

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2014 - 2015

Department/Agency: Australian Prudential Regulation Authority

Question: BET 90

Topic: APRA Act

Reference: Hansard page no. 60 - 03 June 2015

Senator: Xenophon, Nick

Question:

90. **Senator XENOPHON:** The APRA Act: 'Cooperation with other agencies'. It refers to the desirability of APRA cooperating with other financial sector supervising agencies. As a result of those damning findings by the US District Court in Brooklyn, upheld on appeal less than two months ago, can you tell us at what point did APRA investigate this matter, firstly? Secondly, did it liaise with AUSTRAC given that here we have a subsidiary of a parent company that has been found guilty under the US Antiterrorism Act of offences?

Mr Byres: The simple answer to your question is yes, we have looked at the issue, and yes, we have liaised. As to the specifics—

Senator XENOPHON: Liaised with whom?

Mr Byres: AUSTRAC.

Senator XENOPHON: When was that liaison. Could you take that on notice?

Mr Byres: As to the specific dates I would have to take that on notice and give you information.

Answer:

90. APRA's role in relation to AML/CTF is to be broadly aware of the legal requirements, and to advise the Australian Transaction Reports and Analysis Centre (**AUSTRAC**) should APRA believe a regulated entity is potentially in breach of the law. APRA's role is not, however, to police the anti-money laundering and counter-terrorism financing (**AML/CTF**) laws, or to provide feedback or recommendations to entities on how to comply with them. Arrangements are in place for information-sharing between APRA and AUSTRAC and information is shared where relevant.

APRA did not investigate the events that occurred with the New York branch of Arab Bank plc (**ABNY**) as it did not involve the Australian subsidiary. APRA, through its ongoing supervision of Arab Bank Australia, established that Arab Bank Australia Ltd (**ABA**) did not conduct the transfer business undertaken by the US branch and was therefore not at risk of being caught up in the transfer of funds. The Australian subsidiary only conducts limited retail and wholesale business within Australia.

APRA and AUSTRAC regularly cooperate and exchange information. Specifically, APRA has liaised with AUSTRAC and/or Arab Bank Australia Ltd (**ABA**) since July 2004 in respect of the matters.

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APRA's knowledge of the matter and relevant background can be summarised as follows:

- Between 2000 and 2004 the New York branch of Arab Bank plc (**ABNY**) conducted various transfer payments for a charity called the Saudi Committee.
- In 2003 AUSTRAC conducted an audit of ABA's compliance with anti-money laundering and counter-terrorism financing requirements. APRA understands that AUSTRAC did not identify any issues with ABA's compliance.
- In 2004 the United States Comptroller of the Currency (**Comptroller**) commenced an investigation into the actions of ABNY. The investigation was based on allegations that the Saudi Committee charity was used to support Hamas and/or the families of suicide bombers.
- In July 2004 a civil lawsuit was commenced against ABNY in the Federal District Court in Brooklyn, New York (**lawsuit**). The lawsuit was based on alleged breaches of the United States' *Anti-Terrorism Act*, in respect of the issues that were being investigated by the Comptroller.
- In July 2004 APRA and ABA discussed ABA's compliance with anti-money laundering and counter-terrorism financing requirements. APRA and ABA also discussed the lawsuit. ABA has kept APRA informed of the lawsuit since that time.
- In February 2005 APRA and ABA discussed the Comptroller's investigation.
- In August 2005 ABA informed APRA that ABNY had executed a 'Stipulation and Consent to the Issuance of a Consent Order' with the Comptroller in respect of the investigation.
- On 22 September 2014 a jury in the Federal District Court in Brooklyn found ABNY liable to the plaintiffs in respect of the lawsuit. The amount of damages involved is yet to be determined.
- On 23 September 2014 ABA informed APRA of the decision in the lawsuit. APRA was also independently aware of the decision.
- On 25 May 2015 AUSTRAC informed APRA that it (AUSTRAC) had conducted a compliance assessment of ABA in February 2014 and there were no adverse compliance issues of note reported in relation to anti-money laundering or counter-terrorism financing procedures.