

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

Question: BET 4

Topic: ASIC Regulatory Guides

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Senator CORMANN asked:

Senator CORMANN: How does ASIC envisage that the best interests duty obligation under the future financial advice changes would work under a Tax Agent Services Act supervisory model, where the advice provider may not have the competency or is not the registered tax financial advice agent?

Mr Kell: We are currently looking at that very question and we propose to issue some revised guidance on that, literally within a few days. So, that is what we are currently considering.

Senator CORMANN: This is something that the government wants to come into effect on 1 July 2013. How can people across Australia be expected to be ready for compliance with legislation that has not even passed the parliament yet, for which ASIC has not yet finalised guidance and for which proper regulatory arrangements are not yet in place? How does that work in terms of people being expected to comply with these sorts of arrangements?

Mr Kell: ASIC is working very closely with the industry, with groups such as the Financial Services Council and the FBA to make sure that our guidance takes the legislation into account. We are doing this in as rapid a time frame as possible and we are proposing to issue new guidance very soon—a modification to our existing regulatory guide on best interests.

Senator CORMANN: Have you done any consultation in relation to the proposed modifications to your regulatory guides?

Mr Kell: We had a meeting with various industry associations last Friday. I was not involved personally, so I cannot convey all that happened there, but that was a collective discussion with industry stakeholders. It was a collective meeting. I believe there have also been some one-on-one meetings with some industry associations. I do not know how many, off the top of my head, but I am happy to inform you. There have been discussions both collectively and individually with industry participants.

Senator CORMANN: Please do let me know.

Answer:

Has ASIC done any consultation in relation to the proposed modifications to your regulatory guides (to comply with TASA)?

We met with industry representatives on Monday June 3, 2013. That meeting included representatives across the industry including, licensees, financial advisers, accountants and superannuation professionals.

We also wrote to key industry stakeholders following that meeting signalling our intention to update Regulatory Guide RG 175 *Financial Product advisers - conduct and disclosure* on how advisers who are not personally registered under TASA can comply with the best interests duty. We also signalled that we would give that guidance after the requirements for registration under TASA are finalised by Treasury and the TPB and after we have finalised our own proposed consultation on enhancements to the training standards for financial advisers in RG 146 *Licensing: Training of financial product*

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advisers. As is our usual practice, we will consult as we develop our guidance and we have asked industry a question about taxation competency in Consultation Paper 212 *Licensing: Training of financial product advisers - Update to RG 146* [issued 1 July 2013].

On 20 June 2013, the Bill was reintroduced to the House of Representatives with a new commencement date of 1 July 2014. This means that the current exemption for financial advisers from TASA 2009 has been extended by 12 months to 30 June 2014. There will also be a three-year transition period to allow advisers to prepare for the new regime.