

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 29, 30 & 31 May 2007

Question: bet 57 (ASIC)

Topic: FMA Compliant – ASIC Preparation

Hansard Page: E88

Senator WONG asked:

In fact, the Governance Review Implementation (Treasury Portfolio Agencies) Bill, which is part of the government's response to the Uhrig review and implements the Uhrig recommendations in relation to ASIC, CAMAC and APRA, moves you from the CAC Act to the FMA Act. I just wanted to know—and you might want to take this on notice—

Mr D'Aloisio—No, I can actually—

Senator WONG—now that I have given you all the information. What have you done in preparation and what changes have been made?

Mr D'Aloisio—The process by which we are changing those from the existing legislation has been something through the audit committee that I have started to get familiar with. There has been a very significant process within ASIC over the last six months, culminating on 30 June, to bring all of our operations into line so that we are FMA compliant from 1 July. That extends right through to things like new chief executive instructions on procurement and on a number of issues that were slightly different from the previous legislation, and within which ASIC is being brought into line. From the last report I had on that, we intend to be compliant from 1 July, when it applies to us.

...

Senator WONG—Do you have any documentation you could provide to us, perhaps a report, that the commission has considered?

Mr D'Aloisio—In principle, I do not see why not.

Senator WONG—Obviously if there is something in it and there is a good reason why you do not want to identify people—

Mr D'Aloisio—If I take the question on notice, we could outline what we have done and, if it is relevant to give some documentation, if it helps, we would do that.

Senator WONG—That would be useful.

...

Senator WONG—I am interested in seeing, particularly with a statutory agency, exactly what is going to be required, in very practical terms, of the move. I have had some involvement with ASIC, and it would be a useful agency to observe. I am sorry I picked on you.

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Mr D'Aloisio—No, not at all. I should say that a lot of the process in moving from one piece of legislation to another does not have a lot of substantive impact in a sense that the processes that were being followed were in line in any event. It is only in a few areas where the changes have occurred and we can highlight those and provide a short report to you or to the committee.

Senator WONG—That would be useful. One of the provisions requires the establishment of a special account for the treatment of unclaimed moneys. Has that occurred yet or is that pending?

Mr D'Aloisio—Could we take that on notice as well?

Senator WONG—Sure.

Answer:

A project was established in November 2006 to transition ASIC to the FMA Act from 1 July 2007. As a consequence of the transition changes have occurred in the following areas:

- (i) Procurement processes;
- (ii) Financial delegations; and
- (iii) The issuing of instructions to staff by way of the Chief Executive's Instructions.

In respect of procurement processes, the Commission has moved away from the existing decentralised approach and implemented a "centre-led" procurement approach from 1 July 2007. This has involved the establishment of a team of procurement experts that will centrally manage all significant procurement activity within ASIC and work in partnership with the Directorates for lower value procurements.

From 1 July all procurements with a value greater than \$50,000 will be managed by the procurement centre and procurements valued at less than \$50,000 will continue to be managed by the Directorates with advice and guidance from the procurement centre. This approach will ensure greater compliance with the Commonwealth Procurement Guidelines, the FMA legislation and reporting obligations.

New financial delegations were delegated by the Chairman under the FMA Act legislation before 1 July and all financial delegations holders were individually notified of their delegated powers, their limits and their obligations under the FMA legislation. Previously financial delegations had been delegated under the ASIC Act.

Chief Executive Instructions (CEIs) were developed and made available to all staff on Monday 2 July. The CEIs provide instructions to ASIC staff to help them fulfill their obligations and responsibilities under the FMA legislation on a day-to-day basis. The CEIs give effect to the FMA legislation and provide guidance for decision makers.

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In order to implement the changes in these areas training was provided to staff with financial delegations and to those involved in procuring goods and services or committing ASIC to expenditure.

General awareness raising was conducted for all staff and Quick Reference Guides which refer to the Chief Executive Instructions, the FMA Act and what it means for staff, have been made widely available. A lot of additional information is available to staff on ASIC's intranet.

We can provide more detailed information on the changes arising from the transition to the FMA legislation information if required by the Committee.

From 1 July, in accordance with the transitional provisions of the Governance Review Implementation Bill, all pre-existing property held by ASIC is taken to be held for, and on behalf of, the Commonwealth.

Unclaimed Monies

A Companies Unclaimed Moneys Special Account is established by a new section 133 of the ASIC Act with effect from 1 July 2007.

This will replace the current unclaimed moneys account established by ASIC to hold unclaimed moneys on trust on behalf of beneficiaries. From 1 July money in any accounts held by ASIC automatically become the property of the Commonwealth. In order to preserve the current relationship between ASIC and the beneficiaries and ensure the money continues to be held by ASIC on trust it has been necessary to establish a special account under new section 133 of the ASIC Act.