

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2014 - 2015

Department/Agency: Australian Securities and Investment Commission

Question: BET 265 - 272

Topic: Macquarie

Reference: written - 15 June 2015

Senator: Dastyari, Sam

Question:

The following questions relate to answers to Questions on Notice AET 165-175 (February 2014) on Macquarie Bank.

In response to question 166, ASIC advised that during their surveillance of Macquarie Private Wealth (MPW) that led to the Enforceable Undertaking in 2012, they spoke to 15 managers, but between April 2013 and February 2015 only four advisers and assistants were interviewed.

- 265. How did ASIC select the four staff?
- 266. Were they a representative sample, or did they have a specific knowledge or expertise?
- 267. With approximately 300+ advisors and (100+ assistants supporting them), does ASIC consider viewing roughly 1% of staff provides an accurate reflection of the organisation?

In response to question 177, ASIC advised Macquarie Bank received 831 complaints and 1627 review requests. But only 19 cases were eligible for compensation. Commonwealth Bank introduced a system of independent oversight to their Open Advice Review Program, and NAB recently announced the appointment of an independent hardship advocate, Professor Dimity Kingsford Smith –

- 268. When reviews are done internally, is it time to ensure that there is minimum standard of independent oversight?
- 269. Is this something that ASIC has considered introducing guidelines on?
- 270. Why was Macquarie Banks Enforceable Undertaking extended?
- 271. Does ASIC have any outstanding concerns about Macquarie Banks financial advice practice - Macquarie Private Wealth?
- 272. How is ASIC monitoring Macquarie Banks financial advice practice?

Answer:

265. The four advisers and assistants were interviewed because ASIC believed they had information relevant to specific investigations ASIC was undertaking.

266. See 265 above.

267. See 265 above.

268. The remediation program being undertaken by Macquarie Equities Limited (MEL) is subject to oversight by Deloitte as well as regular monitoring by ASIC.

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269. ASIC has announced that it will develop a regulatory guide on review and remediation programs conducted by Australian financial services licensees (see media release 15-101MR). The media release notes that in "most cases there should be independent oversight of the process to ensure that it and its outcomes are comprehensive, timely, fair, and transparent".

270. The MEL EU was not extended. ASIC's media release on 13 February 2015 (15-022MR) confirmed the finalisation of the two year EU. Notwithstanding the finalisation of the EU, ASIC and MEL have agreed to a program of further work by MEL for an additional 12 months, and MEL has agreed to appoint KPMG to conduct additional testing during that time period. As noted in ASIC's media release, despite the substantial improvements in MEL's operations, further work and/or testing was required for two reasons:

- A limited number of compliance reforms had not been subject to operational effectiveness testing by KPMG, and
- KPMG's most recent review of a sample of client advice files showed some issues in the quality of records of advice (though no evidence of inappropriate advice was detected).

Further details about the reasons for the additional program of work are outlined in the media release.

271. See 270 above

272. See 268 and 270 above. In addition to the program of work referred to above, and the on-going remediation process referred to above, ASIC continues to make enquiries into specific advisers and former advisers of MEL. ASIC recently banned a former MEL adviser, Brett O'Malley, for 5 years (further details are in the media release 15-121MR dated 25 May 2015). Furthermore, ASIC has established a specialist Wealth Management Project to focus on the large advice entities, including Macquarie. For further details on the Wealth Management Project, see our media release dated 16 April 2015 (15-081MR).