

Australia and New Zealand Banking Group Limited

Response to Questions in Writing following 5 October 2016 House of Representatives Economics Committee Hearing

Question asked by

Mr Thistlethwaite

Question

Point 6 of the ABA's 6 point plan also states that 'you will work with ASIC to enhance the current breach reporting framework.'

Why is your peak representative body saying ASIC's work needs to be enhanced?

What enhancements do you believe are necessary?

Answer

We note that your question concerns the Australian Bankers' Association's (ABA) position on the breach reporting framework. The ABA may have a perspective on this as ANZ cannot speak for all members of the association.

The current breach reporting framework is set out in section 912D of the *Corporations Act 2001*(Cth) and explained in ASIC RG78 *Breach reporting by AFS licensees*.

In general terms, this framework requires holders of Australian financial services (**AFS**) licences to report significant breaches to ASIC within 10 business days after becoming aware of the breach.

The current framework raises questions for both ASIC and AFS licensees concerning its operation and effectiveness; including when a breach will be significant and how do licensees ensure their reporting is sufficiently timely.

We note that the Government has recently announced the *ASIC Enforcement Review*. This will 'report to the Government in 2017 with specific recommendations on whether and what reforms should be progressed to best enhance ASIC's enforcement regime'.

The review's terms of reference provide that it will consider breach reporting in the following terms:

The adequacy of the frameworks for notifying ASIC of breaches of law, including the triggers for the obligation to notify; the time in which notification is required to be made; and whether the obligation to notify breaches should be expanded to a general obligation (currently confined under the Corporations Act to auditors, liquidators, and licensees, and noting that obligations to report offences exist under other Federal or State statutes)