

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

Question: BET 86

Topic: Corporations and Markets Advisory Committee (CAMAC)

Hansard Page: Thursday 6 June 2013, Page 56-57

Senator CORMANN asked:

Senator CORMANN: Can you tell us what has been happening with the Corporations and Markets Advisory Committee?

Mr Murphy: They have been doing a lot of what I would consider very good work. This body was set up some time ago to give expert advice primarily on Corporations Act matters. It has a very small secretariat—about three people. They use professionals who in effect give their time and effort to giving expert advice to the government on particular policy issues. For instance, the government feels that we should be looking at whether we have the right policy settings in place for managed investment schemes. That has been referred to CAMAC. They have a long history of providing very useful reports to government, because the people sitting on the committee are market professionals, including leading legal experts such as partners in major commercial firms. They can provide very good advice to Treasury on what we should be doing.

Senator CORMANN: How many meetings have they had?

Mr Murphy: They meet on a monthly basis and they provide reports. There is a long list of reports that they have provided to the government. The chairperson at the moment is Joanne Rees and John Kluver is the executive director. He has great expertise in corporations matters. I think it is a very useful body. It sits outside Treasury and provides advice. Ministers appoint the people to the committee.

CHAIR: Is that a body of only three people?

Mr Murphy: On the secretariat, but they use private sector people to provide advice.

Senator CORMANN: Did they conduct a recent review in relation to trustee companies.

Mr Murphy: Yes.

Senator CORMANN: Can you explain to us how many meetings or consultations they had with submitters and affected stakeholders in relation to that review?

Mr Fraser: I do not have that information.

Senator CORMANN: Please take that on notice.

Mr Murphy: Yes.

Senator CORMANN: Do you know how many licensed trustee companies there are in the market?

Mr Fraser: I think there are about 11, but I can take that on notice.

Senator CORMANN: Are you aware whether the Corporations and Markets Advisory Committee met with any of these licensed trustee companies as part of the review?

Mr Fraser: Yes, we understand that there was a roundtable which had representatives from the Financial Services Council.

Senator CORMANN: You understand; can you be more specific and check that out on notice?

Mr Murphy: Yes, they did.

Senator CORMANN: My advice is—and I am not taking it as gospel—that there was no meeting and the review happened without any engagement with some of the key service providers in that sector.

Mr Murphy: Is this about how certain funds are treated, concerning the charitable sector?

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Senator CORMANN: Yes.

Mr Murphy: I have had a meeting with the Financial Services Council and there is quite a difference of view as to what the CAMAC report recommended and some in the charitable sector. We are looking at that.

Senator CORMANN: What is the time frame to resolve that?

Mr Murphy: CAMAC has given a report. They are useful reports. But that is a report to government and it is a matter for the government to make a policy decision on whether it wishes to adopt the recommendations in that report. Usually we would consult. Once it comes to Treasury the report is made public and people will either agree or disagree. We would consult with them before we put proposals to government.

Senator CORMANN: In this sort of trustee company market, you have licensed and unlicensed providers.

Mr Murphy: No, they are mainly licensed. The trustee industry is quite a small sector. As Mr Fraser said, there are only about 11 companies.

Senator CORMANN: Are there unlicensed trustee service providers or not?

Mr Fraser: Yes, I think solicitors and lawyers can run trusts.

Mr Murphy: Yes.

Senator CORMANN: What proportion of the charitable trust market is represented by unlicensed service providers?

Mr Murphy: We cannot answer off the top of the head. I think their concern is that there were new requirements—

Senator CORMANN: The question is whether there is higher risk with unlicensed versus licensed and how you work through all that. Anyway, if on notice you could provide us with some more information—

Mr Murphy: We will find you some background.

Senator CORMANN: about what is going on, what is happening, the timetable and so on. I want to go back to the Johnson review. There is a question as to whether the investment manager regime will be legislated before the election, but why have so many of the other Johnson review recommendations been sidelined, delayed or not progressed? At the time when the report came out there was great bipartisan support for it and then Minister Bowen was very enthusiastic about it all, but everything seems to have slowed down in the last 2½ years.

Mr Murphy: That is not right.

Senator CORMANN: What happened to it?

Mr Murphy: The majority of the recommendations have been accepted or implemented. The ones that are outstanding are the IMR, because it goes to the heart of tax and that is always a complication, and Islamic finance.

Answer:

The Corporations and Markets Advisory Committee (CAMAC) released its report, titled 'Administration of charitable trusts', on 30 May 2013. The Government is currently considering CAMAC's recommendations.

Proportion of licensed trustees in charitable trust industry

In its report, CAMAC stated that there are currently eleven licensed trustee company (LTC) corporate groups. CAMAC's report quotes figures from the Financial Services Council (FSC), which represents

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LTCs, estimating that its trustee members act as trustee or co-trustee for more than 1500 charitable trusts or foundations, with a total capitalisation of approximately \$3.4 billion. CAMAC's report also notes that the FSC estimates that LTCs are the trustees of less than 50% of all charitable trusts. Examples of trustees who are not LTCs include public trustees, accountants, lawyers, and financial advisers. Trustees who are not LTCs must comply with relevant State or Territory Laws, relevant requirements of the Australian Charities and Not-for-profit Commission Act 2012, and common law and statutory fiduciary duties.

Consultation on CAMAC report

In preparing its report, CAMAC considered submissions from a range of industry stakeholders. CAMAC also held a roundtable discussion on 11 April 2013 to engage stakeholders on the issues raised by the review. Participants at the roundtable included the Charitable Alliance, which represents charitable trusts, Philanthropy Australia, whose membership base includes both charitable trusts and LTCs, and the representatives from the FSC.