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**First State Super
and its associated entities**

**Royal Commission into Misconduct in the Banking,
Superannuation and Financial Services Industry**

Submission

29 January 2018

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Section A – Background

- 1.1 By letter from the Honourable Kenneth Hayne AC QC to Mr Michael Dwyer AM, Chief Executive Officer of First State Super, dated 15 December 2017, the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the **Commission**) invited First State Super to make an early submission by no later than 29 January 2018 that addresses a number of questions directed to First State Super and its associated entities.
- 1.2 FSS Trustee Corporation (**FTC**) is the trustee and RSE licensee of the First State Superannuation Scheme (**First State Super**). FTC and its associated entities have accepted the Commission's invitation and provide their response to the questions attached to the letter in the form set out in that attachment. This response is prepared by FTC for itself and its associated entities:
 - State Super Financial Services Australia Limited (trading as **StatePlus**),
 - A.C.N 084 162 489 Pty Limited (**Health Super Trustee**) and,
 - First State Super Financial Services Pty Ltd (**FSSFS**).
- 1.3 First State Super was established in 1992 to provide for the superannuation and retirement needs of NSW public sector employees and their families.
- 1.4 First State Super became a public offer fund in 2006, providing low-fee, low-maintenance super for all Australians. Thereafter, financial advice was offered to members with the launch of First State Super Financial Planning by FTC's wholly owned entity FSSFS.
- 1.5 In 2011 the members and assets of the Health Super Fund were transferred to First State Super in accordance with the successor fund provisions in the Superannuation Industry (Supervision) Regulations 1994. At the same time, FTC acquired the former trustee and RSE licensee of that fund, Health Super Pty Ltd. Health Super Pty Ltd relinquished its RSE licence and is now a dormant wholly owned entity of FTC.
- 1.6 FTC acquired StatePlus in 2016. StatePlus is the trustee and RSE licensee of two registrable superannuation entities (**RSEs**): the StatePlus Retirement Fund and the StatePlus Fixed Term Pension Plan (the **StatePlus Funds**). The Fixed Term Pension Plan is closed to new members. StatePlus also acts as the responsible entity of ten registered schemes and conducts a financial planning business.
- 1.7 FTC has other associated entities which are used to make or hold investments for the funds. They do not operate financial services businesses and do not assist FTC or StatePlus to do so. We have therefore not included them in our response.
- 1.8 FTC has appointed certain third-party service providers to undertake specific activities on its behalf. Examples include (i) an external professional administrator, Pillar Administration (formerly a NSW Government entity, and sold to Mercer in 2016 and now known as Mercer Wollongong) (ii) a custodian to provide professional unit registry and custody services (undertaken by JP Morgan from the fund's inception until 2016, when State Street took over the function).

About First State Super

- 1.9 First State Super is one of the country's largest profit-for-member super funds. We are responsible for managing more than \$70 billion on behalf of our 778,000 members. We manage an additional \$18 billion on behalf of the 63,000 members of the StatePlus Funds. These funds are not profit-for-member super funds. StatePlus charges fees which are used to pay expenses and to provide a return to FTC in its capacity as trustee of First State Super.
- 1.10 With our origins as a public sector super fund, we are independent of the retail and industry fund sectors and today offer financial services to approximately 840,000 members and clients located

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around Australia.

- 1.11 We are dedicated to helping our members achieve a better financial future. Most of our members work in public and community service occupations. They are nurses, midwives, health workers, teachers, police, fire fighters and paramedics. Over 65% of our members are women.
- 1.12 Our goal is to deliver sustainable long-term returns to our members and clients and our size allows us to invest in ways that make a positive impact in the communities in which our members live, work and retire.
- 1.13 We are a large and diversified organisation and seek to support our members throughout their working life and into retirement. Our funds provide our members with a place to save for their retirement and to access retirement income products. In addition, our range of member services includes: advice about superannuation; access to insurance; and aged care advice.
- 1.14 We offer a flexible financial advice service that gives members a broad choice of options—from phone advice about their super account to a full financial plan. Advisers are located in 25 metropolitan and regional locations in NSW, Victoria, Canberra, Brisbane and Perth, and members can arrange an appointment at any of these locations. Members can also receive advice over the phone, and aged care specialists are available to explain the complex funding and accommodation choices facing people making aged care decisions.
- 1.15 We have over 1,000 employees. The group's main offices are located in Sydney and Melbourne. There are more than 120 customer service representatives in the Melbourne-based telephone service centre. A program of regular seminars and workplace visits, together with a dynamic website with interactive educational material and online calculators, rounds out the support services available to members.
- 1.16 We are an equal opportunity employer and we are strongly committed to gender equality in the workplace.

Our position on the matters raised in this submission

- 1.17 The board and management of First State Super have reflected carefully on the organisation's conduct in relation to the matters disclosed in this submission – both as to their cause and the organisation's response to them.
- 1.18 Following that reflection, First State Super remains committed to the ongoing development of an organisational culture that acknowledges and addresses misconduct and errors of judgement and process when they occur.
- 1.19 We acknowledge the important role of the Commission and we are ready to assist.

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Section B – Response to Question 1

Excluding cases of theft from the entity itself, or from an associated entity, has the entity identified any misconduct by the entity (including by its directors, officers or employees, or by anyone otherwise acting on its behalf) which occurred at any time since 1 January 2008? If so, what is the nature, extent and effect of that misconduct?

2 General Comments

2.1 We observe that Question 1 is extremely broad in scope. It contemplates the inclusion in this response of 'any misconduct' that we have identified to have been committed over more than a ten year period (since 1 January 2008). 'Misconduct' is defined in the Commission's Terms of Reference inclusively as conduct that 'constitutes an offence against [an Australian law] ...; is misleading [and/or] deceptive; is a breach of trust ...[or] duty or unconscionable conduct; or breaches a professional standard or a recognised and widely adopted benchmark for conduct'.

2.2 Taking into account:

- (a) this broad definition of 'misconduct' and the extensive regulatory regime to which FTC and its associated entities are subject;
- (b) the substantial time period to which this question relates;
- (c) the limited time period for responding to this question; and
- (d) the entitlement of consumers to be treated honestly and fairly in their dealings with banking, superannuation and financial services providers,

the response to this question focuses on describing misconduct that:

- (e) has previously been established by an Australian court or tribunal of competent jurisdiction or that has previously been assessed as constituting misconduct;
- (f) has been identified previously following a review of those of our records that we believe are most likely to have identified previous misconduct;
- (g) relates directly to our dealings with our members and clients; and
- (h) is considered by us to be material by reason of it resulting in substantial monetary losses; significant media or public attention; any significant regulatory investigation or inquiry; or otherwise reveals any common or systemic procedural and operational deficiencies within our operations.

2.3 Consequently, the response to this question does not identify all misconduct, as defined. For example, it does not include breaches of workplace health and safety laws and other employment-related laws (even though we have not identified any such breaches that are systemic or that do not, in our view, also occur during the operation of other large Australian companies). That said, some conduct that, in isolation, may not be considered by us to be material, is nonetheless described in this submission in an aggregated and general way.

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3 Specific instances

Incorrect Trust Deed Interpretation for Benefit Calculation

- 3.1 Prior to Health Super's merger with First State Super, the Health Super Fund provided defined benefits to members that required the calculation of benefits by reference to a multiple of salary. Salary was calculated differently for different members. Following the merger, FTC continued to administer the former Health Super defined benefits in accordance with the way the Health Super Trustee had done.
- 3.2 In October 2011, a former Defined Benefit (DB) member, made a formal complaint regarding FTC's decision to exclude 'recall' payments from the definition of 'salary' for the purposes of calculating his DB entitlement. At that time, FTC (and Health Super before the 2011 merger) had operated the fund on the basis that recall payments should not be included as 'salary' as they were better characterised as a fee for service.
- 3.3 Between February 2015 and August 2017, the former member's claim and FTC's subsequent request for judicial advice were litigated in the County Court of Victoria, the Supreme Court of Victoria and the Victorian Court of Appeal. Ultimately, the Supreme Court of Victoria's decision (which was upheld on appeal) was that a 'recall' payment is a 'roster related payment'. As such, 'recall' payments were to be included within the definition of DB salary as an allowance which is ordinarily payable regularly and periodically. The decisions clarified that FTC (and before 2011, Health Super) had not been correctly applying the terms of the First State Super trust deed. For clarity, until this time, FTC was not aware it had been misapplying the terms of the trust deed.
- 3.4 The former member was paid his DB entitlement, reflecting the Court's decision, in December 2017. We are currently investigating the broader potential costs and funding implications of the decision, including identifying other potentially affected members. We are meeting with the contributing employer to ensure ongoing full compliance with the terms of the trust deed.

Underservicing of Financial Advice clients in bundled products

- 3.5 StatePlus is paid a management fee from the StatePlus Funds. Before the commencement of the Future of Financial Advice reforms that fee was to pay for all services, including investment, administration and advice.
- 3.6 Following the acquisition of StatePlus through a market competitive tender/acquisition process in June 2016, we initiated a review of business practices and service provision to members in the StatePlus Funds.
- 3.7 Initially, the review detected a potential issue with a particular group of members who had paid for advice as part of their management fees but who had not been provided advice within the appropriate timeframes. StatePlus did not have the management or advice processes in place to ensure that all members received the advice they had paid for. In May 2017, StatePlus reported the issue to ASIC. After further enquiries, which confirmed the underservicing, StatePlus determined to refund to our members the fees collected for undelivered advice.
- 3.8 Since then, we have been actively engaged with ASIC to identify an appropriate remediation program that is aimed at resolving this matter to the satisfaction of both ASIC and our members as soon as possible during 2018.
- 3.9 As the new owner, FTC has sought to align the culture and governance of StatePlus to that of FTC. A new Board and senior management of the entity has been appointed. This new approach to governance and culture will drive the changes to enable the delivery to our members of the promised levels of advice.

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Unauthorised Access to member records

- 3.10 The following incident relates to the conduct of a fund member, which identified a weakness in the administrator's information technology systems.
- 3.11 On 21 September 2011, a First State Super member logged into the member secure section of the First State Super website and downloaded his Annual Statement (for the year to 30 June 2011). After noticing a 'document id' number in the URL, the member incremented the number in the URL and was able to download another member's statement. Based on this discovery, the member downloaded PDF versions of 568 members' Annual Statements (for the year to 30 June 2011).
- 3.12 The member, who ran a business specialising in IT security, notified FTC of his actions. Prior to this incident, FTC was unaware of the vulnerability in the Pillar systems which held its member information.
- 3.13 This IT security vulnerability represented a breach of privacy of those 568 members whose statements were accessed by the member. The breach was rectified the following day. The extent was limited to statement downloads. At no time was the member able to access any other member's secure online account (where members can go to make changes to their investment options, contact details etc). No member suffered any financial loss.
- 3.14 Following the incident, extensive review of the relevant security networks was conducted and steps to upgrade IT security were undertaken. Affected members were contacted and advised of the unauthorized access and remedial action taken. Members were also given the opportunity to change their account and membership numbers. Regular IT security testing has been maintained ever since.

4 General categories

Administration errors

- 4.1 Since 1 January 2008, we have identified a range of administration errors which have led to regulatory compliance breaches and sometimes a breach of the trust deeds for the funds.
- 4.2 The administration errors are generally a function of (i) inaccurate data held in systems (ii) incorrect processing routines within systems (iii) failure to follow established administration procedures.
- 4.3 The administration errors typically manifest themselves as shortcomings in either (i) accuracy (e.g. incorrect information on member correspondence) or (ii) timeliness (e.g. late distribution of statements).
- 4.4 FTC has appointed an external professional administrator to provide administration services to First State Super, Pillar Administration (formerly a NSW Government entity, and sold to Mercer in 2016 and now known as Mercer Wollongong). Health Super was administered in-house by Health Super Pty Ltd until its merger with First State Super in 2011. StatePlus is self-administered. The utilisation of an external administrator does not lessen the obligation of the trustee to administer member funds in a manner compliant with all relevant regulations and obligations. Consequently, FTC and StatePlus work closely with their administration functions to monitor service quality and review and maintain staff training procedures, in order to minimise the instance and impact of errors.
- 4.5 Administration errors, for the purposes of this section, are non-intentional, non-malicious, and range in origin, frequency, and type. We believe our experience with these issues is comparable to other organisations operating within complex regulatory environments. That said, initiatives involving significant change (e.g. fund mergers, new system installations) tend to generate a

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contemporaneous increase in errors whilst the initiative is underway.

- 4.6 Within this general categorisation, administration errors have included instances such as:
- (a) inaccurate, incomplete or delayed member correspondence (12 regulator-reported breaches since 2008; impact is typically on less than 5% of members per annum)
 - (b) incorrect or delayed processing of contributions, rollovers and other transactions (six regulator-reported breaches since 2008, typically impacting less than 5% of members per annum)
 - (c) errors in calculation of unit prices and crediting rates (three regulator-reported breaches since 2008 impacting a total of less than 7,000 members)
 - (d) incorrect calculation of benefit components (three regulator-reported breaches since 2008 impacting a total of less than 6,000 members)
 - (e) incorrect PAYG data reported to ATO (occurred during 2008 and was remedied in March 2009)
 - (f) incorrect application of CPI and tax data to member balances (two occurrences before 2009, with restitution payments in 2009 and 2011)
 - (g) correspondence inadvertently sent to wrong members, contravening privacy principles (typically less than 10 cases per annum)
- 4.7 The extent to which an administration error has an impact on members varies greatly. A high proportion of errors applies to a very small number of individuals (i.e. less than 5% of fund membership). No administration error has occurred that has impacted the entire membership. It is not uncommon, however, for a category of members to be impacted by an error.
- 4.8 Given the complexity of administering a large superannuation fund, together with the high volumes of transactions being processed daily, administration errors will take place from time to time. When such instances regrettably arise, we take remedial action to ensure the correct outcome for our members. Losses to individual members are remedied and any losses to the fund have been recovered from the administrator or custodian. In addition to ensuring members and the fund do not suffer any loss, a key focus following the identification of any administrative error is to strengthen our internal controls framework to identify root cause and prevent such errors occurring in the first place (See answer to Question 3 for a fuller discussion on preventive and remedial activity).

Financial Planning issues

- 4.9 Prior to, and since 1 January 2008, a range of incidents in our financial planning operations have been identified, fitting the definition of misconduct. Excluding the specific instance of 'underservicing' referred to in Section 3 above, these incidents have not been systemic, and have been isolated to a small number of individuals, and have ranged in timing and location.
- 4.10 The identified incidents include failure to follow internal procedures and standards such as:
- (a) mishandling of documents by planners and support staff to expedite client outcomes. Examples include witnessing documents after original signature (fewer than ten identified instances)
 - (b) misrepresentation of identity in order to expedite access to information (one regulator-reported breach involving two staff)
 - (c) wrongful sharing of answers to compliance exam questions (one regulator-reported breach involving eight staff members)

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- (d) failure to supply advice documentation to clients (six regulator-reported breaches relating to eight staff members)

(None of the above incidents have had a financial impact on clients, however the actions described do not meet the cultural and behavioural standards expected of our staff. In each case appropriate disciplinary action was taken, including warnings, performance management, additional training, dismissal and non-renewal of probationary periods).

- (e) compliance reviews are regularly undertaken on Financial Planner files. Since 1 January 2008 these reviews have identified some Financial Planners as having provided poor quality advice. Causes have been identified including human error, i.e. not following internal procedures and standards, or due to training gaps, typically resulting in 5-10 occurrences per annum of financial planners having their incentive payments withheld due to quality issues. In these identified instances, where there has been a potential or actual financial impact, the circumstances are reviewed and compensation has been paid to ensure the client is not financially disadvantaged. In cases where disciplinary action has been required with staff, appropriate steps were taken.

Insurance issues

- 4.11 Insurance benefits are offered to members of First State Super. These benefits include coverage for Death, Disablement, and Income Protection. The insurance is provided under group policies issued by external insurance providers to FTC.
- 4.12 During the relevant period, a range of insurance related errors have occurred, that are primarily administrative in nature. These instances have included:
 - (a) incorrect insurance premiums being levied to member accounts (two regulator-reported breaches impacting less than 1500 members in total)
 - (b) incorrect allocation of insurance premium subsidies to a category of members (two regulator-reported breaches impacting the NSW Police category of membership)
 - (c) delays in notifying members of changes to Sums Insured under their relevant insurance cover;
 - (d) failure to send 'activation' letters explaining to members their options for varying their insurance coverage (one regulator reportable breach impacting 13,645 members)
- 4.13 These occurrences have generally applied to groups of members within a particular category or class of membership, rather than being isolated individual errors. As such, they typically reflect systems or process issues.
- 4.14 Given the more widely disbursed impact of these errors, they are usually identified and rectified in a timely fashion. The regulators (APRA and ASIC) are generally advised of such instances and are kept informed of actions taken to resolve problems and prevent recurrence.

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Section C – Response to Question 2

Has the entity identified any conduct, practice, behaviour or business activity it has engaged in (including by its directors, officers or employees, or by anyone otherwise acting on its behalf) since 1 January 2008, which it considers has fallen below community standards and expectations? If so, what is the nature, extent and effect of that conduct, practice, behaviour or activity?

5 General Comments

- 5.1 We observe that Question 2 is also extremely broad in scope. It contemplates the inclusion in this response of 'any conduct, practice, behaviour or business activity' that we have identified to have been committed over more than a decade (since 1 January 2008) and 'which [we consider] has fallen below community standards and expectations'. The term 'community standards and expectations' is not defined in the letter or in the Terms of Reference.
- 5.2 Taking into account the regulatory regime to which we are subject, including:
- (a) the obligations on financial services licensees in s912A of the *Corporations Act 2001* (Cth) (including the obligation to 'do all things necessary to ensure that the financial services covered by the licence are provided efficiently, honestly and fairly'); and
 - (b) the covenants of superannuation fund trustees implied into trust deeds by s52(2) *Superannuation Industry (Supervision) Act 1993* (Cth) (*SIS Act*) (including the covenants to act honestly and with care, skill and diligence),

we have previously identified, at most, limited conduct that, in our view, falls short of community standards and expectations that is not otherwise addressed in response to Question 1, above. Therefore, this part of the submission is confined to the identification of the matters described in section 6, below.

6 Specific Instances

Slow processing of TPD insurance determinations

- 6.1 On 1st July 2005 the Police Blue Ribbon Insurance scheme commenced. This is a supplementary insurance arrangement that is only provided to eligible sworn NSW Police Officers and is generally provided in accordance with the terms of the Police Act 1990. The cover is subject to the terms and conditions of the Police Blue Ribbon Insurance policy issued to the trustee.
- 6.2 In early 2011, NSW Government reforms were introduced, which resulted in NSW Police and the NSW Government commencing discussions to review the Police Blue Ribbon Insurance policy benefit design. After the review, it was agreed that the benefit design would be changed to incorporate an income protection benefit and a reduction to the lump sum Death and TPD benefit amounts.
- 6.3 In late 2011 Officers became aware that there would be a benefit design change to the Police Blue Ribbon Insurance policy, and this change would incorporate an income protection benefit and a reduction to the lump sum benefit scale once the new Policy commenced on 20 January 2012.
- 6.4 A substantial influx of TPD claim notifications was received prior to the benefit design changes which took effect on 20 January 2012. This was evidenced by claims reporting, whereby the number of claims under assessment increased markedly from 112 in 2010, to 192 in 2011. The impact of this influx resulted in increases in the time taken by the Insurer to assess TPD claims. This in turn resulted in an increase in complaints about the length of time that claims were being assessed, and about excessive use of surveillance practices by insurers.

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- 6.5 The trustee has taken a range of actions to resolve these difficulties. This has included the replacement of the incumbent insurance provider, ongoing negotiation with the previous insurer to resolve the remaining claims, and the introduction of a Code of Conduct for insurers regarding surveillance activities. In addition, a Claims Review Committee (which was established some years prior to the Police Blue Ribbon scheme changes) acts as a mechanism to facilitate the independent review of complaints.

Former Director engaging in criminal conduct

- 6.6 Mr Michael Williamson was an employee representative Director on the FTC Board from 2006 until 2012.
- 6.7 During his tenure, Mr Williamson demonstrated, in relation to the activities of FTC, the qualities of fitness and propriety that FTC expects from all of its Directors. However, Mr Williamson's non-FTC activities, in particular those related to his role as State Secretary (NSW) of the Health Services Union (the HSU), did not exhibit this high standard. Reports of an expenses scandal at the HSU, involving Mr Williamson apparently receiving secret commissions, appeared in the press in late 2011. The HSU suspended Mr Williamson as National President in late 2011. The discomfort of the FTC Board with a Director facing such serious allegations was made known to the appointing entity. In early 2012 Mr Williamson stood down as a Director of FTC. In late 2013 Mr Williamson pleaded guilty to four charges of defrauding the HSU and was sentenced eventually to 7.5 years imprisonment (which he is currently serving).
- 6.8 Having a Director on the Board of a significant superannuation entity facing allegations of the nature and extent made against Mr Williamson during his tenure on the FTC Board is a situation that, in FTC's view, does not meet community standards and expectations. However, the FTC Board has a limited ability under its Constitution to select or remove its Directors and, instead, the appointment and removal powers are held by the employer and employee appointing entities.
- 6.9 In 2012, the former FTC Chair called for reforms to be made to legislation to provide trustee boards with greater power over the appointment and removal of their directors. The FTC Board Nominations Committee has been formed to enable more proactive engagement with the appointing entities, to lessen the likelihood of a recurrence.

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Section D – Response to Question 3

Item	Question 3(a)	Question 3(b)	Question 3(c)	Question 3(d)	Question 3(e)(i)	Question 3(e)(ii)
Question 1: Misconduct Issues						
Incorrect Trust Deed Interpretation for Benefit Calculation	Concluded Supreme Court of Victoria and Victorian Court of Appeal proceedings. See <i>FSS Trustee Corporation v Eastaugh [2017] VSCA 218</i> (29 August 2017))	No	No	No	A remediation payment was made to the affected member in December 2017.	An internal review of other potentially affected members is currently underway.
Underservicing of Financial Advice clients in bundled products	Ongoing ASIC review	Yes. As the new owner, FTC has sought to align the culture and governance of StatePlus to that of FTC. A new Board and senior management of the entity has been appointed. This new approach to governance and culture will drive the changes to enable the delivery to our members of the promised levels of advice.	The behaviours referred to can be seen as a manifestation of the focus on adviser outcomes to the detriment of client outcomes. This is a broad industry issue that FTC will not tolerate in its practices.	No	Clients eligible for remediation are being identified and compensation amounts calculated. These clients are being notified from February 2018 onwards	A comprehensive product and client review has been undertaken. ASIC has been engaged and remediation activities are being reported to them. Procedural reviews will take place to prevent recurrence, under the supervision of ASIC.

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Item	Question 3(a)	Question 3(b)	Question 3(c)	Question 3(d)	Question 3(e)(i)	Question 3(e)(ii)
Unauthorised access to member records	<p>Reported to NSW Police. Inquiries also conducted and concluded by:</p> <p>(a) The Office of the Australian Information Commissioner (OAIC)</p> <p>(b) APRA</p> <p>(c) ASIC</p>	No.	No.	No.	<p>On 22 September 2011, the security breach was rectified. Pillar confirmed that no other areas of the website used a similar URL. This is only used for distinctly identifying statements from the document repository.</p> <p>On 7 October 2011, the 568 affected members were contacted and advised of the unauthorized access and the remedial action taken. Members were also given the opportunity to change their account and membership number.</p> <p>On 12 October 2011, the incident was reported to the NSW Police (The Rocks Local Area Command).</p> <p>On 13 October 2011, a letter was sent to the member requesting the member undertake to destroy and/or remove from his computer (or possession) all copies of information downloaded, and to desist from further unauthorized access.</p>	<p>On 20 October 2011, Saltbush Assurance (leading Australian IT Security Specialists) were engaged by Pillar and undertook detailed testing to evaluate the security of Pillar's networks from an insider/member perspective.</p> <p>Further to this, cyber security vigilance was increased and regular communication between First State Super and Pillar (now Mercer Wollongong) on all aspects of cyber security pertaining to member accounts has been maintained ever since.</p>
Administration errors	No	No	The superannuation industry is complex. Legislative and regulatory changes occur frequently and funds are required to adapt to such changes. Recent examples are the introduction of the MySuper and SuperStream	No	<p>Since 1 January 2008, three major change initiatives have taken place which generated a level of errors in excess of the ordinary experience (i) the 2011 transfer of Health Super member records to Pillar (ii) the 2016 migration by Pillar of approximately 750,000 First State Super member records to a new registry system (iii) the 2017 migration of approximately 60,000 StatePlus member records to a new administration system. Each of these initiatives occurred over a 12-18 month period and, given their complexity, contributed</p>	<p>We adopt a philosophy of continuous improvement to minimise the likelihood of administration errors in future. We are the subject of regular reviews by the regulator(s), who examine our administration practices. We engage specialist consultants (e.g KPMG) to review our practices and procedures and suggest improvements. We actively engage with working groups run by relevant industry bodies (such as ASFA and AIST) to share learnings and implement improvements.</p>

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Item	Question 3(a)	Question 3(b)	Question 3(c)	Question 3(d)	Question 3(e)(i)	Question 3(e)(ii)
			initiatives. There is frequently an increase in the occurrence of administration errors associated with such changes.		to a higher incidence of errors during these times. Any significant breaches are reported to the relevant regulators, APRA or ASIC. We take appropriate remedial action in a timely manner to ensure that members are not financially disadvantaged. We also undertake root cause analysis to ensure controls are reviewed and strengthened where appropriate to prevent recurrence of the breach.	
Financial Planning Issues	All instances are the subject of internal inquiry. Most instances are reported to ASIC.	No	No	No	Remediation has occurred in the instances where clients have suffered a financial impact.	A range of actions has been taken, depending on the occurrence. These have included: warnings regarding conduct, termination of employment, notification of incidents to ASIC, remedial training in approved procedures, upgrading of procedures, upgrading of monitoring and review practices.
Insurance Issues	All instances are the subject of internal inquiry. Most instances are reported to APRA.	No	No	No	Remediation has occurred in the instances where members have suffered a financial impact, for example refunding of overcharged premiums.	Internal processes are examined to ensure the correct operation of systems in calculating premiums and benefits. The relevant regulator, APRA, is informed of regulation breaches, and is involved in determining actions to resolve errors and remediate affected members.
Question 2: Behaviours falling below community standards and expectations						
Slow processing of TPD determinations	No	No	No	No	As the influx in claims resulted in the average assessment duration time increasing substantially, the trustee undertook measures to increase engagement protocols with the Insurer on risk at the time. The frequency of meetings with the Insurer increased, robust reviews of claim determinations were carried out, the trustee challenged the Insurer's determinations and sought	During this time the trustee undertook an overall Insurer review, resulting in a re-tender of the Police Blue Ribbon Insurance arrangement. The tender was won by a different Insurance Provider, TAL, who took over responsibility for the arrangement in 2011. The Trustee continues to work with the previous Insurer to resolve the remaining tail claims. The Trustee continues to offer the services of

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Item	Question 3(a)	Question 3(b)	Question 3(c)	Question 3(d)	Question 3(e)(i)	Question 3(e)(ii)
					<p>dispute resolution through utilisation of the Claims Review Committee when required.</p> <p>After review of the Insurer's surveillance usage, the trustee issued a Surveillance Code of Conduct to all Insurers affiliated with FTC, outlining guidelines for the use of surveillance in claims assessment.</p>	<p>the Claims Review Committee as a mechanism to facilitate the independent review of complaints.</p>
Former Director engaging in criminal conduct	Concluded court proceedings (Sydney Magistrates Court)	No	No	No	Mr Williamson voluntarily retired as a Director of FTC. No remedy is relevant to other persons.	The Board of FTC takes seriously the conduct of individual directors and requires that directors hold themselves to the highest standards of integrity, honesty, and accountability. Employer and employee representative groups appoint and remove FTC directors, in accordance with governing legislation. In 2012, the former FTC Chair called for the reform of the Superannuation Industry (Supervision) legislation to provide trustee Boards greater power over the appointment and removal of Directors.

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Section E – Response to Question 4

7 Question 4(a) - First State Super

- 7.1 In order to respond to this question, FTC has undertaken analysis of the financial operations of First State Super to categorise expenses into the following groupings: investment of member funds, administration expenses, the payment of member benefits, and other amounts that are applied in the members' best interests. The analysis has been reconciled to the annual financial statements.
- 7.2 It has been determined that other than investment of member funds, administration expenses of the superannuation fund, and the payment of member benefits, that member funds have been applied to the payment of insurance premiums, taxes, and to pay financial planning and advice fees agreed between the member and their financial adviser.
- 7.3 These amounts are contained in the table on page 16.
- 7.4 Each of these expense lines have increased over the 10-year period of analysis in line with the overall growth in the superannuation fund. Over the period 2008 to 2017, member numbers have grown from 515,520 to 773,527 and funds under management has grown from \$15.8 billion to \$63.8 billion, which includes the merger with Health Super which occurred in June 2011.

8 Question 4(b) – First State Super

- 8.1 FTC considers that the application of these funds is in members' best interests for the reasons set out below:
- (a) Insurance Premiums
- (i) Consistent with the sole purpose test in the *S/S Act*, First State Super provides members with benefits on retirement and disablement and members' dependants with benefits on a member's premature death. To help provide adequate levels of benefits on a member's disablement or death, FTC provides death and disablement insurance to members. In doing so, the trustee's intent is to provide an adequate level of insurance cover for a reasonable premium without inappropriately eroding members' superannuation account balances. The fund's insurance strategy complies with APRA's prudential standard SPS250 Insurance in Superannuation and the *S/S Act*, and has been provided to APRA.
- (i) Automatic insurance cover for death and total or permanent disability is available to members aged between 15 and 70 who receive super guarantee contributions from a participating employer. Members can opt out of or reduce their automatic cover. This is consistent with the obligation in the *SIS Act* for a trustee to provide death and total and permanent disability insurance to MySuper members (default members) on an opt-out basis.
- (b) Taxes
- (i) The fund pays tax in accordance with Income Tax legislation. Income tax expense is the aggregation of:
- (A) the tax on contributions received
- (B) current tax on realised investment income; and
- (C) deferred tax on unrealised investment income

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- (c) Member directed advice fees: FTC pays reasonable fees from a member's account in the fund to a member's financial adviser for advice provided to the member about their superannuation interest in circumstances where the member and adviser have agreed to that fee.

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Table 1: First State Super – application of funds other than to investment of member funds, administration expenses, or the payment of member benefits

Insurance Premiums	Life, TPD and income protection premiums	313,685	343,982	350,461	286,307	222,242	192,616	110,650	93,652	90,129	85,127
Taxes	Contributions tax and Return on Investment tax	1,044,154	455,019	803,402	915,577	898,025	408,120	407,665	445,637	9,419	118,747
Advice fees (member directed)	Fees deducted from members' accounts for the provision of financial advice and ongoing review service	11,827	11,205	8,103	5,341	2,864	262				

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9 Question 4(c) – First State Super

- 9.1 There are four general categories of cost centre to which the expenses incurred in administering First State Super have been attributed over the relevant period. These general categories of cost centres and the percentage of total expenses allocated to each cost centre are as follows:
- (a) Investment Expenses – percentage of cost base 60%
 - (b) Member administration – direct expenses: percentage of cost base 24%
 - (c) Member administration – support activities: percentage of cost base 7%
 - (d) Member administration – member engagement: percentage of cost base 9%
- 9.2 With the growth in First State Super over the 10-year period 2008 to 2017, the nature and number of specific cost centres have increased. The cost centres as at 30 June 2017 are contained in the following table.

Investment	
Investment Expenses	Investment management related expenses
Member Administration - Direct expenses	
Member Administration	Third party administration fees
Company Secretary/Governance/Legal	Predominantly staff costs
Directors fees	Directors fees and expenses
CEO	Salaries and travel, APRA Levy & consulting fees
Corporate Services & Facilities	Occupancy and maintenance costs of the main offices and postage, stationery and printing
Insurance	Claims administration
Service Centre	Telephone call centre (staff costs and expenses)
Projects	Both strategic and regulatory projects
Member Administration - Support activities	
Technology	IT Support
Human Resources	Recruitment & Training
Risk & Compliance	Risks and compliance
Finance	Finance
Strategy & Product	Fund's strategy and product development
Project Management Office	Management of projects
Member Administration - Member Engagement	
Financial Planning	Advisory services to members
Business Development	Member seminars and employer engagement
Marketing	Activation and retention of members

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Branding	Establishment, enhancement and building of the brand
Digital Office	Building of digital capability to deliver improved member experience and engagement
Corporate Affairs	Stakeholder relations, reputation and issues management, and public relations

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10 Question 4 (a) – StatePlus Funds

- 10.1 In order to respond to this question, FTC has undertaken analysis of the financial operations of the superannuation funds (SSRF and FPHP) for the period from which FTC acquired StatePlus (being 6 June 2016). FTC does not have sufficient information about the uses of member funds prior to this date.
- 10.2 For practical purposes, the financial analysis has been performed on the financial year from 1 July 2016 to 30 June 2017.
- 10.3 The analysis categorised expenses into the investment of member funds, administration expenses, the payment of member benefits and other amounts that are applied in the members' best interests. The analysis has been reconciled to the annual financial statements.
- 10.4 The analysis determined that other than investment of member funds, administration expenses, and the payment of member benefits, that member funds have been applied to the payment of financial advice fees and to the payment of taxes. Because the StatePlus Funds primarily offer retirement income products, there is no insurance cover available to members in those funds.
- 10.5 These amounts are contained in the following table:

Estimated advice fees included in the management fees of the pre-FoFA products	87,995
Member directed advice fees	29,305
Taxes (contributions and income taxes)	20,097

11 Question 4(b) – StatePlus Funds

- 11.1 In respect of each kind of those other applications of members' funds, why was that application in the best interests of members?

The application of these funds is in members' best interests as follows:

(a) Advice fees

- (i) Members of the SSRF and FPHP are generally near or in retirement and typically benefit from receiving financial advice. StatePlus' financial planning approach maintains assets to support income needs in the medium term, prioritising capital preservation and minimising downside risk, all of which is highly relevant to retirees.
- (ii) However, should members of the SSRF no longer wish or need to receive financial advice they can notify StatePlus that they no longer wish to receive advice and the member directed advice fees will cease to be paid from their accounts.

(b) Taxes

- (i) The funds pay tax in accordance with Income Tax legislation. Income tax expense is the aggregation of:
- (A) the tax on contributions received
- (B) current tax on realised investment income; and
- (C) deferred tax on unrealised investment income

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12 Question 4(c) – StatePlus Funds

12.1 What are the cost centres that make up costs attributed to administration in each of those years?

- (a) All of the expenses incurred in administration of the SSRF and FTTP are met from the fees paid by members of the SSRF and FTTP to StatePlus.
- (b) There are four general categories of cost centre to which the expenses incurred in administering the funds have been attributed by StatePlus. These general categories of cost centres and the percentage of total StatePlus expenses allocated to each cost centre for the year ended 30 June 2017 are as follows:
 - (i) Investment expenses – percentage of cost base 23%
 - (ii) Member administration – direct expenses: percentage of cost base 7%
 - (iii) Member administration – support activities: percentage of cost base 6%
 - (iv) Member administration – member engagement: percentage of cost base 2%
- (c) The cost centres as at 30 June 2017 are contained in the following table:

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Investment	
Investment	Investment management related expenses
Member Administration – Direct expenses	
Member Administration	In-house administration expenses
Corporate	Salaries, APRA Levy & consulting fees
Directors	Directors fees and expenses
Legal & Company Secretary	Internal & external legal expenses, corporate insurances
Facilities	Occupancy and property maintenance costs, postage, stationery and printing
Fund Accounting	Funds administration
Service Centre	Call centre (staff costs and expenses)
Projects	Both strategic and regulatory projects
Member Administration – Support activities	
Technology	Costs of the technology platform, predominantly staff costs, licenses, hosting and support
Human Resources	Recruitment and training
Risk & Compliance	Predominantly staff costs
Finance	Predominantly staff costs, audit expenses, corporate taxes
Product	Product management and development
Project Management Office	Management of projects
Member Administration – Member engagement	
Business Development and Institutional Sales	Member engagement
Marketing	Marketing and brand

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Glossary

First State Super means the First State Superannuation Scheme.

FTC means FSS Trustee Corporation, the trustee and RSE licensee of First State Super.

First State Super Financial Services (FSSFS) (formerly Health Super Financial Services)

First State Super Financial Services (formerly Health Super Financial Planning) was acquired by First State Super as part of its merger with Health Super in 2011. FSSFS provides financial advice to First State Super members about their First State Super account. First State Super members can also obtain comprehensive financial advice (including advice about non-superannuation financial matters) from FSS Financial Planning directly on a fee for service basis.

Health Super Pty Ltd means A.C.N 084 162 489 Pty Ltd, the former trustee and RSE licensee of the Health Super Fund. In 2011, the members and assets of the Health Super Fund were transferred to First State Super.

Mercer Wollongong (formerly Pillar Administration)

In December 2016, global consulting firm Mercer acquired Pillar Administration from the NSW Government. Pillar has been administering super funds since 1912 and has provided administration services to First State Super since the fund's inception.

StatePlus

StatePlus (the trading name of State Super Financial Services Australia Limited) is a wholly owned entity of First State Super, acquired from SAS Trustee Corporation in June 2016. StatePlus was established to provide financial advice to public sector employees and their families. StatePlus functions as:

- (a) a Registrable Superannuation Entity (**RSE**) licensee for the State Super Retirement Fund (**SSRF**) and RSE licensee for the Fixed Term Pension Plan (**FTPP**)
- (b) a Responsible Entity for the State Super Investment Fund (**SSIF**)
- (c) an Australian Financial Services License (**AFSL**) holder for the provision of financial advice
- (d) as a Corporate entity

StatePlus Funds means the StatePlus Retirement Fund (SSRF) and the StatePlus Fixed Term Pension Plan (FTPP).