

Dr Kathleen Dermody
Secretary
Senate Standing Committee on Economics
Parliament House
Canberra 2600
Via email: Economics.Sen@aph.gov.au

Westpac Place
Level 20, 275 Kent Street
Sydney NSW 2000

7 September 2015

Dear Dr Dermody,

INQUIRY INTO SCRUTINY OF FINANCIAL ADVICE (SOFA) – Westpac Questions on Notice

I write in relation to the appearance of Westpac CEO Brian Hartzler and BTFG Chief Executive Brad Cooper before the Senate Economics References Committee SOFA Inquiry on 10 August 2015. Messrs Hartzler and Cooper have reviewed the Hansard in respect of their appearance and require no changes. However, during the hearing Westpac took a number of questions on notice, please find below answers to those questions.

1. Three Lines of Defence

Senator XENOPHON: This is directly supplementary to Senator Dastyari's line of questioning. Mr Hartzler, in May this year it was reported that you told an analysts' briefing that Westpac had identified misconduct amongst its financial advisers. You have outlined the action against the 11. What I am trying to understand is, how is that financial misconduct identified? What are the processes in place? Is it something that is reactive, contingent on complaints? Or is there a proactive method of identifying misconduct amongst advisers?

Mr Hartzler: There is a very extensive proactive process. We describe it as the three lines of defence model. Perhaps you could outline elements of that, Brad.

Senator XENOPHON: To save time, in so far as it has been reduced to writing—and I assume it has been, in terms of your protocols—I do not mind if you are in a position to provide the committee with a copy of that. (Hansard p13)

Westpac has a number of processes in place to identify any misconduct or problems with financial advice given to its customers. As Mr Hartzler said in his opening statement to the Committee, Westpac has invested heavily in monitoring and detection systems to reinforce our number one priority of putting the customer's interests first. In addition, Westpac/BT has numerous ways to listen to the voice of our customers; such as, through our NPS (Net Promoter Score) feedback, our *BT Adviser View* website or our complaints processes.

In addition to complaints received, issues in advice are discovered through our proactive investigations, monitoring and supervision. We have both preventive and detective controls in place.

For instance, our preventive controls include:

- Recruitment of quality advisers through stringent recruitment, selection and onboarding procedures;
- The requirement for enhanced accreditation for an adviser in order for them to provide advice on specific topics to Westpac customers; and
- The utilisation of an independent, centralised paraplanning team to complete Statements of Advice for bank financial planners – ensuring consistent quality of advice to our customers and giving insights, visibility and an independent lens back into the Advice business.

Detective processes involved in proactively identifying misconduct among advisers also include:

- The use of Planner Risk Insights (PRI) - which is a program that analyses data and identifies outliers of bank financial planner performance for more targeted investigation;
- Quality assurance and review of advice involves regularly reviewing advice documents, and undertaking adviser compliance reviews;
- Direct line management supervision responsibilities undertaken by regional managers which includes direct contact with customers in bank channels, and planner oversight through Advice Implementation Managers in Group Licensees; and
- Concern Online – Under Westpac's Whistleblower Policy, this tool allows any employee to raise a concern and have it managed anonymously.

These prevention and detection systems take place under the wider rubric of Westpac's risk approach which is officially known as a 'three lines of defence' strategy. The 'three lines of defence' ensures we proactively monitor our planners' behaviour and identify and act on areas of concern. This approach is detailed below:

- 1st Line: Business units are responsible for identifying, evaluating and managing their own risks within approved risk appetite and policies. They are required to establish and maintain appropriate risk management controls, resources and self-assurance processes.

- 2nd Line: This involves a separate risk and compliance advisory, control and monitoring function which establishes frameworks, policies, limits and processes for the management, monitoring and reporting of risk. It also evaluates and opines on the adequacy and effectiveness of 1st Line controls and application of frameworks and policies and, where necessary, identifies areas for improvement and monitors the 1st Line's progress toward remediation of identified deficiencies. Our 2nd Line of Defence includes Group Risk and BT Risk which includes Core Risk and Business Unit Facing (BUF) risk teams.
- 3rd Line: Our Group Assurance function independently evaluates the adequacy and effectiveness of the Group's overall risk management framework and controls.

Finally, in reiterating Mr Cooper's evidence given at the hearing, Westpac always seeks to deal with any customer concerns quickly and fairly and assesses them on individual merit. If through our compliance or complaints processes we detect that an adviser has done the wrong thing by the customer, we do not hesitate to take action against that adviser and (per our Customer Charter) ensure any impact on the customer is put right, including through compensation where appropriate.

2. Reduced Compliance Costs

Senator WILLIAMS: Could you take this on notice for the committee: if you were running the whole show, how would you reduce compliance costs but still keep the compliance level high? (Hansard pp 15-16)

Westpac has considered Senator Williams' request to develop a number of ideas that could assist financial advisers to reduce compliance costs.

Such ideas for further investigation could include:

- Ability to offer Digital Advice: Currently approximately 20% of Australians utilise financial advice. The introduction of advice delivered digitally should allow more Australians to access advice, more affordably. However, currently personal advice laws are all articulated as being delivered by a person and do not effectively allow delivery via an algorithm or system. Regulatory change would be required to allow new mechanisms for advice delivery.
- Greater time allowance for responses to ASIC Notices: This would involve working with ASIC to take a more pragmatic approach that provides ASIC what it needs in a responsive time frame but ensures that industry resources are deployed effectively. This may include things such as, agreeing the scope of what's needed up front, or increased time frames for response. For instance, an agreement with ASIC to increase turnaround time for notices from 2 weeks to 4 or 5 weeks would lessen the intense financial and workforce impact to recipients, and provide ASIC with improved responses. This would bring benefits even for large licensees, but particularly for smaller players.

- Consolidation of the two ASIC registers (Professional Register and Financial Adviser Register): Currently advisers update two separate ASIC registers, with no link between each one to share the information. This is time consuming, increases the risk for data entry error, a poor experience for customers (as information appears differently/inconsistently between the two sites), and costly (each transaction: registration, cancellation or information update costs around \$43 per transaction, per site).

3. Identification of Advisers

During the course of answering a question from Senator Edwards (Hansard p17), Mr Cooper offered to provide the Committee with confirmation of how each of the 11 advisers with which Westpac had serious compliance concerns were identified.

In response to this question (i.e. *How were the issues with the planners identified?*) - three were identified by a client complaint, seven by our processes and one followed notification by the authorities.

4. FoFA Implementation Breaches

Senator WHISH-WILSON: Since FOFA has come in officially, have you had any breach reports around the FOFA regulations at all? (Hansard p 19)

As discussed during the Inquiry hearing, Westpac has had a small number of technical issues in relation to the implementation of FOFA (what was agreed at the hearing as “teething issues”). All of these have been notified to ASIC.

This is in line with the ‘facilitated compliance approach’ that ASIC has taken to matters relating to the implementation of FOFA and where laws had recently changed. In addition, as mentioned previously our monitoring and detection processes assist in identifying compliance with the “best interests” obligations.

Westpac has identified two FOFA implementation issues that have been discussed with ASIC.

- We have dealt with a tactical implementation issue in the area of provision of Fee Disclosure Statements (FDS). We proactively notified ASIC prior to the FOFA provisions becoming law (i.e. before 1 July 2013) and were provided with No-Action Letters from ASIC in relation to these issues.
- We have self-identified and dealt with an issue with Conflicted Remuneration, relating to brokerage paid as commission to planners. We proactively engaged ASIC to notify them of the potential non-compliance, and maintained communication with them throughout the period of resolution. Thorough investigations were conducted, processes amended and receipt of all payments ceased. Where clients were affected, repayments have been or are currently in the process of being made.

5. Timbercorp

Senator WHISH-WILSON: Did you finance Timbercorp? Senator Dastyari said you may have co-financed. (Hansard p 18)

As Mr Cooper stated during the hearing, from an advice perspective “Westpac and BT have not been participants in the agribusiness schemes generally”. However, in regard to the question of debt financing, Westpac Institutional Bank had a 31.25% share of the Timbercorp corporate syndicated facility. The rest of the syndicate was held by BOSI and ANZ. We understand that in addition, Timbercorp had other large bi-lateral exposures with other lenders. However, the syndicated debt was provided to the corporate entity and was not used to directly fund the Timbercorp loan books.

6. Additional Information

In addition to the above Questions on Notice, Westpac would also like to provide the following additional information in regard to a few issues raised during the hearing.

Fraudulent Activity (Hansard p18)

In relation to the question from Senator Whish-Wilson of whether there was any evidence of falsifying documents by any of the 11 financial planners referred to, Mr Cooper noted that he was not aware of such circumstances and that the reason for termination was generally around the quality and nature of the advice, as opposed to fraudulent activity. There were in fact three planners of the 11 where the circumstances involve police investigations as well as the matter being referred to ASIC. On 19 August 2015, ASIC issued a banning order in relation to one of those planners. Westpac supports that action.

Selling Superannuation through Westpac Branches (Hansard p14)

During the course of questioning, Senator Dastyari referred to “media reports, earlier in the year” relating to the selling of superannuation products through Westpac branches and queried whether there was an ASIC investigation relating to this. Mr Cooper’s response attempted to clarify whether the question referred to research commissioned by Industry Super Australia which was released in March this year which related to “bundling” of super products with business banking services, and responded to the question on that basis. Following those media reports ASIC issued notices seeking information from us and, we understand, other participants. We provided ASIC with the information requested and our reviews have not identified any issue. We have not heard anything more from ASIC on that since the information was provided and as far as we are aware there is no ASIC investigation into the matter.

For further clarity, I can also confirm that Westpac has received notices from ASIC in the last year relating to the distribution of BT Super for Life in branches. Westpac has responded to those notices and there are currently no outstanding notices on this topic.

Yours sincerely,

Brett Gale

Head of Group Government & Industry Affairs