

Additional Budget Estimates 2015–16

Report to the Senate

Introduction

1.1 On 4 February 2016, the Senate referred to the committee for examination and report the following documents in relation to the Industry, Innovation and Science, and Treasury portfolios:¹

- Particulars of proposed additional expenditure in respect of the year ending on 30 June 2015 [Appropriation Bill (No. 3) 2015–2016];
- Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2015 [Appropriation Bill (No. 4) 2015–2016]; and
- Final budget outcome 2014–15.²

1.2 The committee is required to report to the Senate on its consideration of 2015–16 Additional Budget Estimates (Additional Estimates) on Tuesday, 1 March 2016.³

Portfolio structures and outcomes

1.3 Following the Administrative Arrangements Orders (AAOs) issued on 21 September 2015 and 30 September 2015, the Industry, Innovation and Science portfolio was established. As a result of these AAOs, the former Industry and Science portfolio's responsibility for the renewable energy technology development and the Australian Renewable Energy Agency (ARENA) were transferred to the Department of the Environment. The Industry, Innovation and Science portfolio incorporates elements of the former Industry and Science portfolio as well as responsibility for Northern Australia policy and coordination and national issues relating to the digital economy.⁴ Likewise, as a result of the AAOs in September 2015, the Treasury portfolio's responsibility for the Clean Energy Finance Corporation was transferred to the Department of the Environment.⁵

1 *Journals of the Senate*, No.137, 4 February 2016, p. 3720.

2 *Journals of the Senate*, No.119, 12 October 2015, p. 3165.

3 *Journals of the Senate*, No.124, 10 November 2015, p. 3336.

4 Industry, Innovation and Science Portfolio, *Portfolio Additional Estimates Statements 2015–16*, p. 3. See also Administrative Arrangements Order, 30 September 2015, p. 2 and Administrative Arrangements Order, 21 September 2015, p. 5.

5 Treasury Portfolio, *Portfolio Additional Estimates Statements 2015–15*, p. 3. See also Administrative Arrangements Order, 21 September 2015, p. 6.

1.4 The Department of Industry, Innovation and Science continues to have one outcome, which is:

Enabling growth and productivity for globally competitive industries through supporting science and commercialisation, growing business investment and improving business capability and streamlining regulation.⁶

1.5 The complete structure and outcomes for each portfolio are summarised in the appendices as indicated below:

- Industry, Innovation and Science (Appendices 3 and 4); and
- Treasury (Appendices 5 and 6).

General comments

1.6 The committee conducted hearings over two days:

- 10 and 11 February 2016—Treasury portfolio; and
- 10 and 11 February 2016—Industry, Innovation and Science portfolio.

1.7 In total, the committee met for 21 hours and 50 minutes, excluding breaks.

1.8 The committee received evidence from the following ministers:

- Senator the Hon. Mathias Cormann, the Minister for Finance, representing the Minister for Industry, Innovation and Science during the Office of the Chief Scientist's appearance and the Treasurer;
- Senator the Hon. Arthur Sinodinos AO, Cabinet Secretary, representing the Minister for Industry, Innovation and Science and the Minister for Resources, Energy and Northern Australia;
- Senator the Hon. James McGrath, Assistant Minister to the Prime Minister, representing the Treasurer; and
- Senator the Hon. Scott Ryan, Assistant Cabinet Secretary, representing the Treasurer and the Minister for Industry, Innovation and Science and Minister for Resources, Energy and Northern Australia.

1.9 Evidence was also provided by:

- Mr John Fraser, Secretary, Department of the Treasury;
- Ms Glenys Beauchamp, Secretary, Department of Industry, Innovation and Science; and
- officers from the Treasury and Industry, Innovation and Science portfolios.

1.10 The committee thanks the ministers and officers who attended the hearings for their assistance.

6 Industry, Innovation and Science Portfolio, *Portfolio Additional Estimates Statements 2015–16*, p. 23.

Questions on notice

1.11 The committee draws the attention of all departments and agencies to the agreed deadline of Friday, 1 April 2016 for the receipt of answers to questions taken on notice from this round, in accordance with Standing Order 26.

1.12 As the committee is required to report before responses to questions are due, this report has been prepared without reference to any of these responses. Indices of questions taken on notice during and after the hearings are available at: http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/economicssccte/estimates/add1516/index.

1.13 Answers to questions taken on notice are tabled in the Senate. They may be accessed from the committee's website.

1.14 For the 2015–16 Supplementary Budget Estimates round, answers to questions on notice were due to be provided to the committee by Friday, 4 December 2015 for both the Industry, Innovation and Science portfolio and the Treasury portfolio. The committee notes that:

- The Industry, Innovation and Science portfolio submitted all their answers before the commencement of the 2015–16 Additional Estimates hearings, however only 43 questions out of the total of 112 questions were answered by the deadline set by the committee; and
- For the Treasury portfolio—there were still answers outstanding during and after the Additional Estimates hearings, with no answers to the 2,560 questions placed on notice responded to by the due date. To date, there remained 11 responses outstanding. This performance was a marked deterioration on the previous additional estimates when questions were at least answered prior to the estimates hearings.

Public interest immunity claims

1.15 On 13 May 2009, the Senate passed an order relating to public interest immunity claims.⁷ The order, moved by Senator Cormann, set out the processes to be followed if a witness declined to answer a question. The full text of this order was provided to departments and agencies prior to the hearings and was also incorporated in the Chair's opening statements on both days of the Additional Estimates hearings.

Record of proceedings

1.16 This report does not attempt to analyse the evidence presented over the two days of hearings. However, it does include a brief list of the main issues that were traversed by the committee for the respective portfolios.

1.17 Copies of the Hansard transcripts, documents tabled at the hearings, and additional information received after the hearings (see Appendices 1 and 2) are tabled in the Senate and available on the committee's website.

⁷ *Journals of the Senate*, No. 68, 13 May 2009, p. 1941.

1.18 Page numbers in brackets following the topics listed below refer to Proof Hansard transcripts. Page numbers in the Official Hansard transcripts, once they are produced, may differ from the page numbers in the Proofs.

Matters raised—Treasury Portfolio

1.19 On 10 and 11 February 2016, the committee examined the estimates for the:

- Treasury [Macroeconomic Group and Corporate Strategy and Services Group];
- Treasury [Fiscal Group];
- Treasury [Markets Group];
- Treasury [Revenue Group] with the Australian Charities and Not-for-profits Commission (ACNC) and the Australian Taxation Office (ATO);
- Australian Competition and Consumer Commission (ACCC);
- Australian Prudential Regulation Authority (APRA);
- Australian Securities and Investments Commission (ASIC); and
- Productivity Commission (PC).

Treasury [Macroeconomic Group and Corporate Strategy and Services Group]

1.20 The Secretary of the Department of the Treasury (the Treasury), Mr John Fraser, opened with a summary of economic developments. At the international level, he observed the volatility of the world economy, with no clear signal about its direction. He explained :

[T]here is not a clear path about growth. The United States is looking significantly better, but to call it 'sustained growth' at this stage might be a step too far. We have the issues in China...and that is a risk to the global economy and also particularly to Asia and to [Australia]...There is no clear path ahead, and...that has been reflected in a lack of confidence which is improbably impacting not only on financial markets but on the real economy. (pp. 14–15)

1.21 Mr Fraser elaborated:

We also have the uncertainties with the first of the interest rate increases in the United States prior to Christmas, but at the same time we are seeing divergent moves elsewhere, with Japan recently moving into negative interest rates. They join Denmark and Switzerland, who have negative interest rates—not negative real interest rates but negative interest rates. We shall see what that means for the world. We also have in Europe the monetary authorities sort of indicating that they would be willing to contemplate further monetary stimulus, were that to be required. More recently, we have seen the volatility in the equity markets. I have always been somewhat sceptical of the links between share markets and the real economy, but the volatility has been significant. Some would argue that the interest rate increase in the United States would be a factor in that. Others would argue that it is also heavily influenced by the uncertainties in China. Others, putting into the amalgam, would add in the weakness in commodity

prices, which is far greater than people have been expecting—certainly than we have been expecting—over the past year. (p. 14)

1.22 Against this international backdrop of uncertain economic developments, the Secretary described the domestic economy more reassuringly as 'swimming against the tide'—the tide being the uncertainties at the global level.

1.23 At the state and territory level, Mr Fraser noted that most states and territories, with the exception of South Australia and Western Australia, are performing quite solidly:

...It is never perfect, but the reports from the state and territory under treasurers are that New South Wales and Victoria are doing well. Tasmania is doing very well in its tourist industry. That is, I think, very much related to the exchange rate depreciation. We are seeing the Northern Territory doing well...Queensland is interesting...[T]here is a sense that it is pretty much running as they expected. The adjustment coming out of the mining investment boom is pretty much as they expected, but they have seen some strength in building and confidence more generally. The weak points clearly remain South Australia...and I think that is a broader structural issue, but Western Australia, according to the state Treasurer and his people...is clearly doing worse than what was expected in the middle part of last year. That is showing up in a number of measures—payroll tax, activity in the CBD. They are also seeing house prices coming off probably the strongest falls around Australia. (p. 14)

1.24 In relation to the property sector, the Secretary observed that although it was too early to make any judgements, projects in the pipeline provided some confidence that construction and housing activities would not fall into a heap. (p. 14)

1.25 According to Mr Fraser, the labour market provided some space for optimism in that it fared far better than Treasury had forecast in the budget:

The strength in the labour market is encouraging. We have seen some falls, importantly, in youth unemployment. I met with the Statistician on Monday afternoon, and there were some technical issues to do with the rolling of the sample in October and November, which may have made the employment data look a little bit better than would otherwise be the case. That is because of the cohort that they roll in and out. The one they rolled in had a higher employment-to-population level. We shall see how that works out. Certainly the labour force data does seem consistent with what the states are telling us. (p. 14)

1.26 In line with his previous commentary, the Secretary identified a weak spot in the economy coming from external factors and this is reflected in the outlook and performance of non-mining investments. To reiterate the unpredictable nature of the economic environment, Mr Fraser reported:

We are getting decent confidence surveys, such as the NAB survey that came out yesterday pointing to higher levels of confidence. The trick is to translate that into actual investment spending. One would argue that lower interest rates, availability of credit, low-wage rates and still strong

consumer demand should all make it propitious for major investments, but that is not translating through. (p. 15)

1.27 Other topics covered during the committee's examination of the Macroeconomic Group and Corporate Strategy and Services Group included:

- lower growth forecasted in MYEFO compared to growth forecasted at budget (p. 15);
- annual wage growth compared with average rate of growth, with wage growth lower than in earlier periods—with average wage growth about 3.4 per cent compared to the current 2.3 per cent (p. 17);
- Treasury modelling on a range of tax options, including changes to the goods and services tax (GST) (pp. 17–20);
- Council on Federal Financial Relations (CFFR) and Council of Australian Governments (COAG) meetings in relation to the use of three models involving changes to the GST and the use of consultancy firms Independent Economics and KPMG (pp. 20–21 and 26);
- update on Treasury's work on the tax green paper and tax white paper—the personnel involved and the proposed timetable for their release (pp. 22–23);
- the role of the Macroeconomic Group in relation to whole-of-economy modelling, including on how a set of policy changes might have a long-run effect on the level of real gross domestic product (GDP)—in contrast to the modelling undertaken by the Revenue Group to do costings and distributional analysis (p. 22);
- whether Treasury has been tasked to undertake modelling on reforms to negative gearing (p. 27);
- discussions about Australia's system of negative gearing and capital gains tax exemptions relative to other Organisation for Economic Co-operation and Development (OECD) members (pp. 28–29);
- whether Australia's exposure to household debt at 123 per cent of GDP—the highest in the world—was a risk to the economy (pp. 29–30);
- the interrelationship between housing supply shortage and negative gearing—its effect on the availability of rents and how a change in policy may impact on rental yields (pp. 31–32);
- the value of the Australian dollar relative to other currencies and the effects of a low dollar flowing through the economy (pp. 33–35);
- Treasury's recruitment of 41 graduates in the current year—23 men and 18 women (p. 37); and
- the number and percentage of SES women at Treasury and whether Treasury will be able to reach its goal of 35 per cent by 2016 from its current 31 per cent (p. 37).

Treasury [Revenue Group] with the Australian Charities and Not-for-profits Commission (ACNC) and the Australian Taxation Office (ATO)

Treasury [Revenue Group]

1.28 During the examination of the Treasury Revenue Group, the committee examined officers on the following matters:

- the ability to cap work deductions in Australia compared to New Zealand (pp. 79–81);
- superannuation tax concessions and the Tax Expenditure Statement indicating these concessions cost about \$30 billion to the budget (p. 80);
- whether Treasury has modelled any options for changing or scaling back these concessions (p. 81);
- estimates of tobacco clearance data and the use of that data by the health department (p. 82);
- the reason for the lengthy delay in answering questions on notice (p. 83); and
- Treasury's engagement in the work of COAG to look at the costs and distributional impacts of tax increases (p. 85).

Australian Charities and Not-for-profits Commission (ACNC)

1.29 During the Australian Charities and Not-for-profit Commission's (ACNC) examination, the Commissioner updated the committee on its work since its last appearance. Ms Pascoe reported:

...the key development has been increased momentum from the states and territories towards streamlining arrangements for charities and working towards harmonisation. If you think about the three areas where there is legislation, we are looking at the legal form of charities, incorporated associations or whatever. We are looking at the taxation arrangements at the state and territory and federal level and at fundraising. In each of those areas there have been developments. We have found that there is an enormous appetite in the states and territories, because we all share the same commitment to simplifying the work of charities and to reducing red tape. There are working parties in all those areas that [involve] the jurisdictions and the ACNC. The intent is that ultimately there be a single form of reporting for charities and that in addition to the statutory reporting, where there is currently additional reporting for fund raising, that that could be streamlined into the annual reporting that is done to the ACNC. They are the kinds of discussions that are underway...[T]hey are certainly... encouraging.

In addition to that, the state revenue commissioners, with the lead of one jurisdiction that has engaged with the ACNC, have now developed their own working party with the ACNC to work towards common arrangements in terms of registration, common understandings of the definition of charity. The result is reduced red tape for charities and significant administrative savings for them in the process. (pp. 40–41)

1.30 In relation to the ACNC's work on building trust and confidence and strengthening the sector, Ms Pascoe advised that its register has played a central role as it provides the community with a useful tool they can use to 'assure themselves that [a] charity is bona fide and to get up-to-date information to do their due diligence on whether they want to give money or time or support a charity in any way'. (pp. 41–42)

1.31 Ms Pascoe reported that there are currently 54,000 charities on the register. Of those, 8,000 had been registered since the ACNC's establishment in December 2012 and another 13,500 withdrawn in the same period for a range of reasons, including evidence indicating they were inoperative or were not meeting their reporting obligations. (p. 41)

1.32 Other matters canvassed during the ACNC's appearance included:

- the use of the Charity Passport at both the Commonwealth and state and territory levels to quality assure that charities are both bona fide and up to date with their governance and administrative requirements (p. 41);
- the ACNC's contribution of \$9.8 million of annual deregulation savings in 2014 and \$8.7 million in 2015 through measures such as accepting the state and territory reports (p. 41);
- a lot of work was undertaken by the ACNC in 2015 to ensure data in the register was accurate, including engaging with the UNSW to undertake a rigorous data sweep—this corrected errors in 7,000 charities (p.41); and
- uncertainty about the status of the ACNC and its effect on the work of the ACNC (pp. 41 and 43).

Australian Taxation Office (ATO)

1.33 The Commissioner of Taxation, Mr Chris Jordan, opened the Australian Taxation Office's (ATO) appearance with a strongly worded message to companies operating in Australia:

[Y]ou must pay your fair share of tax on the profits you earn here. There is no getting around. There are no exceptions to be made. There is no weakness in our resolve to administer the tax system. (p. 46)

1.34 The Commissioner's message was in response to commentary that Australia's tax system was under fire from the actions of multinationals and large companies seeking to abuse it, to sidestep it, or to delay the ATO and to avoid paying tax in Australia. (p. 46)

1.35 The Commissioner noted while a majority of large corporates, especially Australian owned companies, do the right thing by paying the right amount of tax in Australia, there remains a minority of large corporates that do not and will try to avoid their obligations. (p. 46)

1.36 Mr Jordan furnished the committee with an update on progress made by the ATO in addressing tax avoidance domestically and globally:

Last financial year we completed around 50 audits and 250 reviews of large corporate groups raising \$2.5 billion in liabilities, and we collected \$1.6

billion in cash over that year. Currently we have over 70 audits and 220 reviews of large businesses in play. We have 162 active advanced pricing arrangements, APAs, in place, with an additional 115 [in] progress and another 42 in early engagement stage. These APAs give certainty that revenue is being accounted for and that we have predictability about pricing structures. ...

In December we issued risk assessment ratings to six large public groups, informing them that they were in our highest risk quadrant, Q1, reflecting our view of their tax behaviour. We remain actively focused on multinational enterprises. We have already written to 26 taxpayers who we have had under audit to tell them that they need to get their house in order. Last week, we approved letters to be issued to another 60 companies to say the same thing. There will be more put on notice in the coming months as we work our way through the pool of taxpayers who have an 'operate here and bill overseas' business model. Where these companies do not voluntarily comply with the new law, we will be commencing immediate reviews and audits. (p. 46)

1.37 Mr Jordan noted that while the ATO valued its positive engagements with large taxpayers through open and frank dialogue, he emphasised that this did not mean that the ATO would take a step back in commencing immediate reviews or audits if companies did not voluntarily comply with the new multinational anti-avoidance law (MAAL). He reiterated that these are non-negotiable. (pp. 46 and 51)

1.38 The Commissioner added:

[W]e will [not] be afraid to take these discussions further, to investigate the evidence presented to us or to take firm action. Some of these cases have been going on for 12 months or more now. People have come to the table, they have said all the right things and they have made promises, but, when push comes to shove, they do not deliver. We continue to negotiate back and forth with requests for information and more detail bit by bit. The excuses we sometimes hear from these companies are, frankly, over the top. How is it possible that companies known for their new-age technology and innovative products and services fail to be able to furnish us with basic reports showing their business structures, their profits, and how much tax they have paid and where? Their clear tactic is to delay and obstruct. They game the system. They even have the gall to complain that we are uncooperative and unreasonable, simply because we do not agree with them or their advisers on what are, at times, quite outlandish claims.

These companies have pushed the envelope on reasonableness. They play games. They string us along. They believe we can be stooged. However, enough is enough and no more of this. We will be reasonable with those that genuinely cooperate, but we will now take a much harder stance on those who do not. We will not be rolling over and giving further extensions of time. We are ruling the line under these protracted negotiations, proceeding immediately to raise assessments and creating liabilities in these cases, potentially taking them all the way to the court if necessary. We will continue to challenge the sharp tax practices in the courts. We have received positive court decisions in respect of Chevron and Orica. So the

worm is turning. These decisions demonstrate without doubt that if these companies engage in tax avoidance behaviour, they can expect more than just a 'please explain' letter. Cases featuring the same types of rolled up loans and intracompany financing arrangements will now be aggressively pursued. I do expect significant assessments to tax as a result. The Orica case was worth about \$40 million in tax to be paid and penalties plus interest, and there will be more cases to come forward on this topic this year. (pp. 46–47)

1.39 According to Mr Jordan, the ATO will not settle a dispute at any price, and has engaged a former Federal Court judge as an independent assurer to assist and to design and test the ATO's settlements through an independent assurance process. Mr Jordan added:

This independent examination of our settlements, including those with large business, ensures that the best outcome is likely to be achieved and that we are settling the right cases in the right way. (p. 47)

1.40 To ensure the ATO has the community's confidence in Australia's tax system, Mr Jordan reassured the committee that the ATO is 'resolutely' tackling tax avoidance. He outlined the ATO's work program and the level of resourcing set aside to the area:

Our work program this year will continue to focus upon implementation of the MAL and BEPS action plans, e-commerce, thin capitalisation manipulation, related party finance and offshore hubs. Where we see behaviours that do not meet the intentions of the law, we will be front and centre...

We now have over 150 people working in our Internationals team. This includes more than 20 new recruits who have specialist experience working in economics, transfer pricing and international risk. These complement the more than 1,000 people in our Public Groups area. I am absolutely confident of our skills, our resources and our resolve to pursue these important matters. (p. 47)

1.41 The ATO was examined on a range of other matters including:

- ATO working with the OECD in order to shape some of the outcomes in the areas of profit-shifting and multinational anti-avoidance law (pp. 48–49);
- international multilateral agreements which allow tax information to be exchanged among tax authorities in over 30 countries (p. 61);
- ATO office in Gosford and the process the ATO undertook to determine Gosford was a suitable site for the transfer of 600 ATO staff and the cost of the ATO's lease in the Gosford site (pp. 62–64);
- update on the ATO's redundancy program (p. 70);
- small business instant asset write-off (pp. 72–74);
- update on the reported 195 investigations relating to possible breaches of foreign investment rules for residential real estate (p. 74);
- update on Project Wickenby and its replacement—Serious Financial Crime Taskforce—which is jointly chaired by the AFP and the ATO (p. 76);

- tests used to assess whether an individual is an Australian taxpayer (pp. 76–77); and
- tax transparency (pp. 77–78).

Treasury [Fiscal Group]

1.42 The main topics covered during the examination of the Fiscal Group included:

- changes to the government's fiscal strategy between the 2015–16 Budget and 2015–16 MYEFO—objective of returning to surplus of one per cent of GDP by 2023–24 updated to read 'as soon as possible' and a focus towards net debt as the key balance sheet measure (p. 89);
- the Charter of Budget Honesty Act and the process for changing the fiscal strategy (p. 90);
- changes to school funding (p.91); and
- the proposed industry code on superfund board governance—mandatory for members but not enforceable by APRA (pp. 91–92).

Treasury [Markets Group]

1.43 During Treasury's Markets Group appearance, the following issues were canvassed:

- Harper Review and Treasury's consultations in relation to the proposed change to section 46 of the Competition and Consumer Act (p. 98);
- two round tables held in Melbourne and Tamworth in January chaired by the Minister for Small Business and Assistant Treasurer in relation to the misuse of market power provision—with a combination of representative groups and individual corporations and individual lawyers in attendance by invitation, including representation from small business interests (pp. 98–9);
- update on the work Treasury has undertaken in relation to 44 of the 56 recommendations that the government supported in the Harper Review (pp. 99–100);
- process undertaken to appoint the Small Business and Family Enterprise Ombudsman, the number of applicants and the makeup of the interview panel (pp. 101–102);
- the work and staffing of the National Contact Point for the OECD Guidelines for Multinational Enterprises administered from within the Foreign Investment and Trade Policy Division (pp. 102–103);
- an update on how the Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015 and related bills are working and if there were substantial changes as a result of these changes (pp. 104–105);
- the transfer of the real estate function to the ATO from Treasury and whether it had been a smooth transition (p. 105);

- division of responsibilities between the ATO and Foreign Investment Review Board (FIRB)—with ATO looking after residential real estate and the FIRB continuing to have oversight of the remaining responsibilities, including investment in business and the commercial real estate sector and a policy role in relation to residential real estate (p. 105); and
- the FIRB's increased staffing from mid-30s to over 50 people and funding of about \$19.7 million over a four year period (p. 106).

Australian Competition and Consumer Commission (ACCC)

1.44 During the ACCC's appearance, the committee examined the following matters:

- petrol pricing from retailers (p. 109–110, 114–115);
- whether the ACCC has undertaken any consumer surveys to canvass people's understanding of the term 'free range' (p. 110);
- legislation extending the existing consumer unfair contract terms to small business and the transition period before the law comes into effect (p. 111);
- Treasury to provide guidance on issues that it believes large businesses should direct their attention to and address during the transitional period, with focus on particular sectors—advertising services, telecommunication services, franchising, commercial leases and independent contracting (p. 111);
- unfair contract laws and its effect on how large businesses contract with smaller businesses (pp. 111–112); and
- Sugar Industry (Real Choice in Marketing) Amendment Bill 2015 in Queensland—the Queensland government used a provision of the ACCC's Act to exempt its law from the ACCC's jurisdiction and, under the Competition Principles Agreement, they notified the ACCC. The committee was informed that it then becomes a policy issue for the Treasurer as to whether the government wants to overturn the legislation through Parliament (pp. 111–113).

Australian Prudential Regulation Authority (APRA)

1.45 The committee questioned officers from the Australian Prudential Authority (APRA) on the following topics:

- APRA's briefings to crossbench senators on the Superannuation Legislation Amendment (Trustee Governance) Bill 2015 and how they were initiated and by whom (pp. 124–125);
- The issuance of a banking licence and the criteria required to be met by an authorised deposit institution to use the word 'bank' (pp. 125–126);
- allegations of rate rigging (pp. 126–127);
- APRA's review into the governance, oversight and monitoring of all types of superannuation funds across the board following from the work of the Royal Commission into Trade Union Governance and Corruption (pp. 127–128).

Australian Securities and Investments Commission (ASIC)

1.46 During the Australian Securities and Investments Commission's (ASIC) appearance, ASIC was examined on the work it has undertaken in the life insurance industry. The committee referred to ASIC's 2014 report into the life insurance industry where 37 per cent of advice was reported to be in breach of the law.

1.47 Deputy Commissioner, Mr Kell, informed the committee that a lot of work was undertaken to address the problem, some of which will be introduced over the next few years. These reforms included:

- a reform program announced by the industry, with significant input from ASIC, primarily aimed at reducing the very high up-front commissions (i.e. conflicts of interest between the adviser and the consumer) which ASIC found correlated with poor-quality advice (p. 5);
- removal of volume-related conflicted remuneration from the industry (p. 5); and
- a requirement for insurers to be able to offer policies on a no-commission basis (p. 5).

1.48 Mr Kell noted that some of these reforms will require legislative changes to enable ASIC to impose an industry-wide limit on up-front commissions. He added that a review in 2018 will provide ASIC with feedback on whether the reforms have been sufficient (p. 5).

1.49 In relation to the collapse of Queensland Nickel, ASIC Commissioner, Mr Price, outlined the range of inquiries currently underway in relation to its collapse, political donations, unpaid employee entitlements, directorships and the like. He added:

In particular, we are working closely with the administrators of Queensland Nickel regarding the reasons for the collapse, whether there are any potential conflict issues with regard to senior officers of the company, and issues around corporate donations. We have liaised with relevant regulators responsible for unpaid employee entitlements. We are looking at allegations around shadow directorships. We are looking at some issues around security interests that were taken close to the time of insolvency. We are also looking at various issues around financial reporting.

The statutory obligation to investigate these issues rests initially with the administrators; and, if they identify offences, they must report those to ASIC as soon as practicable; but we are making some independent inquiries into various of those matters, I suppose just so that we are able to act quickly, depending on the final outcome of whatever the administrators report. (p. 16)

1.50 The committee also requested an update on the status of the robo-advice taskforce within an innovation hub ASIC is setting up to provide financial advice by digital means. Mr Price advised:

There are a number of different business models that are relevant to this provision of digital advice. Some advice is nearly around asset allocation and what appropriate holdings in, for example, diversified funds like ETFs

might be, given a particular customer's risk profile, and some them are more sophisticated, with an end goal, for example, of providing quite holistic and sophisticated financial advice.

...

The business models vary depending on what the particular aims are, but typically they involve the entry of information through a website and then the making of various statements of opinion, recommendations or advice as a result of that information. That may be advice that is general in nature—so it does not take into account the particular client's own personal circumstances—or it may be very tailored to the information that has been entered into the website. The law as drafted at the moment is reasonably flexible in terms of recognising these sorts of business models, but there is some uncertainty in the market about how very important legal obligations might apply. For example, the future of financial advice reforms introduced an obligation for personal advice to make sure that the advice was in the best interests of the client. So how does that translate into a digital environment? These are some of the issues.

...

We are proposing to release a consultation document with draft guidance to the market in the not-too-distant future to try to deal with some of these issues. (pp. 14–15)

1.51 The other topics covered during the committee's examination of ASIC included:

- the financial advice industry's work on a voluntary code of conduct and whether there should be a mandatory code (pp. 6–7);
- role of the Financial Ombudsman Service in dealing with individual complaints and ASIC in monitoring whether complaints have increased and general trends, as well as talking to the insurance industry (p. 7);
- ASIC's role in providing guidance to the 237 employees who have lost their jobs at Queensland Nickel as well as to the Australian Workers' Union representing many of these employees who may be affected by unpaid entitlements (p. 17);
- less proactive surveillance has been impacted by the 20 per cent reduction in staff over the last 4 years—resulting in less enforcement actions taken by ASIC (p. 28);
- ASIC funding to improve financial literacy and financial advice (p. 29);
- update on the implementation and application of the new unfair contract legislation passed in 2015 to extend consumer protections against unfair contracts to small businesses (pp. 32–33); and
- update of ASIC's capability review (p. 33).

Productivity Commission (PC)

1.52 During the session with the Productivity Commission (PC), some of the following topics were examined:

- update on several inquiries referred to the PC following the government's response to the Financial System Inquiry and when the terms of reference will be issued (p. 38);
- the PC's previous inquiry into default superannuation funds in modern awards in October in 2012 and the PC's active inquiries covering the superannuation sector (p. 39); and
- the PC's inquiry into the workplace relations system, and the PC's recommendation to reduce the level of Sunday penalty rates in certain industries and its effect if the recommendation was implemented (p. 39).

Matters raised—Industry, Innovation and Science portfolio

1.53 On 10 and 11 February 2016, the committee examined the estimates for the:

- Office of the Chief Scientist;
- Australian Nuclear Science and Technology Organisation (ANSTO);
- Commonwealth Scientific and Industrial Research Organisation (CSIRO);
- Department of Industry, Innovation and Science [Cross-portfolio/ Corporate/ Programme 3: Programme support];
- Department of Industry, Innovation and Science [Programme 1: Supporting Science and Commercialisation]; and
- Department of Industry, Innovation and Science [Programme 2: Growing Business Investment and Improving Business Capability] with the Anti-Dumping Commission.

Office of the Chief Scientist

1.54 This was Dr Alan Finkel's first appearance at estimates as Chief Scientist. He opened the session by providing background with regard to his experience as an engineer, neuroscientist, entrepreneur, philanthropist and academic, prior to his current appointment (p. 2).

1.55 Dr Finkel furnished the committee with a general overview of his perceived key responsibilities:

I like to think of my responsibility as the Chief Scientist as being to look at knowledge. If you take the Latin route of 'science', it is 'scientia', broad knowledge. So, I am not just looking at the natural sciences; I am looking at our research capability, and I think of that as the latitudinal aspect of it. But given the interests of the nation in reaping maximum benefit from the excellent-quality science and an ongoing investment in excellent-quality science, I have a strong interest in looking at the translation capabilities of our nation of that scientific effort. And when I say 'translation' I mean translation not just for the commercial benefit but translation for societal and economic benefit. That, in the broadest spectrum is how I would see my responsibilities. (p. 4)

1.56 Other matters covered during the examination of the Office of the Chief Scientist included:

- the direction of the Commonwealth Science Council (p.5);
- the review of the R&D tax incentive, its objective and the establishment of a taskforce (pp. 5–6);
- the climate science research community in Australia and the CSIRO's change of strategic direction affecting climate science research (pp. 3 and 7–8);
- the importance of maintaining long-term data collections and climate modelling capabilities in the context of the CSIRO possibly shedding 110 of its 130 climate scientists (pp. 3, 8–9); and
- the CSIRO's contribution in the broader research community in climate science and their capacity to conduct climate science research (pp. 9–10).

Australian Nuclear Science and Technology Organisation (ANSTO)

1.57 During the session with the Australian Nuclear Science and Technology Organisation (ANSTO), the committee examined the following topics:

- safety of nuclear waste repositories (p. 45–46);
- \$520 million provided to ensure the long-term future of the Australian Synchrotron as part of the National Innovation and Science Agenda (p. 44) and ANSTO's funding for synchrotron to 2025-26 (p. 52);
- one in two Australians who benefit from nuclear medicine in their lifetime (p. 45);
- highlights of the research work undertaken at the Bragg Institute, a facility attached to the OPAL reactor, and one of the top four or five neutron scattering facilities in the world today (pp. 46–47);
- reprocessing waste and spent fuel and agreements between Australia and other partner countries, including the recent return of intermediate level or reprocessing waste repatriated from France and licence agreements with the UK government (p. 44–45, 49–50);
- ANSTO'S plan to upgrade its medical isotope production—currently in the construction phase for the nuclear medicine facility, which will expand ANSTO's production to about 20 per cent of world supply (p. 51); and
- Australia's rating as number one in the world for nuclear security in the last three surveys by the National Threat Initiative (p. 53).

Commonwealth Scientific and Industrial Research Organisation (CSIRO)

1.58 The Chief Executive, Dr Larry Marshall, commenced the committee's examination of the Commonwealth Science and Industrial Research Organisation (CSIRO) with an overview of the *CSIRO Strategy 2020: Australia's Innovation Catalyst*, which is in line with the organisation's strategic shift announced last year. Dr Marshall stated:

[W]e recognise that the Australian economy is in transition. We must respond. What carried us in the past cannot carry us into the future. The future will be defined by science-led innovation, which will reinvent

existing industries and create new ones to maintain Australia's prosperity. CSIRO does research for a purpose. We are a big, mission-directed organisation created to deliver science and solutions to solve the biggest challenges facing Australia. On Thursday last week, I announced the outcomes of the latest review of our science investments in order to respond to our new innovation catalyst strategy. But it is more than just CSIRO's own strategy. It is responding to the nine national science and research priorities, which include a priority to build Australia's capacity to respond to environmental change and emigrate research outcomes from biological, physical, social and economic systems. (p. 54)

1.59 Dr Marshall also acknowledged that this strategic change will affect staff as management work through the details:

This change is a refresh and a redirection of capability and of CSIRO, not cuts to staffing levels. After this process over two financial years, the number of team members should be the same or slightly higher. The worst case is that up to 350 team members could be affected, and, if they cannot be redeployed or reskilled, they will leave. We are trying to be a more open organisation; that is why we crowdsourced our strategy. We communicated to our team as soon as we confirmed people's jobs could be affected. Because this affects people's lives, I respectfully ask you to be patient with us while we work through the detail to be fair to those affected. I must stress that this announcement marked the start of this journey. Moving from setting the high-level strategic science priorities as a first phase, to working out the detail of how to execute this with our staff and stakeholders in its second phase, and then executing the changes. We are currently in the second phase of this process, consulting with our staff and our stakeholders in order to resolve the details, a process which we are committed to undertaking. Until this is complete and the precise information is known, speculating on potential outcomes is not fair to our staff. (p. 54)

1.60 Other topics canvassed by the committee during the Commonwealth CSIRO's appearance included: (p. 54)

- reaction of the international science community to CSIRO's shift away from climate science research, in particular in the areas of measurement and modelling (pp. 55–56);
- number of staff reductions in CSIRO and the areas from where these reductions will come from, including from the oceans and atmosphere team (p. 55);
- CSIRO's shift in research priorities from measuring and modelling climate change towards adaptation and mitigation of climate change and the effect of this shift on its capabilities (pp. 55–56);
- CSIRO's funding and research into sharks (pp. 64–65); and
- whether CSIRO's staff cuts will affect the work associated with Cape Grim and RV Investigator (pp. 56–57 and 70).

Department of Industry, Innovation and Science [Cross-portfolio/ corporate/ Programme 3], [Programme 1: Supporting Science and Commercialisation], and [Programme 2: Growing Business Investment and Improving Business Capability]

1.61 During the Department of Industry, Innovation and Science's appearance, the following topics were examined:

- proposal from Punch International to take over General Motors Holden's plant in Elizabeth and to continue manufacturing the Commodore platform in Australia (pp.84–85)
- the Minister's letter of support for the Punch corporation's investment in car manufacturing in Australia (pp. 84–87);
- the Automotive Transformation Scheme (ATS) to continue as legislated until 2021 (p. 87);
- \$8.1 million funding over four years in MYEFO for the new Office of Innovation and Science Australia—to be established formally from 1 July but with interim arrangements to transfer the Innovation Australia board towards that date (p. 90–92);
- the composition of the board and one of a number of options available to the government to have the Office of Innovation and Science Australia underpinned by legislation (p. 90–94);
- review of the R&D tax incentive under the auspices of Innovation and Science Australia (pp. 93–94);
- the department's review of the R&D tax incentive to feed into the tax white paper and government policy to reduce the R&D tax incentive by 1.5 percentage points (pp. 94 and 102);
- Northern Australia white paper and the establishment of the Office of Northern Australia and its work (pp. 100–102);
- Northern Australia infrastructure fund exposure draft (p. 103);
- gaps in the infrastructure financing market in Northern Australia, refinancing risks and perceptions of unattractive investment returns (pp. 103–104);
- duties imposed on imported tomatoes—in 2014, 103 of about 105 Italian canneries were captured with duties for cooperative and non-cooperative exporters ranging between three per cent and 26 per cent, depending on their willingness to cooperate (p. 121);
- the anti-dumping regime strengthened with effective anti-circumvention powers within the Customs Act, which includes the ability to award punitive or exemplary damages to discourage such predatory behaviours (pp. 121–122);
- whether the Anti-Dumping Commission (ADC) has had an opportunity to look at the issue of exploited labour and the ADC's ability to verify evidence on site (p. 124);

- whether the ADC participated in any of the dialogues on trade remedies between Australia and China when both countries negotiated a free trade agreement (p. 125);
- section 15B of the Customs Act and the remedy it provides to Australian manufacturers who have been found to have been materially injured through dumping or subsidisation practices from foreign exports (p. 126); and
- steel and aluminium—the two areas that constitute over 80 per cent of the ADC's workload—placing additional pressure on the Australian steel-making sector (p. 126).

Senator Sean Edwards

Chair

