a means to:
- (a) maintain knowledge and skills consistent with the requirement of SPS 520 (for Responsible Persons) and ASIC RG 105 (for Responsible Managers);
 - (b) update knowledge and skills, especially in areas where there is continual change (changes to legislation, regulatory and professional standards, new products and market developments); and
 - (c) develop new knowledge and skills to assist in the development of the Fund.
- 4.1.2 The Fund's auditors are required to undertake training in accordance with their professional obligations. The Trustee does not monitor compliance with this requirement but expects that the auditors will inform the Trustee if they have failed to meet their training obligations.

4.2 Responsibility for Training Requirements

- 4.2.1 The CGO will be responsible for overseeing and reviewing the training requirements for each Responsible Person and Responsible Manager. The CGO may appoint or engage with other staff or advisers to assist the CGO in this regard.
- 4.2.2 The CEO will be responsible for overseeing and reviewing the training requirements of the CGO, as a Responsible Person. The CEO may appoint other staff or advisers to assist the CEO in this regard.

4.3 Induction Training

- 4.3.1 A new Responsible Person or Responsible Manager will be provided with induction training within 3 months of the date of their appointment, unless determined otherwise by the Trustee.
- 4.3.2 The induction training will (at a minimum) cover the following topics:
- (a) working knowledge of the SIS legislation, and other relevant prudential requirements;
 - (b) basic investment knowledge;
 - (c) basic knowledge of the elements and application of other RSE licensee and trust laws;
 - (d) understanding and ability to effectively implement the principles outlined in section 52 and 52A of the SIS Act;

- (e) overview of the Trustee's operations;
- (f) the Trustee's risk management and compliance procedures;
- (g) the Trustee's dispute resolution procedures, professional indemnity insurance and external and internal audit procedures;
- (h) obligations relating to conflicts of interests; and
- (i) overview of the Trustee's governance and prudential policies and procedures.

4.3.3 The CGO will be responsible for arranging the induction training for new Responsible Persons and Responsible Managers. Where the new Responsible Person is the CGO, the CEO will be responsible for arranging the induction training.

4.4 Ongoing Training

Training Plans

- 4.4.1 The CGO is responsible for ensuring that a training plan for each Responsible Person and Responsible Manager has been set up within a reasonable period of time following appointment, and thereafter for each financial year.
- 4.4.2 The annual training plans will be developed through an annual training needs analysis of each Responsible Person and Responsible Manager, and the Trustee generally, and should take into account any one or more of the following:
- (a) the competency requirements set out in Schedule B;
 - (b) the role of the Responsible Person in the year ahead;
 - (c) changes in the law that impact on the Trustee's activities for which the Responsible Person and/or the Responsible Manager is responsible;
 - (d) training requirements prescribed by ASIC RG 146;
 - (e) training requirements imposed by other laws (e.g. consider anti-money laundering/counter-terrorism financing risk awareness training requirements);
 - (f) changes in the management functions or responsibilities of the Responsible Person and/or Responsible Manager;
 - (g) changes in business practices of the Trustee;
 - (h) industry practices;
 - (i) any recommendations by ASIC and APRA.

Minimum Training

- 4.4.3 Responsible Persons and Responsible Managers will need to demonstrate that they have participated in training activities which attract:
- (a) for directors, at least 15 hours per year; or

- (b) for other Responsible Persons and Responsible Managers, at least 30 hours per year; or
- (c) such greater number of hours prescribed by the CGO in respect of an individual.

Approved Types of Training

- 4.4.4 The type of ongoing and continuing training that is approved by the Trustee for a Responsible Person includes, but is not limited to courses listed in Schedule D.
- 4.4.5 The type of ongoing and continuing training approved by the Trustee for a Responsible Manager includes any training compliant with the requirements in ASIC RG 146.

Cost of Training

- 4.4.6 The CEO will approve any training for Responsible Persons and Responsible Managers in line with:
 - (a) in the case of directors, the Directors Training Guidelines; and
 - (b) in the case of other Responsible Persons and Responsible Managers, the CEO's general delegated authority.
-

Training Register

- 4.4.7 The CGO will maintain a register of training undertaken by each Responsible Person and Responsible Manager, including the hours achieved.
- 4.4.8 Responsible Persons and Responsible Managers must provide the CGO with evidence of the training they have undertaken.

4.5 Training deficiency procedures

- 4.5.1 Where a Responsible Person or Responsible Manager has failed to meet their training requirements in a year, then the following steps will be taken:
 - (a) the CGO (or CEO) will report the training deficiency to the Audit, Risk and Compliance Committee together with a proposed remediation plan in respect of that Responsible Person and/or Responsible Manager. The Committee will assess the seriousness of the matter and may approve the remediation plan or may take any other action it regards as appropriate in the circumstances;
 - (b) the Responsible Person and/or Responsible Manager concerned will be advised in writing of the remediation plan (or any other action determined by the Committee) and requested to implement the remediation plan, or such other action, as soon as reasonably practicable;
 - (c) a copy of the remediation plan (or any other action determined by the Committee) will be provided to the sponsoring organisation, in the case of a Director;
 - (d) the matter will be considered in accordance with the Fund's Compliance Plan.

4.5.2 Should the Responsible Person or Responsible Manager:

- (a) reject the remediation plan; or
- (b) wilfully fail to address the training deficiency identified,

this will be notified to the Audit, Risk and Compliance Committee by the CGO, or the CEO, and the Committee will decide what further action to take, including, if appropriate, recommending to the Trustee to terminate the appointment of that individual as a Responsible Person and/or Responsible Manager. If it is determined to terminate the individual as a Responsible Person and/or Responsible Manager, APRA and/or will be notified of the decision and the reasons for it.

4.6 Annual Review by Audit, Risk and Compliance Committee

- 4.6.1 Each year the Audit, Risk and Compliance Committee must undertake an annual review of the training and skill and knowledge of all the Trustee's Responsible Persons and Responsible Managers.
- 4.6.2 Where skills and/or training deficiencies have been identified then the process outlined in Section 4.5 above applies.

5. Miscellaneous

5.1 Informing APRA and/or ASIC

5.1.1 The CGO is responsible for notifying APRA within 14 days of the following:

- (a) a new appointment of a Responsible Person or any change to information about existing Responsible Persons. The information must be provided in the format required by APRA;
- (b) if a Responsible Person has been assessed as not being fit and proper. If the person remains as the Responsible Person, the notification will state the reason for this and the action that is being taken.

5.1.2 The CGO must notify ASIC within 10 business days of any change of a Responsible Manager. The information must be provided in the format required by ASIC.

5.1.3 The Trustee must take reasonable steps to:

- (a) obtain any information and documentation that APRA or ASIC asks of it; and
- (b) provide that information to APRA or ASIC,

to assist APRA or ASIC in assessing the fitness and propriety of a person. This could include providing this Policy to APRA or ASIC on request.

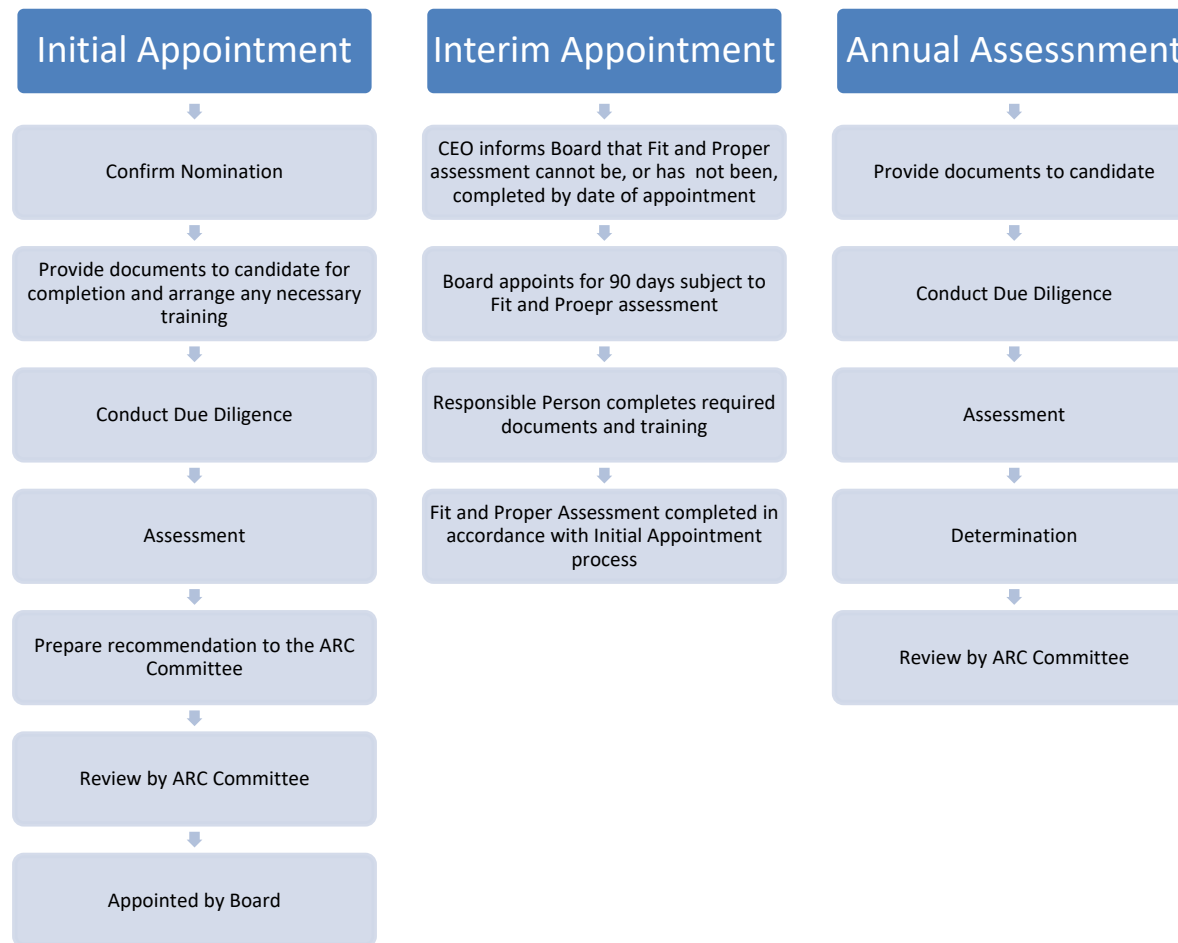
5.2 Consents to collecting and use of information

5.2.1 The Trustee will give or obtain the necessary consents for the collection and use of any information:

- (a) by the Trustee to comply with the Fit and Proper Policy or SPS 520; or
- (b) by APRA for its powers and functions under the SIS Act or to comply with the Policy or SPS 520.

Schedule A – Process for Assessing Fitness and Propriety of Responsible Persons

Overview



Initial Appointment – Responsible Persons

Step	Initial Appointment - Process	Responsibility
<p>Step 1</p> <p><i>Confirm proposed appointment of the Responsible Person and obtain contact details</i></p>	<p>[Note all the steps set out in this and following tables are subject to the rules set out in the company constitution].</p> <p><i>Directors nominated by sponsoring organisation</i></p> <p>Contact the sponsoring organisation 9 months (or as close as possible) prior to the expiry of the director’s term to seek nomination of a replacement candidate, if the director’s term is not to be renewed.</p> <p>Request the sponsoring organisation to submit a candidate at least 4 months (or as close as possible) prior to the expiry of the director’s term to enable a fit and proper assessment to be undertaken.</p> <p>Also, engage with sponsoring organisations seeking that they consider Board diversity when considering the set of candidates who meet the Board’s skill requirements for appointment.</p> <p>Provide the sponsoring organisation with the details of the position to be filled (director or alternate director) as well as a copy of the skills matrix and the documentation that the candidate for the position will need to complete.</p> <p><i>Independent Director</i></p> <p>If the Trustee Board determines that an independent director is to be replaced, then 12 months (or as close as possible) prior to the expiry of the term of the independent director, the Board will consider and decide on any specific skills and experience areas being sought and the method of seeing potential candidates.</p> <p><i>Other Responsible Persons</i></p> <p>The CEO and Senior Human Resources Specialist are responsible for initiating and overseeing the recruitment of other Responsible Persons.</p>	<p>CGO</p>
<p>Step 2</p> <p><i>Provide documents to candidate</i></p>	<p>Once a candidate has been determined, provide the candidate with the following material:</p> <ul style="list-style-type: none"> (a) (in the case of directors) Consent to Act as Director form if not previously provided (for purposes of Corporations Act 2001); (b) copy of this Policy; (c) copy of the Conflicts of Interest Policy; (d) Statutory Declaration in a form set out in Schedule G; (e) a Statement of Personal Information in the form set out in Schedule F; (f) copy curriculum vitae template, with request to complete or provide resume in candidate’s own format; 	<p>CGO</p>

Step	Initial Appointment - Process	Responsibility
	<ul style="list-style-type: none"> (g) application form authorising the Trustee to complete an Australian Federal Police Check; (h) notification that the following background checks will be undertaken: <ul style="list-style-type: none"> i. a bankruptcy/insolvency check; ii. an ASIC banned and disqualified person register check, including whether the person is subject to any enforceable undertakings; and iii. an APRA disqualification register check. <p>The materials may be provided directly to the candidate if contact details have been obtained, or otherwise may be provided via the sponsoring organisation.</p>	
<p>Step 3 <i>Conduct Due Diligence</i></p>	<p>Undertake the following:</p> <ul style="list-style-type: none"> (a) (in the case of directors) obtain a signed and completed Consent to Act as Director if not previously provided (b) obtain and review a signed and completed Statutory Declaration; (c) obtain and review a signed and completed Statement of Personal Information; (d) obtain and review the person's resume, and contact referees where relevant; (e) obtain authorisation for background searches and conduct the following background searches: <ul style="list-style-type: none"> i. an Australian Federal Police Check; ii. a bankruptcy/insolvency check; iii. an ASIC banned and disqualified person register check, including whether the person is subject to any enforceable undertakings; and iv. an APRA disqualification register check; (f) obtain any further information if required from the candidate or from a third party (after gaining any necessary consent from the candidate to the release of confidential information). 	CGO
<p>Step 4 <i>Assessment</i></p>	<p><i>Assessing Propriety</i></p> <p>Assess the candidate's propriety by reference to the following:</p> <ul style="list-style-type: none"> (a) the Statutory Declaration completed by the Responsible Person candidate; (b) the completed Statement of Personal Information; 	CGO

Step	Initial Appointment - Process	Responsibility
	<ul style="list-style-type: none"> (c) comments from referees, if relevant; (d) results of the Federal Police Check; (e) results of the bankruptcy check; (f) results of the ASIC Registers of Banned and Disqualified Persons; (g) results of the APRA Disqualification Register. 	
	<p><i>Assessing Fitness</i></p> <p>Assess whether the candidate meets the fitness requirements having regard to the following:</p> <ul style="list-style-type: none"> (a) the Responsible Person candidate's resume against the skills and experience requirements set out in Schedule B; 	CGO
	<p><i>If there are gaps to address</i></p> <p>If the candidate does not have the required skills for the role, arrange appropriate training plan for the candidate, such as a one-day director induction course with AIST prior to appointment.</p>	CGO
<p>Step 5</p> <p><i>Prepare Recommendation for Audit, Risk and Compliance Committee</i></p>	<p>Based on the information collected and reviewed and any pre-appointment training undertaken, prepare a recommendation for the Audit, Risk and Compliance Committee as to whether it would be reasonable to conclude that the nominated candidate can be appointed as a Responsible Person on the basis that the person:</p> <ul style="list-style-type: none"> (a) possesses the competence, character, diligence, experience, honesty, integrity and judgement to properly perform their duties for the Trustee; (b) possesses the education or technical qualifications, knowledge and skills relevant to the duties and responsibilities to be performed for the Trustee, having regard to the competence requirements in the skills matrix; (c) is not disqualified under the SIS Act, the Corporations Act or any other relevant legislation from holding their position; (d) either: <ul style="list-style-type: none"> i. has no conflict of interest in performing their duties; or ii. if the person has a conflict of interest, it would be prudent to conclude that the conflict will not create a material risk that the person will fail to perform properly their duties properly. <p>Prepare an appropriate training plan for the candidate.</p>	CGO

Step	Initial Appointment - Process	Responsibility
<p>Step 6 <i>Review by the Audit, Risk and Compliance Committee</i></p>	<p>Review the CGO's recommendation to the Audit, Risk and Compliance Committee as to whether the person meets the Fit and Proper requirements. The recommendation should include a copy of the assessment together with confirmation that sufficient supporting documentation has been received.</p>	<p>Audit, Risk and Compliance Committee</p>
	<p>The Audit, Risk and Compliance Committee will document its decision in relation to Fitness & Propriety and provide it to the Trustee Board for noting.</p>	<p>Secretary to the Audit, Risk and Compliance Committee</p>

Interim Appointment – Responsible Persons

If after taking reasonable steps to assess the fitness and propriety of the person in accordance with this Policy, it is not possible to complete the assessment in time, then the following steps will be taken:

- (a) the CGO will notify the CEO/Company Secretary that the assessment will not be able to be completed in time, what steps were taken to assess the fitness and propriety of the candidate and the reasons why the assessment is not able to be completed on time;
- (b) the CEO/Company Secretary will report this to the Trustee Board;
- (c) The Trustee Board will decide on a course of action and may appoint the candidate as a Responsible Person without a full fit and proper assessment for a period of up to 90 days (or longer with APRA’s written agreement) including any prior period of interim appointment.

The full fit and proper assessment must be completed in accordance with the procedures set out in this Policy prior to appointing the person as a Responsible Person on a permanent basis.

Annual Assessment – Responsible Persons

Step	Annual Assessment – Process	Responsibility
<p>Step 1</p> <p><i>Provide Documents to Candidate</i></p>	<p>Provide each Responsible Person with the following:</p> <ul style="list-style-type: none"> (a) Statutory Declaration to be completed by the candidate (b) application form authorising the Trustee to complete the following background checks: <ul style="list-style-type: none"> i. an Australian Federal Police Check; ii. a bankruptcy/insolvency check; iii. an ASIC banned and disqualified person register check, including whether the person is subject to any enforceable undertakings; and iv. an APRA disqualification register check. <p>(or, at the discretion of the CGO, the checks in paragraph (b) can be conducted for each Responsible Person at longer intervals instead of annually – for example when a Director whose 4-year term has expired is reviewed for reappointment at the annual Board composition review or when 5-yearly checks are conducted of all Trustee Secretariat staff (including Senior Managers).</p> <p>Refer each Responsible Person to their copies of the following in the Fund Profile:</p> <ul style="list-style-type: none"> (a) copy of this Policy (b) copy of the Conflicts of Interest Policy 	<p>CGO</p>
<p>Step 2</p> <p><i>Conduct the Due Diligence</i></p>	<p>Conduct an assessment based on the following:</p> <ul style="list-style-type: none"> (a) review the training register against the training plan for the Responsible Person; (b) obtain and review a signed Statutory Declaration (noting any material relevant for the Registers of Relevant Interests and Duties, including any potential conflicts); (c) obtain authorisation for background searches and/or conduct the following background searches (if the Responsible Person’s current term expires during the year): <ul style="list-style-type: none"> i. an Australian Federal Police Check ii. a bankruptcy/insolvency check iii. an ASIC banned and disqualified person register check, including whether the person is subject to any enforceable undertakings; and iv. an APRA disqualification register check. 	<p>CGO</p>

	(refer note under paragraph (b) in Step 1 as to timing of background checks and searches). (d) obtain any further information if required from the candidate or from a third party (after gaining any necessary consent from the candidate to the release of confidential information).	
Step 3 <i>Assessment</i>	<i>Assessing Propriety</i> Assess the Responsible Person's propriety by reference to the information obtained at Step 2. Each Responsible Person must notify the CGO as soon as they become aware that they may no longer meet the proprietary requirements.	CGO Responsible Persons
	<i>Assessing of Fitness</i> Assess whether the Responsible Person meets the fitness requirements of their position having regard to the following: (a) the training register and the training plan; (b) the skills and experience requirements set out in Schedule B; (c) previous assessment of fitness.	CGO
Step 4 <i>Determination</i>	Based on the information collected and reviewed, determine whether it would be reasonable to conclude that the Responsible Person: (d) possesses the competence, character, diligence, experience, honesty, integrity and judgement to properly perform their duties for the Trustee; (e) possesses the education or technical qualifications, knowledge and skills relevant to the duties and responsibilities to be performed for the Trustee, having regard to the competence requirements in the skills matrix; (f) is not disqualified under the SIS Act, the Corporations Act or any other relevant legislation from holding their position; (g) either: i. has no conflict of interest in performing their duties; or ii. if the person has a conflict of interest, it would be prudent to conclude that the conflict will not create a material risk that the person will fail to perform properly their duties properly. The determination must be documented together with material supporting the conclusion. If a view is formed that the Responsible Person does not meet the fit and proper requirements, then that matter shall be dealt with under paragraph 2.6 of the Policy.	CGO

<p>Step 5 <i>Informing the Audit, Risk and Compliance Committee</i></p>	<p>Inform the Audit, Risk and Compliance Committee of the assessment, including a copy of the documents supporting the assessment. This will typically be done in a form of a paper tabled with the Committee.</p> <p>Prepare an appropriate training plan for the Responsible Person (subject to any recommendation made under paragraph 4.5 of the Policy).</p>	<p>CGO</p>
<p>Step 6 <i>Audit, Risk and Compliance Committee to note the assessment</i></p>	<p>The Audit, Risk and Compliance Committee to review the assessment tabled and this is to be noted in the Committee's minutes.</p> <p>If the Committee identifies an issue with the assessment, they will determine the required steps necessary to address the issue.</p>	<p>Audit, Risk and Compliance Committee</p>
<p>Step 7 <i>Confirmation of annual assessment provided to the Board</i></p>	<p>The Board is informed of the completed annual assessments, including any identified deficiencies or outstanding matters and the actions the actions to be taken to correct these.</p>	<p>Audit, Risk and Compliance Committee</p>
<p>Step 8 <i>Board to note the assessment</i></p>	<p>The Board reviews the report provided by the Audit, Risk and Compliance Committee and this is to be noted in the Board's minutes.</p> <p>If the Board identifies any issues, it will determine the required steps necessary to address theses.</p>	<p>Board</p>

Schedule B – Minimum Skills and Experience Requirements

In order to undertake its functions effectively and efficiently, the Trustee must collectively possess a broad blend of necessary and desirable skills, knowledge and experience relevant to the management of the Fund. For this purpose the Trustee seeks directors and other Responsible Persons whose occupational, managerial or professional qualifications and experience demonstrate an appropriate level of capability in the following areas, or who at the very least can acquire the necessary skill levels through training. The Trustee will supplement its Directors' and Senior Managers' capabilities by obtaining expert advice where appropriate.

Leadership and Business Acumen	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • in strategic and business planning • in executive leadership • in making informed decisions in a commercial context • in project management; and • in business development and marketing
Investment	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • in investment concepts and principles • in analysing economic data and financial markets • in the development of investment strategies • in unit pricing/crediting rate methodologies • in monitoring investment performance/liquidity management • in due diligence with investments • in managing counterparty risk • in dealing with asset consultants and custodial arrangements • in environmental, social and governance (ESG) principles
Accounting and Finance	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • in accounting and financial control • in relation to financial audits • in the analysis and interpretation of financial statements • in relation to taxation matters • in relation to the development and oversight of budget processes
Risk Management	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • in developing and monitoring risk management frameworks, including the risk appetite statement • in identifying emerging risks, including fraud • in evaluating risk mitigation strategies and controls, including managing the risk of fraud
Governance and organisational skills	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • on Boards, committees or other governing bodies • in developing corporate governance frameworks, policies and processes • in identifying and managing conflicts of interest or duty • in company secretarial positions • in managing human resources • in corporate governance advisory roles
Superannuation and financial services law	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • of the superannuation industry • in understanding and operating within the legal and regulatory framework applicable to the financial services and superannuation industries

	<ul style="list-style-type: none"> • in the oversight of compliance breach management and reporting processes • in dealing with independent legal advisers
Fund operations and administration	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • of the benefits and services offered by the Fund • in managing outsourced providers • in systems and processes, including for maintaining member records and data and for maintaining business continuity and achieving disaster recovery • in member disclosure and reporting • in disputes handling
Insurance	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • dealing with insurers and claims handling
Strategic planning	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • in developing medium and longer term goals and strategic outcomes (separate from day-to-day management and operational experience)
Marketing and business development	Skills and experience including but not limited to the following <ul style="list-style-type: none"> • in developing communications and marketing strategies • in developing retention and/or growth strategies • in technology and digital communication

The skills and experience of individual Responsible Persons are assessed against the criteria set out below on appointment and on an annual basis:

Skills Matrix - criteria for assessing the skills/experience of Responsible Persons		
Score	Rating	Description
4	Expert	The Responsible Person has: <ul style="list-style-type: none"> • extensive recent or current relevant experience gained over 7 or more years at a senior management level; or • a degree, diploma or equivalent professional qualification relating to the relevant skill or competency and extensive recent or current relevant experience gained over 3 years at a senior management level.
3	Experienced	The Responsible Person has recent or current relevant experience gained over 3 years, and can professionally apply the skill or competency in complex situations. Does not necessarily hold formal qualifications relating to the relevant skill or competency.
2	Working knowledge	The Responsible Person has undertaken training in relation to the relevant skill or competency (for example, through professional development, industry conferences, seminars, Trustee training programs) and has sufficient working knowledge and understanding to apply the skill or competency.
1	Basic	The Responsible Person has an awareness or basic understanding of the relevant skill or competency and can apply it in less complex situations.

In reviewing the Trustee's Skills Matrix, the assessor should seek to ensure that:

- (a) all Responsible Persons have at a minimum relevant Basic skills and experience in each area;
- (b) the Chairman ideally has, at a minimum, Experienced skills in Leadership and Business Acumen, Governance and Organisational Skills, Superannuation Law and Strategic Planning skills required by the Trustee;

- (c) the Board aspires to comprise at a minimum two directors who have either Expert skills or relevant Experienced skills required by the Trustee in respect of each skill and one other Responsible Person who has Expert skills;
- (d) the Secretary to the Trustee ideally has at a minimum Experienced skills in company secretarial practices and obligations;
- (e) each committee aspires to comprise at a minimum at least one director who has either Expert skills or relevant Experienced skills required by the Trustee in respect of each skill required by that committee;
- (f) the secretary to each committee ideally has at a minimum Experienced skills in relation to those skills required by the relevant committee;
- (g) the Board and its other Responsible Persons collectively ideally have as a minimum a Working knowledge (that is, a mean rating of at least 2) in relation to each specified skill set;
- (h) the Trustee collectively strives to achieve a mean rating of greater than 2.5 for each specified skill set and aspires to achieve, through further training, a collective mean rating of at least 3 for each specified skill set; and
- (i) the skills of directors and other Responsible Persons are constantly being updated throughout the year through training.

The Trustee's Collective Skills Matrix

The following is a template skills matrix to be used to match the Trustee's required collective skills with the individual skills, experience and knowledge of its directors.

Skills	Director Rating								Other Responsible Person Rating							Mean Rating
	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	
Leadership and Business Acumen																
Investment																
Accounting and Finance																
Risk Management																
Governance and Organisational Skills																
Superannuation and financial services law																
Fund Operations and Administration																
Insurance																
Corporate Management and Governance Practice																
Strategic Planning																

Skills	Director Rating								Other Responsible Person Rating						Mean Rating	
	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name	Name		Name
Marketing and Business Development																
Diversity (aspirational categories)																
Gender																
Male																
Female																
Age																
Under 45																
45- 60																
61 – 70																
Over 70																

Schedule C – Responsible Persons and Responsible Managers

1. Responsible Persons (The persons named are also APRA Responsible Officers)

Trustee Directors

- One Independent Chairman
- Four directors nominated by the Transport Workers Union of Australia
- Four directors nominated by the Australian Road Transport Industrial Organisation

Alternate Trustee Directors

- Up to three alternate directors appointed by the Transport Workers Union of Australia
- Up to three alternate directors appointed by the Australian Road Transport Industrial Organisation

Secretariat – Senior Managers

- Chief Executive Officer
- Chief Financial Officer
- Chief Operating Officer
- Chief Investment Officer
- Chief Governance Officer
- Executive Manager Stakeholders and Marketing
- Manager Trustee Services
- Senior Human Resources Consultant

RSE auditor

Appointed by the Trustee's auditor (Ernst & Young)

Actuary

[No actuarial functions performed]

Person who performs relevant activities for a connected entity

[No connected entities].

Person determined by APRA to be a Responsible Person

[None].

Other persons who hold a special position of trust

None

2. Responsible Managers

[Same as list of Responsible Persons – Secretariat Senior Managers above, except for the Senior Human Resources Consultant]

Schedule D – Approved Training Courses

- (a) attendance at relevant industry conferences and seminars such as ASFA Conference, FSC Conference, and Conference of Major Super Funds;
- (b) completion of a unit of the ASFA Diploma of Superannuation;
- (c) completion of the AIST Trustee Director Course or any of its components;
- (d) completion of a superannuation or investment related subject at a university or college of advanced education;
- (e) any qualification recognised by ASIC for RG146;
- (f) preparation of a superannuation related seminar or article for an internal or external audience other than for the purposes of marketing the Fund (including presentation time if any);
- (g) general industry courses on specific subjects including:
 - (i) investments;
 - (ii) corporate governance;
 - (iii) trustee responsibilities; and
 - (iv) legislative changes;
- (h) relevant online training (e.g. KAPLAN, ASFA Super Funds Quiz, SafeTrac or equivalent offline training approved by the CGO)
- (i) any other activity approved by the CGO but does not include:
 - (i) reading general financial literature other than that approved by the CGO; nor
 - (i) attendance at industry luncheons (except for any component of the luncheon that comprises an industry seminar)

Schedule E – Statutory Declaration

E 1. Statutory Declaration for existing responsible persons

Schedule E – Statutory Declaration

E 2. Statutory Declaration for new responsible persons

TWU NOMINEES PTY LTD
AUDIT, RISK & COMPLIANCE COMMITTEE

7 JUNE 2016

FIT AND PROPER REPORT

Appointment of New Director

Background:

The Board is expected to have resolved on 2nd June 2016 to appoint John Berger as the Vic/Tas Member Representative Director to the Board of TWU Nominees Pty Ltd on an interim basis, subject to the assessment of his fitness and propriety by the Committee.

Summary

The review of fitness and propriety is based on the following:

- Completed documents received from Mr Berger:
 - Consent to act as Director
 - Statutory Declaration as to Propriety
 - Statement of Personal Information
 - Curriculum Vitae
- Police and insolvency checks.
- Attendance by Mr Berger at a full induction training day conducted by AIST on 30 May 2016, which addressed the competencies listed below and the Fund's own governance procedures
- Written confirmation from the Chief Governance Officer, in the form of Schedule 3 to the Fit and Proper Policy, that the Director has the necessary diligence and soundness of judgement to provide the financial service on behalf of the Trustee. This Schedule is completed having regard to the curriculum vitae and other available information relating to the Director's educational and employment record.

The fitness and propriety documents completed and returned by Mr Berger and the insolvency and police checks conducted reveal no matters for concern.

Under the Fit and Proper Policy, the following competency requirements to at least a basic level are mandatory for all Directors:

- Investment knowledge
- General superannuation knowledge
- Corporate governance knowledge
- Knowledge of basic fiduciary obligations and trust law
- Superannuation law knowledge (knowledge of SIS covenants and a knowledge of SIS and RSE Licensee law framework)
- Compliance knowledge
- Understanding of the superannuation disputes process
- Understanding of insurance and claims processes
- Change management expertise
- Strategic expertise (the ability to develop and /or review strategy through constructive questioning and suggestion)

Attachment to agenda item 3.2

- Business acumen and negotiation skills
- Ability to understand when and where to seek professional advice in areas outside their expertise
- Understanding of risk management principles
- How the Fund works – accounting, auditing and operational processes
- Organisational skills
- Marketing skills
- Understanding of the Fund's benefits, activities and Fund members' needs.

Attached is a copy of the Schedule 3 Skill and Knowledge Verification completed for Mr Berger under the Fit and Proper Policy, which shows that he meets the knowledge and skill requirements under the Policy.

He will be required to undergo ongoing training in accordance with the Fit and Proper Policy and a Training Plan has been prepared for him in accordance with Schedule 6 of the Policy.

On the basis that Mr Berger meets the Trustee's fitness and propriety requirements, his appointment as a Director is confirmed as no longer being on an interim basis.

Recommendation

That the Committee agree that John Berger meets the Trustee's fitness and propriety requirements under the Fitness and Propriety Policy.

Lachlan McBain
Chief Governance Officer

30 May 2016