

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

29 May – 31 May 2012

Question: BET 75

Topic: Trio – Communications Between APRA & ASIC

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Senator CORMANN asked:

Senator CORMANN: When did APRA first communicate to ASIC that there may be problems with Trio Capital?

Mr Jones: We did not communicate to ASIC that there may be problems with Trio Capital.

Senator CORMANN: At all?

Mr Jones: No.

Senator CORMANN: When did APRA first become aware that there were problems with Trio Capital?

Mr Jones: Again, I think the issue is depending on the term 'problems'. APRA started investigating Trio Capital in the first prudential reviews around 2004.

Senator CORMANN: In 2004?

Mr Jones: Correct. APRA did a series of reviews based upon the governance of the fund and conflicts of interest. When the fund was established, the promoters of the fund were trustees of the fund. APRA in fact instituted policies to remove the promoters of the fund from trusteeship and bring in independent directors. APRA then had various communications with the trustees at a series of different stages between 2004 and 2008 over the nature of investments and the nature of various types of arrangements that had been put into place. What was happening across that time is that the trustees were responding to APRA's concerns and making changes to their methods of governance, making changes to the nature of their conflicts of interest policy and so on.

Senator CORMANN: Sure. So you had some earlier concerns in 2004. There was toing and froing between the regulator and Trio, and they made adjustments. But when did those concerns become more acute in the context of Trio's viability being in question in terms of there being a risk of a potential collapse down the track?

Mr Jones: It probably was not until 2009.

Senator CORMANN: When?

Mr Jones: Probably in mid-2009.

Senator CORMANN: Have you got a more specific date? What was the trigger point when you thought there was something more serious going on beyond the concerns back in 2004?

Mr Jones: But our concerns were not related to fraud.

Senator CORMANN: Sure. When did your concerns in relation to fraud first become apparent?

Mr Jones: We were unaware of the fraud.

Senator CORMANN: When did you first become aware of concerns in relation to Trio relevant to the events that led to the collapse?

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Mr Jones: I think we were always concerned. It was simply that we were looking at the nature of the governance. In particular, what we were also looking at was the inability of the trustee to supply valuations on certain types of products.

Senator CORMANN: You were always concerned. But beyond the communications of 2004 along the lines of 'Change this, fix that and if you do that, it is okay', what else did you do in the period 2008-09 when clearly problems began to accelerate?

Mr Jones: Once again, in 2008, it was not clear that problems were accelerating. In 2008, the trustees of the fund were still saying to APRA, 'We will be able to provide you with valuations of offshore hedge funds.' In fact, they were doing so. There were five specific elements that we were concerned about. Bit by bit the trustees were supplying us with the relevant information. It was always a very slow process, but it was never the case where the trustees said, 'We do not have these valuations.'

Senator CORMANN: So at no point did APRA communicate with ASIC in relation to any problems with Trio Capital? I am just confirming what you have said.

Mr Jones: That is probably correct.

Senator CORMANN: Before you said that you did not. You say 'probably', which is a qualifier. What do you mean by 'probably correct'? Have you or have you not communicated with ASIC?

Mr Jones: I will have to check whether we communicated with ASIC. We communicate with ASIC on a very regular basis. We certainly did not give ASIC specific details of any issues that we had with Trio Capital.

Answer:

The Australian Prudential Regulation Authority (APRA) can confirm that it did not communicate to the Australian Securities and Investments Commission (ASIC) in relation to any problems with Trio, as at the time APRA's concerns related to governance matters and not fraud or member disclosure.