

The Trustee Capital Reserve

What is the Trustee Capital Reserve?

Amendments to Superannuation Industry (Supervision) Act 1993 which prevent registrable superannuation entity (RSE) licensees using trust assets to pay penalties incurred for contravening a Commonwealth law came into effect on 1 January 2022.

Prior to this, several Funds applied to various state Courts for advice and direction regarding the ability to charge fees to build a financial contingency reserve on the trustee balance sheet. Prime Super did not need to go to court as our Trust Deed already had appropriate provisions to allow this. However, the fund noted the outcome and the Australian Prudential Regulation Authority's (APRA) involvement with most court cases. It sought to appraise the various courts of relevant matters including the new best financial interests duty.

The Courts concluded that "the charging of a fee of this nature is not inconsistent with the amendments to the SIS Act" and is an appropriate course of action.

The Trustee Capital Reserve was created within Prime Super Pty Ltd from 2 May 2022 in line with APRA's fee setting principles.

This reserve ensures that there are adequate financial resources to manage the financial risks of the Trustee and its directors in performing their roles in relation to Prime Super. The reserve cannot be used for any other purpose. It is separate from the assets of Prime Super and is maintained and managed by the Trustee in accordance with legislative and other obligations.

The Trustee is paid a professional trustee fee (Trustee remuneration) from the assets of the Fund (Prime Super).

The Trustee is allowed to receive remuneration for its services. Under section 16.1 of Prime Super's Trust Deed, the Trustee 'is entitled to charge and receive professional fees or other remuneration from the Fund for any amount and for any duties or services performed by the Trustee in its capacity as trustee of the Fund'.

The Trustee Capital Reserve will be built over four years through the payment of Trustee remuneration, initially to be deducted from Prime Super's Reserves. Prime Super's Reserving Policy authorises the use of the Reserves for costs associated with the Fund's operation and management. In future, the costs of the Fund will include any Trustee remuneration.

How much Trustee Remuneration will initially be paid?

The initial amount (or amounts) of Trustee remuneration, was paid from Prime Super's Reserves from between 2 May 2022 and 30 June 2022 at 0.025% of Prime Super's net funds under management.

For each of the years ending 30 June 2023, 30 June 2024 and 30 June 2025 a further amount of 0.025% of net funds under management will be paid from the Reserves to build the Trustee Capital Reserve to an appropriate level.

To determine the appropriate remuneration for its services, the Trustee conducted an analysis of its exposure to financial and other risks arising from recent law reforms and the Fund's operation and management. External legal advice was received about the considerations or analysis that should be undertaken to determine the amount of Trustee remuneration, including considering remuneration payable to trustees of other funds similar to Prime Super.

How much will be in the Trustee Capital Reserve?

When fully funded, the Reserve will have a maximum value of 0.10% of the Fund's total net funds under management as at 30 June each year. The Trustee's analysis considered this an appropriate amount.

The value of the Trustee Capital Reserve will be regularly monitored.

On 30 June 2026 (and each subsequent 30 June), the Trustee will transfer amounts where necessary to maintain the reserve at an amount of 0.10% of net funds under management of Prime Super.