

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2014 - 2015

Department/Agency: Australian Securities and Investment Commission

Question: BET 314 - 323

Topic: ASIC Funding

Reference: written - 15 June 2015

Senator: Dastyari, Sam

Question:

In the 2014 May Budget, the government found 'savings' of \$120m from ASIC's operating revenue over the Forward Estimates; and on 26 March 2015, COO Carlos Iglesias confirmed ASIC is scaling back surveillance activity.

- 314. Will the government restore ASICs funding?
- 315. Is ASIC scaling back surveillance activity? Why?
- 316. What are the risks of scaling back surveillance activity? What is the worst that could happen?
- 317. How does ASIC evaluate risk when making decisions about surveillance activity?

At an ASIC panel in Sydney on 23 March, ANZ CEO Mike Smith (reportedly) said it was "sort of ludicrous" for regulators to have to make a yearly case for funding and that they needed to have the resources to compete with the private sector for the right staff. "It's in our interest for regulators to have the quality that they need."

- 318. Does ASIC agree? Is it in our interest for regulators to have the quality that they need?
- 319. Does the Minister agree with Mr Smith's assessment? (as reported)
- 320. Does ASIC have the quality staff that they need?
- 321. Can ASIC compete with the private sector for staff?
- 322. How does ASIC compete with the private sector for staff?
- 323. Given the sustained public and parliamentary pressure on ASIC, what is staff morale like?

Answer:

Background:

Background Information (BET 314-317):

A 'surveillance' refers to activities where ASIC gathers and analyses information to test compliance of either a targeted sample of the regulated population, or a specific entity, transaction or product, with regulatory requirements or best practice standards.

A 'surveillance' is a discrete and non-continuous activity and is not, nor can be a substitute for 'supervision', which is a continuous process of monitoring and interaction.

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A 'surveillance' is either:

- 'reactive': prompted by a complaint, breach report, or 'tip-off' about the subject of the surveillance; or
- 'proactive': prompted by stakeholder teams' processes (for example, a broad risk assessment of the regulated population, or periodic inspection program) rather than by a specific complaint or breach report, or 'tip-off' about the subject of the surveillance.

314. This is a matter for Government.

315. ASIC will provide surveillance in line with its budget capabilities. With the upcoming reduction in budget ASIC will have to reduce proactive market surveillance and will instead utilise more targeted surveillance.

316. Although ASIC can operate at a range of resource levels, resourcing nonetheless influences the number and type of surveillances that we undertake and the outcomes that we seek to achieve via those surveillances. We continue to adjust our resource allocation to reflect the available funding, and our statutory role.

For example, our proactive risk-based surveillance is currently focused on:

- areas of *greatest risk* to investors and financial consumers, markets and market participants; and
- those entities and activities that have the *greatest market impact*.

317. To ensure ASIC's resources are directed towards the entities, products and transactions within its regulated population that pose the greatest threats to ASIC's strategic priorities, a surveillance project is, or specific targets are, selected on the basis of an assessment of likelihood and consequence of non-compliance or misconduct.

ASIC evaluates risk in relation to surveillance using a three stage process:

- *Risk identification* – using a set of risk indicators and data collected from and on the regulated population to confirm if any of the possible risks identified from environmental scanning exist or are emerging. Including pointing to where risks are emerging (i.e. in which entities, products and services) and how severe or serious they might be.
- *Risk analysis* – assessing the likelihood of those risks crystallising, and the potential consequences for the financial markets, investors and ASIC's strategic priorities of the risks crystallising.

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- *Risk evaluation* – prioritising and ranking the risks according to the likelihood and severity assessment.

318. It is in the interest of ASIC to be able to engage appropriately qualified staff.

319. From ASIC's perspective, the Financial Services Inquiry recommended in Recommendation 28 that ASIC should be given greater year-to-year certainty in its funding profiles, including its remuneration policies. The Financial Services Inquiry noted that ASIC should be removed from coverage by the *Public Service Act 1999* in order to create an environment to deliver its regulatory mandate without government restraints on employment and staffing arrangements.

320. Generally yes, however ASIC experiences some difficulty in recruiting appropriately skilled staff at the EL2 level. ASIC does lose staff to the private sector.

321. ASIC can compete with the private sector for staff. ASIC has found that flexible working arrangements such as time-sharing work have been attractive for staff members. Please also see below answer to BET 322.

322. ASIC has a well-developed Employee Value Proposition (EVP).

Staff who work at ASIC report high levels of desire to work in the public interest, find the regulatory work of ASIC interesting, and are attracted by the work life balance arrangements provided by ASIC.

ASIC's EVP offers an alternative to a career in the private sector. However, limitations of budget and public sector employment rules make it difficult to compete with private sector remuneration & benefits packages.

323. The 2014 ASIC staff survey results showed very positive engagement scores. The employee engagement index measures motivation and willingness to expend discretionary effort. Employee engagement continued to strengthen from earlier surveys. Overall employee engagement was 75 index points in 2014, up from 72 index points in 2012. Overall satisfaction with ASIC as an employer (76%) and with current job (73%) remained in line with results from 2012, and well above results recorded in 2011 and 2010.

In 2015, the ASIC Staff Survey continued to record solid levels of employee engagement, and overall assessments regarding different tiers of leadership are generally the highest in comparison to previous years and other agency benchmarks.