

Parliamentary Joint Committee on Corporations and Financial Services

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Statutory Oversight of ASIC and the Takeovers Panel

11 April 2014

Topic: Statutory Oversight of ASIC and the Takeovers Panel

Question asked:

In 2012 the Treasury published a scoping paper on takeovers issues as set out on its website: <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2012/Takeovers-issues>. The committee also understands that a consultation process was undertaken with industry and the Takeovers Panel. Would you please:

1. inform the committee on what consultation was conducted;
2. provide the committee with any findings or conclusions from the consultation process; and
3. provide the committee with information on any further consideration by Treasury of takeovers issues that has occurred since the scoping paper and consultation process.

Answer:

The Department of the Treasury released a scoping paper on policy issues regarding takeovers law on 5 October 2012. The scoping paper formed the basis for a series of targeted roundtables which Treasury convened with business, legal and markets stakeholders in November 2012.

The paper identified the areas of creeping acquisitions, the use and disclosure of equity derivatives, clarity of takeover proposals, the issue of association and the impact of new media as areas for discussion on the potential need for updating the legal framework.

There was a wide range of views on each of the particular issues identified in the scoping paper, however the former Government did not make any findings or conclusions following the consultation process.

Since the completion of the roundtables in 2012, the takeovers framework has been amended by the Corporations and Australian Securities and Investments Commission Regulations 2013 which removed the need for the Takeovers Panel to provide statements of reasons at the same time as declining to conduct proceedings; and facilitated the use of Takeovers Panel conferences by removing the requirement to make a transcript of the conference and to enable suitable technology to be used to facilitate communication.

Further possible amendments to the takeovers framework are currently being consulted on as part of the Corporations Legislation (deregulation and other measures) Bill which was released on 10 April 2014. The draft Bill includes possible amendments to the ASIC Act to ensure that the Takeovers Panel President and members can exercise their functions while outside of Australia; and facilitate the operation of acting Presidents of the Panel when the President is not available.