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Committee Secretary

7 July 2023

Senate Standing Committee on Finance and Public Administration
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: fpa.sen@aph.gov.au

RE: Questions on Notice

Dear Committee Secretary

Please find enclosed responses to the questions on notice provided between 28 June and 30 June by Senator Barbara Pocock in her role as a member of the Senate Finance and Public Administration Reference.

We have endeavored to provide as much detail as possible within the time frame provided using readily available records whilst being careful to not disclose any information that is commercial in confidence or could be viewed as anti-competitive disclosures.

We also note that the Parliamentary Joint Commission's Ethics and Professional Accountability inquiry is looking into a number of matters contained in these questions, and we will be addressing these in our submission to that inquiry.

Yours sincerely,

Mark Nixon

EY Oceania Government and Public Sector Consulting Leader

Senator Barbara Pocock asked EY the following question, upon notice, on 28 June 2023:

Governance, structure ethics

1. Please provide a copy of your partnership deed or agreement and any amendments or related documents that establish the rules under which your partnership operates.
2. Please detail the nature and number of partners and their various types at present: eg equited, salaried, other, etc.
3. How many, if any, ex-PwC partners or staff have joined your organisation? Please provide their names, position, years of work at your organisation over the past 5 years.
4. What protocol or agreement is in place between partners in relation to sharing investment opportunities?

EY's response is as follows:

EY Australia is a partnership and operates under the Partnership Act 1963 (ACT). Each Australian partner joins the EY partnership by signing a joining deed, which incorporates all the regulations and other terms and conditions of the Australian partnership agreement that each partner must comply with.

The partnership agreement is a contract between each and every partner in the Australian partnership and is commercial in confidence. It governs a number of important matters that arise in the day-to-day business of the firm.

Producing this document publicly would be commercially disadvantageous for EY.

All 703 EY Australia partners are 'equity' holders in the partnership. EY Australia does not have any 'non-equity' – or 'salary' – partners.

There are 29 Partners who have joined EY Australia in the past 10 years who previously worked at PwC. Not all of them held a partner role at PwC prior to joining EY.

Eight of those 29 partners work within the Tax Service Line at EY, five of whom were partners at PwC prior to joining EY, and three of whom were promoted to partner while at EY.

Seven of the eight partners who have joined the Tax Service Line are still partners of EY.

We have specifically and individually confirmed with each of the current EY Tax Partners who previously worked at PwC during the period 1 July 2013 to 30 June that they were not included in any of the correspondence released by the Tax Practitioners Board in relation to the inappropriate use of confidential information by Peter Collins or the scheme to monetise breaches of government confidential information.

EY does not make investments as a partnership. We also do not allow groups of partners to enter into joint investment schemes as this could result in the investment scheme becoming an associated entity of EY, which is only allowed in exceedingly rare circumstances, and subject to approval by EY leadership both locally and globally.

No EY partners are operating investment schemes that are associated entities of EY.

All outside investments by partners are tracked by the EY Global Monitoring System (GMS), a requirement to manage our independence from audit clients.

Professionals ranked as Manager and above (in other words, Managers, Senior Managers, Directors, Associate Partners and Partners) are also required to enter details about all securities and other financial interests they hold, or those held by their immediate family, into the EY GMS. When a restricted investment is entered, or if a security they hold becomes restricted, professionals receive a notice and are required to dispose of the security.

Senator Barbara Pocock asked EY the following question, upon notice, on 28 June 2023:

Income, Revenue

5. Please provide details of your partnership revenue for the past 5 years, by year, distinguishing its various main sources (e.g. tax advice, auditing, consultancy, etc).
6. Please provide details of partnership distributions in aggregate for the past 5 years, by year.
7. Please indicate the percentage of revenue from public sector work compared to private sector.
8. Please provide details of the range of partnership payments/incomes (including base amounts, bonuses and payments in total) in \$50,000 bands and show the number of personnel in the partnership group in each band.
9. Please provide details of the basis for payments to partners (e.g. KPIs or formula) used to determine total payments and bonuses.
10. In the latest full year, how many partners earn more than \$1 million a year in total income from the entity?
11. In the latest full year, how many earn more than \$2 million a year?
12. In the latest full year, how many earn more than \$3 million a year?
13. In the latest full year, who was the highest earning partner within your firm and how much did they earn?

EY's response is as follows:

We encourage and support greater transparency from partnerships and have commenced preparing a submission to the Parliamentary Joint Commission's Ethics and Professional Accountability inquiry which will make some recommendations in this regard.

Our submission will specifically look at how legislation can be utilised to address community concerns around transparency and accountability of multi-disciplinary professional services firms which are currently regulated as partnerships under state legislation.

We have summarised below a number of key financial metrics that we have made publicly available in the *EY Oceania Value Realised Scorecard* and the Australian Annual Transparency Reports, that are required by the Corporations Act, however, we are cautious about disclosure of additional financial information that when disclosed in isolation could be either used to our competitors' advantage, or viewed as anti-competitive.

In [EY Oceania's 2022 Value Realised Scorecard](#), that is available on our website, we disclosed the following revenue information:

EY Oceania Revenue 2022 and 2021					
	Total Revenue	Assurance	Tax	Consulting	Strategy & Transactions
2022	\$3bn	\$620m	\$746m	\$1.2bn	\$449m
2021	\$2.54bn	\$578m	\$633m	\$976m	\$355m

In EY Australia's Transparency Reports for 2018-2022, released in accordance with the requirements under Australia's Corporations Act 2001, we made the following revenue disclosures:

EY Australia Revenue 2020, 2019, 2018				
	Total Revenue	Audits and directly related services for audit clients	Other Assurance and permissible non-audit services to audit clients	Non-audit services provided to other entities
2022	\$2.75bn	\$434m	\$130m	\$2.19bn
2021	\$2.31bn	\$428m	\$121m	\$1.76bn
2020	\$2.13bn	\$417m	\$117m	\$1.59bn
2019	\$1.89bn	\$390m	\$127m	\$1.37bn
2018	\$1.78bn	\$390m	n/a	\$1.41bn

EY [Australia's Transparency Report 2022](#) contains our Partner remuneration framework on page 58.

To summarise, EY Australia partners are evaluated and compensated based on criteria that include specific quality and risk management indicators, and requires quality to be a significant consideration in a partner's overall year-end rating.

Instances of non-compliance with quality standards result in remedial actions, which may include, compensation adjustment, additional training, additional supervision or reassignment. A pattern of non-compliance or particularly serious noncompliance may result in actions that include separation from EY.

Senator Barbara Pocock asked EY the following question, upon notice, on 28 June 2023:

People, management

14. Please provide a copy of the misconduct policy and procedures for personnel within the entity, differentiating those that apply to partners and to others.
15. Have any, and if so, how many, misconduct matters related to a partner or partners have been lodged within the entity in the past year, and past 5 years?
16. Have any internal inquiries into misconduct, internal culture or human resource related/employee experience and outcomes been conducted over the past 5 years?
 - a. How many?
 - b. If any, please provide their summaries and recommendations?
 - c. Please supply copies.
17. Have any independent external inquiries into misconduct, internal culture or human resource related/employee experience and outcomes been conducted over the past 5 years?
 - a. How many?
 - b. If any, please provide their summaries and recommendations?
 - c. Please supply copies
18. How many formal complaints of bullying, if any, have been made in the past year, and in the past five years?
19. How many formal complaints of sexual harassment, if any, have been made in the past year, and in the past five years?
20. How many formal complaints of discrimination, if any, have been made in the past year, and in the past five years?
21. Over the last 5 years, how many complaints about bullying, sexual harassment, discrimination or employment related issues have been heard by external bodies e.g. Fair Work Commission, Human Rights Commission or Employee Ombudsman?
22. How many nondisclosure agreements and/or separation arrangements have been finalised by the entity in the past year, and in the past five years? Please distinguish NDAs from other arrangements.
 - a. How many have involved:
 - i. Sexual harassment,
 - ii. Bullying, and/or
 - iii. Discrimination?
 - b. How many have resulted in the involved party or parties exiting the entity?
 - c. Please provide details of the amount of any payments made by individual case.

EY's response is as follows:

As we shared in our submission to this inquiry, EY's Global Code of Conduct is a clear set of ethical business conduct standards that build upon our purpose, values and culture to provide the ethical and behavioural framework on which we provide services to our clients and base our decisions every day.

The code applies to all EY partners and professionals, is anchored in our values and beliefs, and is embedded in our policies and procedures and is [available on our public website](#).

Application of the Global Code of Conduct

In the last two years, EY Australia has terminated 8 partners under the partnership agreement for failing to meet EY values. These partners were terminated for one or more of the following reasons:

- Sexual harassment
- Workplace behaviour (team culture, exclusionary behaviour)
- Not acting with integrity in relation to a workplace investigation
- Bullying
- Dishonesty

EY Oceania's [2022 Value Realised Scorecard](#) contains a section on Workplace Investigations, where we disclose that in the 2022 year there have been 17 formal workplace investigations (including internal and external investigations).

Of the 17 formal workplace investigations, 13 were substantiated and one remained under investigation at the time of the report, in the following categories:

- Sexual harassment: 5
- Bullying: 4
- Multiple allegations: 4

Last year, EY Oceania made the decision to engage Elizabeth Broderick & Co to independently and comprehensively examine all aspects of our culture, to help us identify where we need to change and improve.

This review continues our focus on making EY a diverse, inclusive and respectful workplace and redesigning the way we work under EY's Work Reimagined program. We are committed to making EY a better place to work and recognize that culture plays a critical role in the experience of everyone who works at EY.

When we instigated this review in 2022, we committed to making the report and recommendations available to all EY Oceania people and, following this, to make the report publicly available. We will provide the committee with a copy when it is available.

Senator Barbara Pocock asked EY the following question, upon notice, on 28 June 2023:

Appropriate use of government information, conflicts of interest

23. How does your organisation define conflict of interest?
24. What protections exist to ensure that there is no conflict in people's use of government information? What specific safeguards are in place?
25. What consequences are in place for the misuse of confidential government information?
26. How many disciplinary actions have been taken in relation to conflicts of interest and/or the misuse of government information in the past 5 years? Past 1 year?
27. Have any conflicts of interest surfaced within your organisation in the past 5 years? If so, how were they dealt with and what were the consequences?
28. How many staff have been seconded or equivalent into the state or federal government in the past 5 years, past 1 year?

EY's response is as follows:

We refer the Senator to our [submission to the Senate Standing Committee on Finance and Public Administration's inquiry](#) into the management and assurance of integrity by consulting services.

On pages 5 and 6, we outline our comprehensive processes, policies and procedures for identifying conflicts of interest as defined under APES 110 the Code of Ethics for Professional Accountants (including Independence Standards). All of our Partners, as members of CAANZ, are bound by this code, in addition to being bound by our Global Code of Conduct.

Conflicts of interest frequently arise during the tendering or contracting process, and are appropriately managed through the measures available in APES 110 and we have outlined frequently used measures on pages 9 and 10. Occasionally, conflicts of interest will arise during an engagement and are dealt with using these measures.

On pages 9 and 10, we also outline protections to ensure that conflicts of interest are managed in the course of our work, regardless of the client involved.

Page 12 outlines the consequences for the misuse of confidential government information put in place by the government, including specific measures under the Department of Finance administered Management Advisory Services (MAS) Panel:

- Uncapped liability for the consultancy for any breach of confidentiality, privacy or security obligations, including data security and unauthorised access to confidential information.
- Providers are required to provide a warranty that all Conflicts of Interest that exist or are likely to arise have been disclosed to the Commonwealth entity.

On page 12 we also outline the unique criminal provisions available to the Commonwealth as a contracting entity:

The Commonwealth commonly uses contracting powers unavailable to the private sector to prevent breaches of contract. For example, the MAS Panel Head Agreement includes a requirement for EY professionals to abide by the Protective Security Framework (PSF) as required by the Agency.

Under the PSF, consequences for a breach are both personal and criminal.

The Commonwealth will often use these unique contracting powers in regard to confidentiality deeds signed by EY and our professionals.

On page 12 we also outline the measures available to EY, and how in the 2022 Value Realised Scorecard we disclosed 55 breaches of our policies and seven breaches of our values by EY professionals.

In response, a range of disciplinary actions were undertaken, from informal conversations to termination of employment.

EY is not part of the Labour Hire panel through which secondments and outsourcing is coordinated, and has not received any labour hire revenue in the last two financial years.

Senator Barbara Pocock asked EY the following question, upon notice, on 28 June 2023:

JobKeeper

29. How much, if any, JobKeeper payments in total did your organisation receive and retain?

EY's response is as follows:

\$0.

Further, EY chose to not undertake any redundancies nor cut any of our employee's pay during the COVID-19 pandemic.

Senator Barbara Pocock asked EY the following question, upon notice, on 28 June 2023:

Political Donations

30. Where are political donations to the major parties sourced from within the entity?
31. Is an annual amount budgeted specifically for such political donations? If so, how much was budgeted for this in 2022/23?
32. Political donations/expenditure may take the form of direct donations, memberships and sponsorship of related associations and conferences. Please provide details of all expenditure of this nature by category for 2022/23.
33. Who and at what level are decisions made about political donations (as above), how they are directed and how much is donated?

EY's response is as follows:

EY does not make any direct monetary political contributions.

EY purchases tickets, pays for membership for forums, provides sponsorship or hosts events, and discloses these to the relevant Federal and State electoral bodies as donations, as required by law. These donations are typically evenly spread between the two major parties.

As examples of the types of activities covered by this include:

- EY or individual partners being members of various forums, for example, the Federal Labour Business Forum, the Tasmanian Liberal Leaders Forum
- EY partners attending ticketed events, for example attending the Nationals Corporate Observers Program; (South Australia) Energy – Powering into Tomorrow; and
- EY hosting events at our offices across Australia

Our participation in these events and forums are critical to maintaining our understanding of government policy, in order to anticipate future needs of the Commonwealth.

In the 2023 financial year, EY has spent \$227,688 on these activities that will be declared with the Australian Electoral Commission as required under Federal Legislation. The breakdown of these are as follows.

Summary of EY Australia AEC disclosures by type of activity		
Activity	FY23 ¹	FY22
Forum membership fees	\$98,800	\$40,500
Attendance at ticketed events	\$42,990	\$33,690
Sponsorship of events	\$78,898	\$51,740
EY hosting events	\$7,000	\$4,308

Political donations at EY are sourced from EY's revenue.

¹ To be finalised and declared to AEC

Senator Barbara Pocock asked EY the following question, upon notice, on 30 June 2023:

Political Donations

1. Provide details of the protocols (including formal and informal understandings) that guide the sharing of information and/or investment opportunities to partners for their personal investments?

EY's response is as follows:

Please refer to the responses to questions 1-5.

Senator Barbara Pocock asked EY the following question, upon notice, on 30 June 2023:

1. Elizabeth Broderick's review into EY's workplace culture is due for release in July 2023.
 - a. Is this still correct?
 - b. Please provide the committee with a copy of the full report as soon as it is available.

EY's response is as follows:

Please refer to the responses to questions 14-22.