

**L.U.C.R.F. Pty Ltd as Trustee of the Labour Union Co-operative Retirement Fund
(LUCRF Super)**

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

Introduction

- 1 On 8 January 2018, the Commission invited L.U.C.R.F. Pty Ltd (**the Trustee**), on behalf of the Labour Union Co-operative Retirement Fund (**LUCRF**), to make written submissions addressing four questions (**Questions**).¹
- 2 This submission is provided on behalf of the Trustee and its associated entities in response to the Questions.

Background

- 3 LUCRF is an industry superannuation fund which provides superannuation and pension products and services to its members.
- 4 LUCRF was established in 1978 by the Federated Storemen and Packers Union (now known as the National Union of Workers (**NUW**)) to provide benefits to blue collar workers. Over time, LUCRF has attracted a more diverse range of members and now offers accumulation-style superannuation benefits for individuals throughout Australia across a range of industries. In addition, LUCRF offers insurance products to members (death and total and permanent disability insurance and income protection cover) and pension products.
- 5 LUCRF has over 160,000 members, over 18,000 employers and more than \$6.2 billion in funds under management.
- 6 LUCRF provides its own administration and member support services, employing approximately 134 staff across Victoria, New South Wales, Queensland, South Australia and Western Australia.

Governance

- 7 LUCRF is managed by the Trustee. The control and administration of LUCRF is vested in the Trustee in accordance with the terms of the LUCRF Trust Deed.
- 8 The Trustee is governed by a board of twelve directors comprising:
 - (a) five directors representing employers;
 - (b) five employee (member) directors nominated by the NUW; and
 - (c) two independent directors.

¹ In this submission, "LUCRF" and "the Fund" are used interchangeably.

Related entities of LUCRF

- 9 The Trustee has two associated entities through which it invests members' funds, namely 833 Bourke Street Pty Ltd (the trustee of the Bourke Street Unit Trust) (**Bourke Street Trust**) and 87 St Vincent Street Pty Ltd (the trustee of the St Vincent Street Unit Trust) (**St Vincent Street Trust**) (together, the **Property Trusts**). The Property Trusts are special purpose vehicles through which members funds are directly invested in commercial property.
- 10 The Trustee (on behalf of LUCRF) holds 50% of the units in the Bourke Street Trust.² The trustee of the Bourke Street Trust is the registered proprietor of 833 Bourke Street, Docklands, Victoria (**Bourke Street Property**). The Bourke Street Property is a 3 level building with 2 tenants, one of which is LUCRF.
- 11 The Trustee (on behalf of LUCRF) holds 75% of the units in the St Vincent Street Trust.³ The trustee of the St Vincent Street Trust is the registered proprietor of 87 St Vincent Street, Port Adelaide, South Australia (**St Vincent Street Property**). The St Vincent Street Property is a 2 level building with 2 tenants, one of which is LUCRF.

Enquiries made in preparing this submission

- 12 The records reviewed by LUCRF in the course of preparing its response to the Questions include the following:
- (a) LUCRF's incident and breach register;
 - (b) reports tabled with the Trustee's Board Compliance, Risk and Audit Committee;
 - (c) LUCRF's internal complaints register and complaint responses;
 - (d) communications with regulators including the Australian Prudential Regulation Authority (**APRA**) and the Australian Securities and Investments Commission (**ASIC**);
 - (e) legal proceedings involving the Trustee or LUCRF and complaints filed with the Superannuation Complaints Tribunal (**SCT**); and
 - (f) external audit reports prepared by the Trustees' auditor, Price Waterhouse Coopers (**PwC**). Assurances have been obtained from PwC that it has made LUCRF aware of all relevant matters via its annual management report and in its opinion, there are no relevant matters which have not already been disclosed below.

² NUW holds 50% of the units.

³ NUW holds 25% of the units.

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?

- 13 LUCRF has not identified any misconduct from 1 January 2008 to the date of this submission (**Relevant Period**).

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?

- 14 LUCRF has identified the below conduct which it considers falls below community standards and expectations.

Conduct One: Transfer of Member's Benefits Without Authority

- 15 During 2014, a new member to the Fund provided consent to a LUCRF employee to undertake a search for existing superannuation accounts using "SuperMatch" software. The employee undertook the search and consolidated the member's superannuation accounts. However, the employee failed to provide the results of the SuperMatch search to the member and to obtain the member's consent to consolidate the accounts prior to consolidating the member's accounts.
- 16 The employee's consolidation of the accounts without consent was in breach of regulation 6.29 of the *Superannuation Industry (Supervision) Regulations 1994* (Cth) (**SIS Act**).
- 17 The member made a complaint to LUCRF in respect of this conduct, which was recorded in the LUCRF complaint register. LUCRF offered to compensate the member for the exit fees incurred as a result of the unauthorised transfer. LUCRF did not receive a response from this member to take up the offer and the member proceeded to roll over their superannuation entitlement to LUCRF.

Conduct Two: Error in Benefit Allocation

- 18 In April 2015, a member's benefit was rolled over from another fund and was mistakenly allocated to a different member with the same name.
- 19 LUCRF became aware of this error in November 2017, when the affected member questioned the balance of her account.
- 20 LUCRF investigated the issue and concluded that, when the member's benefit was allocated to the Fund, an employee did not confirm the address, as well as the date of birth, of the affected member. As a result, the employee inadvertently allocated the rollover funds to a different member with the same name.
- 21 Prior to LUCRF becoming aware of this issue, the member who had mistakenly received the benefit withdrew the misallocated amount.

CONTAINS CONFIDENTIAL INFORMATION

- 22 LUCRF attempted to recover the misallocated amount from the member paid in error. However, the Trustee was only able to recover **\$5,881** of the misallocated amount.
- 23 In accordance with LUCRF's Compensation and Adjustment Policy, LUCRF provided compensation in the amount of **\$50,759.74** from its Operational Risk Reserve to the affected member for the misallocated amount, together with interest.
- 24 LUCRF believes that this was an isolated incident in which a misallocated benefit was unrecoverable as the recipient had withdrawn the proceeds. With the introduction of "SuperStream" compliant software to process superannuation transactions, the likelihood of this error recurring is minimal.

Conduct Three: Error in Providing Investment Choice

- 25 Between 1 January 2015 and 31 August 2015, a total of 14 members opening a "Transition to Retirement Income Stream" were not provided with the opportunity to choose their preferred investment option.
- 26 The 14 members were not provided with the opportunity because the pre-populated form used to open the product did not clearly disclose the possibility to choose a particular investment option in substitution for the default option.
- 27 In 2015, LUCRF contacted the 14 affected members and their investment options have been corrected. Ten of the affected members chose to remain in the default investment option.
- 28 Upon identifying the issue with the pre-populated form, the form was revised to allow the member to choose their preferred investment option.

Conduct Four: Error in Returning Funds

- 29 On 13 September 2016, a LUCRF employee provided incorrect advice in relation to a non-concessional superannuation contribution. At the time of the advice, a change in the caps for non-concessional contributions had been proposed as an amendment in the Federal budget, but did not ever come into effect. The employee mistakenly advised the member of a higher cap on non-concessional contributions in accordance with the announcement in the budget. LUCRF identified the issue and attempted to return the member's contribution. However, the member's contribution was inadvertently refunded to a Westpac Bank consolidated account, rather than the member's correct account.
- 30 When the error was detected, the member's contribution was returned to the correct account. LUCRF provided compensation in the amount of **\$969.78** to the member for lost interest during the period the member's contribution remained in the Westpac consolidated account.

Conduct Five: Insurance Cover

- 31 Pursuant to legislative changes introduced during MySuper reforms, members who join the Fund as "employer sponsored members" automatically receive one unit of default death and total and permanent disability (TPD) insurance cover. LUCRF offers death only, death and TPD and income protection (IP) insurance to members via OnePath Life Limited (OnePath).

CONTAINS CONFIDENTIAL INFORMATION

- 32 In 2011, LUCRF entered into an exclusive arrangement with OnePath to provide certain employer sponsored members who hold permanent employee status with default IP insurance cover, in addition to the default death and TPD cover.
- 33 In 2017, LUCRF learned that between 1 September 2011 and 30 November 2017, 684 members had become eligible for default IP cover due to a change in their employment status (i.e. change from casual to permanent status) and had not been provided with the additional cover which they had become entitled to. Prior to this, there was no process to identify when a member's employment status changed from casual to permanent. This information was not provided to LUCRF by the employer.
- 34 Members affected by this issue were not charged IP premiums during the period in which they did not receive the additional cover. LUCRF also notified APRA and ASIC of the issue.
- 35 Following initial contact with APRA, the error was communicated to affected members. LUCRF also contacted the insurance provider, OnePath, and asked it to implement insurance arrangements for affected members as soon as practicable. All current affected members were provided with default IP cover effective from 1 December 2017 and were provided with the opportunity to opt out of the offer by 1 February 2018 in accordance with the terms of the original policy.
- 36 The Trustee is presently not aware of any potential IP claims members may have had during the period in which IP cover was not provided.
- 37 However, LUCRF is in consultation with APRA in relation to appropriate steps to remedy the issue. LUCRF presently intends to advise members that LUCRF will honour any retrospective valid IP claims.

Conduct Six: Failure to Provide Warnings Regarding Insurance Entitlements Prior to Consolidation of Superannuation Accounts

- 38 LUCRF has identified three occasions, one in late November 2017 and two separate occasions on 3 January 2018, on which a financial advisor failed to provide a warning about the likelihood of losing insurance entitlements to a member who authorised the consolidation of superannuation accounts.
- 39 Due to the potential for members to lose insurance benefits attaching to superannuation accounts when consolidating funds, it is a generally adopted practice within the industry to warn members of the risks prior to proceeding with consolidation. The provision of a SuperMatch search is a free service provided to members. It is not intended to influence the member's decision or replace the need to obtain suitable financial advice. The failure to provide a warning regarding the potential loss of insurance entitlements falls short of the guidelines contained in ASIC Regulatory Guide 234: *Advertising financial products and services (including credit): Good practice guidance*.
- 40 The financial adviser received re-training on the correct procedures for making outbound calls and the terms and conditions for use of the ATO's SuperMatch functionality. The adviser has been counselled, reprimanded, issued with appropriate warnings and her probation period has been extended.

Conduct Seven: Management of Conflict of Interest

- 41 In February 2013, LUCRF proposed to enter into a sponsorship agreement with the National Jockeys Trust (**NJT**). At the time, an executive of LUCRF was a director of the NJT.
- 42 The proposed sponsorship agreement fell for consideration by the LUCRF membership services committee in February 2013. The executive declared his conflict of interest at the membership services committee and did not actively participate in the meeting. The membership services committee endorsed the sponsorship and recommended to the Board that it enter into the sponsorship agreement.
- 43 A management committee meeting was subsequently held on 14 February 2013. There is no record of the executive declaring his conflict of interest at this meeting. However, the management committee was provided with a copy of the membership services committee minutes from 1 February 2013, which declared the executive's conflict of interest. The management committee endorsed the membership services committee recommendation to the Board.
- 44 The matter was tabled at a Board meeting on 22 February 2013. The register of interests was included in the papers provided to the Board, and it noted that the executive was a director on the NJT. In accordance with LUCRF's Conflicts Management Policy, the executive's interest was identified. The executive did not participate in this agenda item and left the room while the matter was discussed. The Board approved the sponsorship agreement with NJT at the meeting.
- 45 Notwithstanding that the executive's interest was disclosed and the executive did not participate in the decision, the absence of a record of the executive declaring an interest to the management committee constitutes a breach of LUCRF's Conflict Management Policy which LUCRF considers falls below community standards and expectations.

Other Matters

- 46 In addition to the above, LUCRF discloses the following matters which it does not characterise as conduct falling below community standards and expectations. The matters are disclosed out of an abundance of caution in case LUCRF's characterisation of the conduct is incorrect.

Breach Register

- 47 LUCRF maintains an internal breach register which records all internal breaches of policies and legislation that are identified during the course of the Trustee's operations. A copy of the breach register is presented to the Compliance, Risk & Audit Committee as a standing agenda item.
- 48 The breach register records non-compliances such as failure to meet rollover requirements, privacy issues, insurance benefits, premium calculations and tax payments. These matters generally involve administrative errors attributable to human or system errors.
- 49 Because of the nature of these incidents and the extent to which they occur, LUCRF does not consider that these breaches represent conduct which falls below

community standards and expectations. LUCRF is content to provide a copy of its breach register to the Commission upon request.

- 50 In relation to non-compliance with rollover requirements (which is not uncommon), it is relevant that delays in processing rollovers are primarily caused by external factors such as IT issues, issues with the ATO's on-line services or by administrative error. Since 2013, LUCRF has only had two rollover requests that were processed more than 6 days late.
- 51 LUCRF also reports significant rollover breaches to APRA in accordance with its obligations arising under section 29JA(1A) of the SIS Act.

Complaints Register

- 52 LUCRF has an internal process whereby member complaints are registered in a complaints register. The complaints register records complaints regarding administration, advice, communications, crediting rate, death benefit distribution, insurance claim and investment related issues. A large portion of complaints made to LUCRF relate to the distribution of death benefits for members without a binding nomination and insurance claims. These complaints are either resolved during the course of internal dispute resolution processes or referred to the Superannuation Complaints Tribunal (see paragraphs 57 to 59 below) or to litigation (see paragraphs 60 to 62 below).
- 53 Outside of these areas, LUCRF has received an average of 21 complaints per year from members of the Fund during the Relevant Period. This equates to less than 0.015% of the current number of LUCRF members lodging a complaint each year.⁴ LUCRF is content to provide a copy of its complaint register to the Commission upon request.
- 54 Of these complaints, many relate to minor administrative issues such as member correspondence being inadvertently sent to the wrong member. LUCRF is aware of 8 separate incidents during the Relevant Period where members' personal information was inadvertently disclosed to other members.
- 55 LUCRF believes that it has acted appropriately on each occasion having regard to the type of information disclosed and does not consider these inadvertent privacy breaches fall below community standards and expectations.
- 56 LUCRF is aware of its obligations under privacy laws and takes a pro-active approach to addressing breaches involving members personal information, including regularly reviewing its Privacy Policy.

Complaints referred to Superannuation Complaints Tribunal

- 57 During the past 10 years, 96 complaints involving LUCRF have been referred to the Superannuation Complaints Tribunal (**SCT**). These complaints are classified as follows:
- (a) 41 complaints in relation to the Trustee's proposed distribution of death benefits;
 - (b) 19 complaints in relation to the eligibility for an insured disability benefit; and

⁴ This represents 21 complaints on average per year out of a pool of approximately 160,000 members.

(c) 36 complaints in relation to administration or investment related issues.

- 58 Only 7 of the complaints referred to the SCT have been the subject of a determination by the SCT. All of these complaints related to distribution of death benefits or the amount of an insured disability benefit. Of these 7 complaints, no adverse findings have been made against LUCRF (with 2 determinations still pending). The remaining 89 complaints were either resolved by agreement between the complainant and LUCRF or not pressed by the complainant.
- 59 LUCRF does not consider any of the matters the subject of determination by the SCT involved conduct falling below community standards and expectations.

Legal proceedings

- 60 As indicated above, complaints concerning TPD claims and distributions are on occasions referred to litigation. Since August 2015, LUCRF has been involved in 26 Court proceedings, all of which concern the payment of TPD benefits. Of these claims, 19 have been resolved through settlement. A further 7 claims remain unresolved.
- 61 Decisions in relation to TPD claims are made by OnePath. LUCRF is notified by OnePath of the decision and either agrees or disagrees with that decision. In assessing decisions made by OnePath, LUCRF has regard to its obligations under section 52(7) of the SIS Act to act in the best interests of members and to pursue claims which have a reasonable prospect of success.
- 62 LUCRF has not been the subject of any adverse finding in Court proceedings.

Employment Issues

Unauthorised IT Access

- 63 On 18 September 2011, an employee in LUCRF's technology department installed unauthorised software on LUCRF'S computer systems and granted unauthorised access to a third party individual overseas. The employee was undertaking weekend system maintenance to upgrade network security. The employee encountered an issue which he was not able to resolve and contacted a third party (a friend of the employee) to assist with the upgrade. The employee installed "Team Viewer" software and allowed the third party to remotely access his computer.
- 64 The employee's conduct was a violation of LUCRF's Security Policy as it may have compromised the security of LUCRF's data, including member information.
- 65 LUCRF's Security Policy in place at the time of this conduct prohibited tests or attempts to compromise LUCRF computer or communications systems security, including:
- (a) capturing or otherwise obtaining passwords, encryption keys or any other access control mechanism that could permit unauthorised access; and
 - (b) using unapproved software or processes to hack any system, crack or guess passwords, decrypt files, copy software or anything else which may be considered unlawful or a violation of LUCRF's Security Policy.

- 66 LUCRF's technology department was able to determine that the employee was on the phone to the third party during the entire period of access and that the third party did not access any member data, financial data or any other sensitive fund information.
- 67 The employee concerned resigned following the incident.
- 68 The conduct was reported to the Trustee's Compliance and Audit Committee.
- 69 Following this incident, LUCRF immediately disabled the employee's account and changed administrative passwords. Other security measures were implemented to address recruitment of IT resources, review of internal and external user access, increased firewall monitoring, threat prevention and email monitoring solutions. LUCRF's IT systems also undergo a number of internal and external audit reviews and penetration tests. These solutions are reviewed regularly and enhanced to compete with increased fraud and cyber security threats.
- 70 LUCRF considers that the conduct was an isolated incident.

Lost Financial Data

- 71 On 4 April 2014, the LUCRF call centre received a call from a member of the public advising that a USB stick had been located containing LUCRF financial information.
- 72 The USB contained a copy of LUCRF's management accounts, clearing house information and staff payroll information.
- 73 LUCRF was able to identify that the USB had been lost by an employee in the finance team. The employee advised that she had saved the financial information to the USB to take work home. The employee had not sought approval to do so. The employee was unaware of the need to obtain approval. The employee was absent at the time at which employees were informed of the need for approval at staff training and no approval was required at her previous place of employment.
- 74 The employee's conduct was a violation of LUCRF's Security Policy.
- 75 LUCRF's Security Policy in place at the time of this conduct prohibited mobile computing without management approval and connection of USB devices without approval.
- 76 Although there was no member data or employee bank account information saved to the USB, the financial information was confidential. LUCRF collected the USB stick and as far as LUCRF is aware, the financial information saved to the USB was not used by any person.
- 77 This conduct was reported to the Trustee's Compliance and Audit Committee. The employee was given a warning for the conduct and was required to read the Security Policy and sign a declaration to that effect.
- 78 On 7 April 2014, LUCRF disabled the USB ports of all LUCRF computers. LUCRF employees are unable to download or upload files to or from USBs without IT assistance.

- 79 LUCRF also brought in an Acceptable Use Policy which states that computer USB ports will be disabled. LUCRF staff are required to provide an annual declaration that they have read and complied with the Acceptable Use Policy.

Further matters

- 80 Otherwise, LUCRF has identified isolated workplace behaviours which have been referred to the Human Resources team for disciplinary action. LUCRF does not condone these behaviours. However, having regard to the Commission's Terms of Reference, LUCRF has not provided particulars of this conduct. LUCRF maintains and enforces its Code of Conduct to ensure appropriate behaviour of employees is in line with community expectations. LUCRF would be happy to provide further details to the Commission if requested.

Question 3

If yes to either or both of questions one and two:

(3)(a) Is the identified conduct, practice, behaviour or activity the subject of another inquiry or investigation, or a criminal or civil proceeding?

- 81 Save for the following, the conduct identified in response to questions one and two above has not been the subject of another inquiry or investigation or a criminal or civil proceeding.

Conduct Five: Insurance Cover

- 82 Yes. This issue was reported to APRA and ASIC in November 2017. LUCRF is in ongoing discussions with APRA in relation to appropriate steps to remedy the issue.

(3)(b) Does the entity attribute any of the identified conduct, practice, behaviour or activity to the particular culture or governance practices of the entity? If so, describe that culture or governance practice.

- 83 No.
- 84 LUCRF's risk management framework is regularly reviewed by internal and external audit or APRA and independent consultants to ensure it complies with prudential standard SPS220.
- 85 LUCRF attributes the limited number of issues identified during its review to a mature risk culture and strong internal controls. The strength of the Trustee's risk culture was reflected in the results of an internal staff survey conducted in March 2017.

(3)(c) Does the entity attribute any of the identified conduct, practice, behaviour or activity to some broader cultural or governance practices in the industry or sector of the industry in which the entity operates? If so, describe those cultural or governance practices.

- 86 No.

(3)(d) Does the entity consider that the identified conduct, practice, behaviour or activity results from other practices (including risk management, recruitment or remuneration practices)? If so, describe those practices.

87 No.

(3)(e) What steps has the entity taken to:

(i) remedy the consequences for consumers or other businesses of the identified conduct, practice, behaviour or activity.

88 LUCRF has compensated members referred to above who have suffered loss in accordance with its Adjustment & Compensation Policy. LUCRF also maintains an Operational Risk Reserve and Professional Indemnity insurance.

Conduct One, Two, Three and Four

89 Affected members were compensated by LUCRF to remedy the consequences of the conduct in issue. The amounts of compensation provided in respect of these instances are stated in questions 1 and 2 above under the relevant headings.

Conduct Five: Insurance Cover

90 Paragraph 34 above details the steps taken by LUCRF to remedy the consequences for affected members. As explained in paragraph 82 above, LUCRF is in ongoing discussions with APRA in relation to appropriate steps to remedy the issue.

(3)(e) What steps has the entity taken to:

ii) prevent recurrence of conduct, practice, behaviour or activity of the kind identified?

Conduct One: Transfer of Member's Benefits Without Authority

91 The Fund implemented a Super Search Consent and Consolidation Procedure to ensure that employees who are involved in the consolidation of member accounts comply with the ATO's SuperMatch terms and conditions. This procedure has been amended since inception and new employees receive training to ensure ongoing compliance.

Question 4:

For an entity that is, or has a connection (other than an incidental connection) to, an RSE licensee of a registrable superannuation entity (as defined in the Superannuation Industry (Supervision) Act 1993 (Cth)):

Overview and context

92 Except as stated below, the uses to which the Trustee applies its members' funds may be broadly described as for investments, administration and the payment of member benefits.

- 93 The Trustee currently charges members a fixed administrative fee of \$1.50 per member per week, a percentage based variable administration fee of 0.22% p.a. and a percentage based variable investment management fee of 0.32% p.a. (for the default MySuper Balanced option) based on the member's average daily account balance (**Administration Fees**).⁵
- 94 Administration Fees are deducted from members' accounts and crediting rates, and are paid to the Trustee. All operating costs associated with the Fund (with the exception of group life insurance premiums) are paid by the Trustee from Administration Fees received.
- 95 In addition to the above, LUCRF is required to provide a minimum amount of death and TPD insurance for MySuper members (on an opt out basis) pursuant to its obligations under the SIS Act. LUCRF records the group life insurance premiums remitted to its group life insurer, OnePath, as an operating expense of the Fund. These premiums are not paid out of the Administration Fees, but are separately charged to members' accounts. The insurance premiums paid from members' accounts relate to the payment of member benefits.
- 96 The application of members' funds is governed by the terms of the LUCRF Trust Deed.
- 97 Relevantly, clause 6.7(a) of the Trust Deed provides:

"Management and control of Fund

Except to the extent expressly provided elsewhere in this Deed, the Trustee has complete management and control of all proceedings, matters and things in connection with the Fund and may do all acts and things the Trustee considers necessary, desirable or expedient for the proper administration, maintenance and preservation of the Fund and in the exercise of the powers and the performance of the duties of the Trustee, including without limitation the following specific powers set out in this clause 6.7."

- 98 Further, clause 6.7(n) of the Trust Deed relevantly provides:

"Marketing

*The Trustee may subject to the Relevant Requirements market, promote and advertise the Fund as the Trustee sees fit including without limitation enter into sponsorship agreements or arrangements.*⁶

⁵ The percentage based variable administration fee and investment management fee has changed over time. The investment management fee ranges between 0.10% p.a to 0.42% p.a. and is dependent upon the member's selected investment option with the investment fee for the MySuper Balanced Option of 0.32% p.a.

⁶ "Relevant Requirements" means any provision of any standard, prudential standard, covenant, direction or other requirement, under the Superannuation Industry (Supervision) Act 1993, the Income Tax Assessment Act 1936 and the Income Tax Assessment Act 1997, the Corporations Act 2001, the Family Law Act 1975, the Bankruptcy Act 1966 or the regulations under those Acts or any other law, regulation or requirement of a Regulator applying to or imposed on the Trustee or applying to or imposed concerning LUCRF or which LUCRF must satisfy to qualify for the most favourable taxation treatment available to the Fund, or which the Trustee or LUCRF must satisfy to avoid any penalty, detriment or disadvantage which is or may become payable in connection with LUCRF of anything done or to be done under the Trust Deed or the Rules or with which the Trustee of LUCRF must comply to ensure that the Trustee remains an approved Trustee for LUCRF and or continue to hold a RSE licence and includes any proposed requirement which the Trustee believes would have retrospective effect, but if the provision, standard, prudential standard, covenant, direction or other requirements ceases to be informed or the Regulator or responsible authority does not require it to be complied with either

- 99 As explained above, the Trustee has two related entities which act as trustees of the Property Trusts, being entities which hold commercial properties and receive rent. The trustees of the Property Trusts do not undertake any commercial activities of their own. They are effectively “pass through” entities through which LUCRF invests its members’ funds in property, enters into lease agreements, receives rent and pays expenses associated with the properties. All income derived by the trustees of the Property Trusts is paid to LUCRF net of expenses. All operational activities of the trustees of the Property Trusts are performed by the Trustee on their behalf.
- 100 In light of the above, the Trustee’s response to question 4 is a response on behalf of itself and the trustees of the Property Trusts collectively; the Trustee has not separately addressed question 4 in relation to each of the trustees of the Property Trusts.

(4)(a) During each of the past ten years (according to whatever annual reporting periods the entity has employed in the ordinary course of its operations) to what uses and in what amounts has the entity applied members’ funds other than the investment of those funds, the administration of the superannuation fund and the payment of member benefits?

- 101 Subject to a minor exception, LUCRF is of the view that all uses of its members’ funds (other than the investment of those funds and the payment of member benefits) are uses associated with, and necessary for, the administration of the Fund. The exception is donations to private and charitable causes. It is minor because the donations total \$6,840 during the Relevant Period.
- 102 LUCRF has, however, separately identified those uses of its members’ funds which are directed to the promotion, preservation and maintenance of the Fund. Apart from donations, LUCRF characterises those uses to be administration expenses of the Fund. Nonetheless, the uses have been separately identified to accommodate the possibility that they may be characterised in different ways. These uses and the amounts are set out in confidential **Attachment A**.
- 103 Descriptions of the uses identified in confidential Attachment A are set out below.

Advertising / Promotional

- 104 Costs identified as “Advertising / Promotional” costs include costs incurred in connection with the development and publication of advertising and promotional materials.
- 105 These include:
- (a) print advertising;
 - (b) radio advertising;
 - (c) digital advertising;
 - (d) social media campaigns; and
 - (e) branding at sponsor-organised events.

generally or in relation to LUCRF, then that provision, standard, prudential standard, covenant, direction or requirements ceases to be a Relevant Requirement to that extent.

Business development

- 106 Costs identified as “Business Development” are costs incurred in connection with the development and maintenance of business relationships with current and potential employers. These opportunities are pursued with the aim of optimising membership density at employer organisations and ensuring that potential target employers are aware of LUCRF and its products and services.
- 107 The activities covered by these costs include:
- (a) hosting tables at industry and networking events;
 - (b) conducting educational seminars to existing and potential members;
 - (c) representation in NUW’s collective bargaining program; and
 - (d) presentations and branding at industry events, including pursuant to LUCRF’s services agreement with NUW.

Sponsorship

- 108 Costs identified as “Sponsorship” cover costs incurred in connection with the sponsorship agreements between LUCRF and the following commercial partners:
- (a) Australian Jockey Association (including the NJT);
 - (b) Professional Footballers Australian Inc.; and
 - (c) Community Partnership Trust.
- 109 LUCRF’s sponsorship arrangements provide LUCRF with:
- (a) access to the partners’ employees to promote LUCRF’s products and services as a default fund;
 - (b) the provision of ‘principal sponsor’ status at events;
 - (c) attendance at functions, community events, media launches and sporting events to the exclusivity of competing superannuation funds;
 - (d) the use of partners’ logos for promotional activities;
 - (e) access to high profile sporting personalities for promotional material and attendance at LUCRF events;
 - (f) alignment of the brand with successful high profile individuals that the members are familiar with; and
 - (g) the ability to highlight LUCRF’s commitment to improving the quality of the communities where its members live and work, particularly given that LUCRF is committed to supporting blue collar workforces that are often linked to those same communities.

Industry Super Australia (ISA) Contributions

110 LUCRF has elected to co-participate in various advertising, advocacy and promotional activities led by ISA on behalf of the collective interests of the participating industry superannuation funds. Costs identified as "ISA Contributions" are contributions made by LUCRF to ISA during the Relevant Period.

Donations

111 Costs identified as "Donations" are the donations which the Fund has made to a number of private and charitable organisations during the Relevant Period in the amount of \$6,840.

<p>(4)(b) In respect of each kind of those other applications of members' funds, why was that application in the best interests of its members?</p>
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112 LUCRF undertakes expenditure on the categories referred to above for the purpose of the proper administration, maintenance, preservation and promotion of LUCRF in accordance with the LUCRF Trust Deed.

113 LUCRF operates in a highly competitive superannuation market. Accordingly, a key challenge for LUCRF is member retention, including ensuring that members "remember" LUCRF when they change employment to avoid being rolled over to another fund.

114 LUCRF has identified the following benefits to members (individually and as a whole) as a result of its promotional activities to retain and maximise the growth of members and funds under management:

- (a) the ability to spread fixed costs and risk across a greater number of members' accounts;
- (b) proportionally lower average administration and overhead costs per member;
- (c) lower administration fees per member;
- (d) greater returns payable to members;
- (e) capacity to undertake strategic initiatives and enhance member service and product offering;
- (f) ability to maintain strong operational and capital adequacy reserves;
- (g) increased ability to obtain more favourable pricing terms from investment managers; and
- (h) greater bargaining power to LUCRF due to collective size.

115 LUCRF's marketing and promotional activities are in the interests of members as they result in increased brand awareness, member retention, member growth and contribution growth. As a result, LUCRF is able to obtain the benefits associated with economies of scale.

- 116 During the Relevant Period, LUCRF's operating expense ratio (as a percentage of its funds under management) has continued to decline.
- 117 In 2008/09, LUCRF's operating expense ratio was 0.74% of its funds under management. LUCRF's operating expenses have continued to trend downwards as LUCRF has sought to optimise cost efficiencies through scale. By 2016/17, LUCRF's operating expense ratio was 0.53%, representing a fall in the ratio of 21 basis points since 2008/09.
- 118 Between 2008 and 30 June 2017, employer numbers have grown 28.4% from 14,176 employers to 18,200 employers.
- 119 LUCRF has also experienced significant growth in funds under management. Between 2008 and 30 December 2017, funds under management has grown from \$2.36 billion to \$6.1 billion. On average, this has equated to an annual growth in funds under management of 11% per annum.
- 120 LUCRF's member base increased steadily from 178,141 members in 2008 up to 184,880 members in 2012. Since 2012, LUCRF has experienced a gradual decline in member numbers due in large part to:
- (a) the impact of lapsing on low balances with the removal of the member protection rules;
 - (b) ageing population leading to movement of active members to pension phase or exiting the Fund; and
 - (c) Fund consolidation and competition within the sector.
- 121 LUCRF is of the view that without the expenditure focusing on growing and retaining membership, the decline of members would have been more extensive.
- 122 Whilst overall member numbers have fallen across the last 10 years, LUCRF has strategically focused more recently on the growth in the number of active members (for example, members making regular contributions and/or engaged with their superannuation as measured by a member taking a positive action). LUCRF takes the view that an active member is likely to be more engaged and focused on ensuring that they seek to optimise retirement outcomes by consolidating funds and making additional contributions. In 2013, 46% of the membership were considered active. In 2017, this had increased to 53%.

Advertising / Promotional

- 123 LUCRF's advertising, marketing and promotional activities have contributed to the preservation or increase in funds under management and related benefits from economies of scale. Accordingly, those activities are in the members' best interests.
- 124 The "Advertising / Promotional" expenditure item in confidential Attachment A also includes an investment by the Trustee in New Daily, an electronic daily e-news feed with a large distribution channel accessible by the LUCRF member app. Accessing the New Daily via the member app could encourage member engagement by providing members with easy access to their account and could also provide an opportunity for the publication of LUCRF promotional content.

- 125 This investment was made by the Trustee from its capital adequacy reserves and was recorded as an asset of the Trustee. The total investment in New Daily was \$2 million.
- 126 In January 2014, APRA requested that LUCRF make submissions in respect of its assessment that the investment in New Daily complied with the 'sole purpose test' and on how it was considered to be in the best interests of members. Submissions were made in February 2014. No further steps have been taken by APRA in respect of LUCRF's investment in New Daily.
- 127 The investment in New Daily did not achieve the financial returns expected. Following an impairment analysis performed by management, the investment was written down to zero in the financial year ended 30 June 2015 and the Trustee's shareholding was sold to ISH for a nominal sum.

Business Development

- 128 The pursuit of business development activities is an important strategic initiative which seeks to maintain existing relationships with key employer groups and organisations and to engage with potential target employers. Those activities are in members' interests for similar reasons to LUCRF's advertising and promotional activities. The business development activities contribute to the preservation or increase of funds under management, servicing of key employers and related benefits from economies of scale.
- 129 Since 2011, LUCRF has entered into service agreements with the NUW (**Service Agreements**). Pursuant to the Service Agreements, the NUW promotes the LUCRF default provisions in collective bargaining agreements and Federal Awards, promotes LUCRF exclusively to NUW members when dealing with superannuation and retirement matters, introduces NUW members and employers to LUCRF and provides LUCRF with presentation and co-branding opportunities. The payments to NUW are reflected in the "Business Development" expenditure item identified in confidential Attachment A. This relationship is critical to protect the interests of LUCRF's members and in turn, the ongoing success and growth of LUCRF. The NUW is important to enhancing and maintaining LUCRF's position as default fund in NUW collective agreements and Federal Awards. The establishment of the Service Agreements were undertaken in consultation with APRA and has been regularly assessed as part of LUCRF's prudential review over the last seven years

Sponsorship

- 130 LUCRF's sponsorship agreements are integral to its strategic plan to focus on brand management, growth and retention of members for the purposes of maintaining economies of scale. They also allow LUCRF to promote its values of community and industrial heritage which are likely to resonate with its member base. LUCRF's sponsorship agreements are in members' interests because, like LUCRF's advertising, promotional and business development activities, the agreements contribute to the preservation or increase of funds under management and related benefits from economies of scale.
- 131 More particularly, LUCRF's sponsorship agreements deliver the following key benefits to its membership:
- (a) the provision of new relationship and networking opportunities at a national level that extend beyond LUCRF's traditional market;

- (b) opportunities to personally engage with key target employers to increase the likelihood of LUCRF becoming the default fund, which results in members affiliated with the sponsorship joining LUCRF and thereby facilitating membership growth and retention;
- (c) increasing brand awareness and visibility of LUCRF through concentrated media exposure at key events in an economical and more effective way than traditional advertising;
- (d) increased traffic on LUCRF's website following key events and an increase in new membership; and
- (e) showcasing LUCRF's commitment to improving the quality of the communities where members live and work (i.e. the LUCRF Super Community Program).⁷

132 LUCRF regularly measures the benefits arising from the sponsorships including:

- (a) growth in funds under management, membership and its employer base;
- (b) increase in brand awareness; and
- (c) increased member engagement activity arising from associated promotional activity and campaigns.

ISA Contributions

133 Contributions paid by LUCRF to ISA are applied towards collective advertising, promotional, awareness and advocacy campaigns led by ISA on behalf of the collective interests of the participating industry superannuation funds for the purpose of promoting the industry superannuation fund sector.

134 ISA's campaigns provide benefits to members by:

- (a) promoting the benefits of industry superannuation funds and its 'all profits-to-members' business model;
- (b) highlighting the superior performance of industry superannuation funds in providing net benefits to members when compared to retail superannuation funds; and
- (c) assisting consumers to make informed decisions about their retirement savings.

135 The collective campaigns allow LUCRF to participate in national advertising campaigns of a size and scale for relatively little cost.

136 ISA offers participating funds market research and advocacy services and assists in the coordination of government relations. In recent years, ISA's approach to advocacy has been central to a number of policy changes which have positively and directly impacted LUCRF's members, including:

⁷ Approval of the LUCRF Super Community Program was sought and granted by APRA in October 2009. APRA reviewed the Trust Deed and agreed that LUCRF could fund the program for marketing purposes.

- (a) the abolition of conflicted remuneration for financial advisers;
- (b) retention of a government funded low income contribution program;
- (c) new requirements that financial advice be in the consumer's best interest;
- (d) an increase in the Super Guarantee contributions;
- (e) introduction of fairer tax concessions and rebates for low-income earners;
- (f) greater debate on fee disclosure; and
- (g) public attention of widespread underpayment of superannuation.

137 LUCRF's association with ISA contributes to heightened levels of trust amongst consumers, thereby assisting with the retention and engagement of members and funds under management. It also ensures that the interests of LUCRF's members are represented, particularly in the context of legislative and regulatory change.

Donations

138 In some cases, LUCRF's donations have been publically advertised by the recipient. LUCRF's donations provide it with an opportunity to showcase to its members and potential members its status as a good corporate citizen.

<p>(4)(c) What are the cost centres that make up costs attributed to administration in each of those years?</p>
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139 LUCRF operates an insourced administration model whereby administrative services are generally performed by the Trustee.

140 For the purposes of responding to this question, LUCRF has identified the cost centres and the amounts that are attributable to administration during the Relevant Period set out in confidential **Attachment B**.

141 A description of the cost centres is also set out in confidential Attachment B.

CONFIDENTIAL ATTACHMENT**ATTACHMENT A**

CLASSIFICATION	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	TOTAL
Advertising/ Promotional	-	-	3,699	-	5,584	909	151,403	2,082,636	76,219	113,779	2,434,230
Business Development	14,545	23,782	46,273	35,627	390,163	375,472	411,662	435,233	395,428	468,961	2,597,146
Sponsorship	-	100,000	29,000	166,245	256,000	394,000	733,750	429,083	453,114	945,220	3,506,412
Donation	-	569	-	1,000	2,000	-	-	-	2,270	1,000	6,839
ISA Fees	400,000	400,000	400,000	600,000	600,000	600,000	600,000	670,742	657,480	666,027	5,594,249
TOTAL	414,545	524,351	478,972	802,872	1,253,747	1,370,381	1,896,815	3,617,694	1,584,511	2,194,987	14,138,875

Over the last 10 years, total expenditure across the above cost centres has ranged between 0.02% to 0.04% of funds under management or 1.13% to 5.32% of annual operating expenditure.

CONFIDENTIAL ATTACHMENT

ATTACHMENT B

DESCRIPTION	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	TOTAL
Employee Expenses	7,156,622	8,113,655	7,889,658	9,330,828	10,470,348	11,072,549	11,546,239	11,976,552	14,313,955	16,804,930	108,675,337
Directors Expenses	703,841	683,699	714,969	667,511	823,121	707,293	648,348	655,910	677,523	577,177	6,859,393
Consultants Fees	423,973	437,190	397,100	377,035	397,610	475,993	903,562	944,384	832,364	1,288,010	6,477,223
Communication Expenses	616,480	474,848	328,239	410,082	350,435	356,859	369,324	399,655	344,372	557,769	4,208,063
Audit Fees	133,600	230,310	193,429	197,927	193,245	215,610	253,526	271,348	250,517	286,355	2,225,868
Depreciation Expenses	356,651	550,933	514,400	458,034	516,761	507,101	493,440	530,253	655,382	849,671	5,432,626
Finance Costs - PPE	729	2,181	6,107	9,874	10,248	12,256	14,538	17,071	16,728	20,030	109,763
Leasehold Expenses	89,594	100,361	93,673	163,251	175,645	184,511	138,715	123,687	148,691	100,526	1,318,654
APRA Fees	218,867	35,562	251,846	597,769	304,742	1,043,608	852,014	641,846	571,502	527,184	5,044,939
Information Technology	569,161	3,707,242	1,610,587	1,195,911	985,396	1,099,862	1,829,023	1,933,377	2,313,536	3,734,962	18,979,056
Printing and Stationary	269,016	155,571	163,136	119,484	116,344	63,664	80,242	88,419	88,303	77,725	1,221,905
Occupancy Costs	285,949	418,441	909,233	993,315	1,122,197	1,076,320	1,234,148	1,292,299	1,351,831	1,390,463	10,074,196
Other Expenses	557,976	324,567	325,501	452,165	731,166	625,802	664,415	578,493	1,363,922	849,162	6,473,168
Advertising and Promotions	962,803	597,362	1,002,287	1,193,040	700,920	905,410	1,102,843	1,129,307	931,422	961,845	9,487,240
TOTAL ADMINISTRATION	12,345,262	15,831,922	14,400,165	16,166,228	16,898,180	18,346,839	20,130,377	20,582,600	23,860,048	28,025,809	186,587,430

Employee Expenses - Represents salaries, wages and associated on costs such as superannuation, payroll tax and workers compensation for all LUCRF employees and contractors.

Directors Expenses - Includes director remuneration which consists of annual board and committee fees, superannuation guarantee contributions and time for attending training (remuneration for such activities is only payable if directors comply with the LUCRF Super Expense and Training Reimbursement Policy). Member representatives do not receive director or training fees. Instead, payment is made to the NUW to compensate the organisation for their time. It also covers the costs incurred with training facilitators for strategic planning days and annual board assessments.

Consultants Fees - Professional fees for services eg: Tax, Legal and general consulting such as actuarial, AML/CTF Review, work on Enhanced APRA Reporting and work on Strategic Projects such as Digital Transformation and the transition from weekly crediting rates to daily unit pricing. It also covers expenditure on the disaster recovery planning and backup facilities.

Communication Expenses - Includes postage, phone, internet and fax expenses.

Audit Fees - Represents expenditure on our external audit engagement

Depreciation Expenses - Represents the depreciation charge on motor vehicles, IT equipment and fixtures and fitout.

Finance Costs - Bank charges and fees on LUCRF's operating accounts.

Leasehold Expenses - Represents expenses on leasing of office equipment such as printers and postage equipment.

APRA Fees - Supervisory levy collected by the Australian Prudential Regulatory Authority.

Information Technology - Costs associated with software licencing and maintenance, hardware maintenance and consulting costs associated with the Information Technology Department.

Printing and Stationary - Costs associated with general office supplies such as paper. It also includes printing costs of member booklet and business cards.

Occupancy Costs - Costs for rent and utilities of LUCRF offices which are located in Victoria, New South Wales, Queensland, South Australia and Western Australia.

Other Expenses - Includes general motor vehicle expenses-car insurance and maintenance etc. for business development team, staff insurances, travel (including directors travel) and gains or losses on sale of fixed assets.

Advertising and Promotions - Includes member communications (statements, brochures, PDS form booklets and newsletters), member campaign awareness, general and retired member information sessions, financial planning seminars, SuperRatings, Rainmaker, E-Marketing health tracking survey and marketing photography. This expenditure item is separate from and in addition to the "Advertising / Promotional" expenditure item in confidential Attachment A.