

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2015 - 2016

Department/Agency: Australian Securities and Investment Commission

Question: AET 97-103

Topic: ASX Backlash

Reference: written - 17 February 2016

Senator: Dastyari, Sam

Question:

ASX backlash

Under the cost-recovery plan being considered, it has been reported that an annual fee would be levied on businesses based on their market capitalisation and an assessment of risk to investors. "AFR, Paddy Durkin, 27 Aug 2015, Big Business Will have to Pay for ASIC"

97. How have companies affected responded to this fee model?

98. How has by ASX chief executive Elmer Funke Kupper responded to this fee model? He warned that the US Securities and Exchange Commission, which is funded by industry transaction fees, was not working.

99. Some companies are complaining that the cost-recovery fee is being proposed to be capped at \$320,000 for companies with a market capitalisation of \$15 billion and above.

100. How many companies (approximately) would be affected by this funding cap?
(Answer: only 12-15)

101. Why was a fee-cap included in the proposal?

102. Is ASIC concerned that the proposed fee structure may create a disproportionate or unfair burden on some companies?

103. Has ASIC provided the Government with any advice on alternative cost recovery options? If so, what were these, and why were they rejected?

Answer:

Question 97

As this is a Government consultation, ASIC has not met with companies individually to discuss their feedback on the proposed industry funding model.

The Government received 77 submissions to the consultation paper (including 15 confidential submissions) and these are published on the Treasury website. ASIC has provided support to Treasury during the consultation process.

DRAFT

Question 98

ASIC is not aware of any further comments made directly by Mr Elmer Funke Kupper on the proposed industry funding model, other than statements about the US SEC funding model as reported in the AFR on 27 August 2015. In that article, *Big business will have to pay for ASIC*, Mr Funke Kupper was quoted as saying: “[s]ometimes it is said that the most profitable party in the US markets is the SEC, so we need a better model”.

ASIC understands the ASX did not make a public submission to the Government’s 2015 consultation on the ASIC industry funding model.

Question 100

There are around 19 listed companies with a market capitalisation greater than \$15 billion that would have been affected by the consultation proposal to apply a maximum levy of \$320,000.

Question 101

As stated in the Government’s consultation paper, a maximum levy for listed companies has been proposed because, due to economies of scale, ASIC’s costs of supervising these companies do not rise above a certain threshold. A minimum levy has also been proposed which is intended to reflect ASIC’s fixed costs of regulating a listed company.

Question 102

ASIC’s activities and the intensity of regulation required differ for each type of public and proprietary company. As stated in the Government’s consultation paper, ASIC dedicates more resources to regulating listed companies because they have the potential to cause greater harm to consumers and to the integrity and reputation of Australia’s financial markets. As a consequence, listed public companies will bear a greater portion of the cost burden under the propose model.

Question 103

ASIC has not provided advice to Government on alternative cost recovery options — advice of this nature is a matter for Treasury.