

**Senate Standing Committee on Education and Employment**

**QUESTIONS ON NOTICE  
Supplementary Budget Estimates 2014-2015**

**Outcome 2 - Workplace Relations & Economic Strategy**

**Department of Employment Question No. EM1641\_15**

**Senator Lines provided in writing.**

**Fair Entitlements Guarantee - Insolvency practitioner reports**

**Question**

In relation to insolvency practitioner reports received by ASIC pursuant to Regulatory Guide 16 for the last 4 financial years, and the years during which the department of employment's "Active Creditor Program" was in place: (a) How many of the practitioner reports recommended that misconduct be investigated by ASIC? (b) Of those reports where the practitioner recommended the investigation of misconduct, how many related to companies which had employees who had sought payment from the General Employee Entitlements & Redundancy Scheme or the Fair Entitlements Guarantee in connection with that insolvency? (c) How much was paid from the General Employee Entitlements & Redundancy Scheme or the Fair Entitlements Guarantee to employees of each of the companies in (b) above (d) How many of those companies were then: (i) investigated by ASIC; and (ii) subject to enforcement action by ASIC (e) How much money was recovered back to the General Employee Entitlements & Redundancy Scheme or the Fair Entitlements Guarantee in matters in where enforcement action was pursued in relation to each such company?

**Answer**

- (a) Data about insolvency practitioner reports received by ASIC, including data about the number of reports of misconduct, is publicly available on the ASIC website (Report 412: Insolvency statistics: External administrators' reports). The last series of ASIC data shows that in 2013-14:
- external administrators alleged misconduct in 7,218 of 10,073 reports lodged.
  - the external administrator had documentary evidence to support the allegation in 4,446 reports
  - the external administrator recommended further inquiry by ASIC in 1,483 reports. ASIC requested supplementary reports from external administrators in a total of 802 matters including 345 where external administrators alleged misconduct and advised they held evidence and recommended further inquiry by ASIC.
- (b) The department does not collect this information.
- (c) The department does not collect this information.

- (d) The department does not collect this information. Potential breaches of the law are brought to ASIC's attention in a number of ways including reports of misconduct from members of the public, referrals from other regulators, statutory reports from auditors, insolvency practitioners and licensees and through ASIC monitoring and surveillance work. ASIC considers a range of factors when deciding whether to investigate and take enforcement action to respond to potential breaches of the law. Information Sheet 151 outlines ASIC's approach to enforcement and sets out the matters ASIC considers before taking further action. Full details of ASIC's regulatory and enforcement outcomes for the year ended 30 June 2014 are publicly available in the ASIC Annual Report.
- (e) The department does not collect information on funds recovered through ASIC enforcement action. The total funds recovered through General Employee Entitlements & Redundancy Scheme and the Fair Entitlements Guarantee Programme dividends until 30 June 2014 was \$198,658,738.