

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

19 – 20 October 2011

Question No: SBT 522 - 523

Topic: Investigations of Superannuation Funds

Hansard Page: Written

Senator Bushy asked:

522. In relation to *potential* class actions (e.g. following false and misleading advertising based on overly optimistic 30-40 year projections of future returns) against superannuation funds, and subsequent court decisions which might have an impact on the financial position of the fund, what would be the source/s of funds to meet such a contingency, and what *would be* APRA's advice to funds and trustees in relation to this matter?
523. Currently, how many external legal contracts are in train in relation to investigations of super fund matters, and what is the total value of such contracts?

Answer:

522. If a Registrable Superannuation Entity (RSE) licensee was conducting the misleading advertising, the Australian Prudential Regulation Authority would ordinarily refer the matter to the Australian Securities and Investments Commission (ASIC) because it relates to disclosures made to fund members.
- In relation to the liability issue, most RSE licensees can be indemnified from the assets of the trust fund (subject to certain exceptions such as when they have been dishonest or intentionally or recklessly fail to exercise care and diligence, or be liable for a monetary penalty under a civil penalty order, ie an ASIC fine).
523. The Australian Prudential Regulation Authority currently has three external legal contracts in relation to superannuation fund matters with a total value of around \$3.5 million.