

Senate Finance and Public Administration References Committee

Inquiry into Consulting Services (due 10 July)

KPMG responses to Questions on Notice, hearing 7 June 2023

Exam misconduct – people working at the firm

Question 1:

Senator BARBARA POCKOCK: How many KPMG partners and staff involved in that incident, involving years of cheating, still practise in the firm?

Mr Yates: I would have to take that on notice. Out of 1,100, you can appreciate that I need to take that on notice.

Response:

- 1 Given over 1,000 individuals were sanctioned, a number of those people are still with the firm. We continue to monitor the issue closely, and no individuals sanctioned have repeated the conduct.

TPB referrals – fit and proper persons

Question 2:

Senator O'NEILL: It must notify the TPB in writing whenever it ceases to meet one of the tax practitioner registration requirements. An example is when one of the directors is no longer a fit and proper person. How many notifications to the TPB have you undertaken in the last five years?

Mr Yates: Tony, do you know the answer to that?

Mr Mulveney: I don't off the top of my head. I'm happy to take that on notice and come back to you.

Response:

- 2 The TPB has not been notified by the firm of any concerns relating to registration in the last five years.

Exam misconduct – TPB referrals

Question 3:

Senator O'NEILL: That event is very significant and well-documented. I note that you have owned it as a reality in the recent history of your company. How many people engaged in that were determined to be no longer fit and proper persons? Was there a communication to the Tax Practitioners Board of that situation?

Mr Yates: I would need to take that on notice.

Response:

- 3 KPMG engaged in correspondence with the Tax Practitioners Board sharing details of its investigations, the sanctions administered and the firm's remediation. The Board determined not to take further action. No registered tax agent was determined to no longer be a fit and proper person.

PCAOB referral

Question 4:

Senator O'NEILL: So help me understand why it ended up with the US and wasn't managed in Australia?

Mr Yates: Well, it was managed in Australia. As I said earlier, Senator—

Senator O'NEILL: But they weren't the lead agency. It's pretty interesting. If you commit a crime in New South Wales, it is not the Queensland police that deal with it, right. This is a professional failing of a significant number of people in your company or your partnership that was not oversighted by Australian regulatory entities. Someone determined to send it to the US. Who made that decision, Mr Yates? Was it you or the board? Were you a part of the board then? Was it a direction from the US that they wanted to deal with it there because perhaps they don't have confidence in our regulatory regime?

Mr Yates: I can't recall who formally made that communication to the PCAOB. It was from our firm. I can't recall.

Senator O'NEILL: Do you want that on notice?

Mr Yates: I'm happy to take that on notice and determine which individual it was.

Response:

4 Tanya Gilerman (KPMG Chief Risk Officer)

KPMG Australia global relationship

Question 5:

Senator O'NEILL: Can you explain the legal, corporate and partnership relationship between KPMG Australia and KPMG in other countries, particularly the United States?

Mr Yates: Could you explain that? The legal, corporate—

Senator O'NEILL: And partnership relationship.

Mr Yates: The Australian partnership is an Australian partnership. We are part of a member firm organisation. So there is no direct legal relationship. We are an Australian partnership. As I said, we are a member of the international network of KPMG firms. Just to make sure—

Senator O'NEILL: So why isn't it called Great Aussie Auditors? Why is it called KPMG?

Mr Yates: I want to make sure I am giving you the right answer. I want to make sure that the facts of what I said are right. I would like to come back and confirm that what I have said there is right. We are an Australian partnership that operates under Australian law. We are part of the global network of KPMG.

Response:

5 KPMG Australia is an Australian partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited.

APES 110 training

Question 6:

Senator O'NEILL: Are you aware of APES 100?

Mr Yates: APES 110?

Senator O'NEILL: APES 110, sorry.

Mr Yates: Yes. I'm aware of APES 110, Senator.

Senator O'NEILL: And how aware of that standard of behaviour would your young graduates be?

Mr Yates: I would have to come back and confirm where it sits in the induction training for our graduates or where it sits in the training hierarchy.

Response:

- 6 The requirements of APES 110 are reflected in numerous KPMG policies and procedures. The requirements of APES 110 is included in our graduate onboarding training.

Regulation of consultants

Question 7:

Senator O'NEILL: When somebody is a consultant, they are not necessarily licensed in any way. Is that correct? Is everybody who works for your firm licensed and subject to regulatory oversight?

Mr Yates: I would have to take that on notice. A lot of our consultants are absolutely registered with different bodies and have different regulatory oversight. Our lawyers clearly have a different regulatory oversight. We have forensic accountants who have oversight. Some people in our deal advisory business have regulatory oversight. There is regulatory oversight all across our business. As to whether it is 100 per cent everyone, I would need to come back and confirm that.

Response:

- 7 Professional service firms are subject to an extensive and complex framework of overlapping obligations that require us to manage conflicts of interest, perceived or otherwise. Contractual frameworks set by our clients define their expectations and requirements, supported by regulatory and legal obligations, professional codes and commitments to professional bodies. Further, our people are required to comply with KPMG's Code of Conduct, and the expectations of communities in which we operate.
- 8 As members of Chartered Accountants Australia and New Zealand (CA ANZ), all KPMG partners are subject to Accounting Professional & Ethical Standards (APES) 110 Code of Ethics for Professional Accountants, which is issued by the APES Board (APESB). The requirements of APES 110 are reflected in numerous KPMG policies and procedures. In addition to being CA ANZ professionals, KPMG personnel play an active role as members of a diverse number of other professional associations, many of which have clear expectations of the conduct of their members.

Enforcement by regulatory bodies in relation to integrity breaches

Question 8:

Senator O'NEILL: If you could on notice, what enforcement measures have been taken in response to integrity breaches, particularly with regard to conflicts of interest, breach of contract or any other unethical behaviour by consultants?

Mr Yates: Just to confirm, what was the start of the request?

Senator O'NEILL: You'll get it in writing anyway.

Mr Yates: I wasn't sure if it was us or the body who had made the determination.

Senator O'NEILL: Enforcement measures.

Mr Yates: By the body?

Senator O'NEILL: I think you would be operating, hopefully, in concert with the body.

Mr Yates: Sure, yes.

Response:

- 9 Other than the action by the PCAOB in relation to exam cheating, KPMG Australia has not been the subject of enforcement measures due to integrity breaches (including conflict of interest, breach of contract or other unethical behaviour) in the last 5 years.