

Answer to question in writing:

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE APRA ANNUAL REPORT 2019

APRA12QW

- a) What is the intended routine path for an internal enforcement decision recommendation to progress to an actual enforcement? In answering, please refer to the decision points and decision makers that sit along that path.
- b) For each of the months in the last three years, could you indicate the number of enforcement decisions recommended internally, and over the following months the progress or status of those recommendations.

Answer:

a)

APRA's enforcement powers are contained in the industry Acts for the industries APRA regulates. The powers that may be exercised are not harmonised amongst the industry Acts. The powers are delegated to individuals (delegates) holding various levels of seniority within APRA, depending on the power to be exercised. The delegate will be the decision-maker on whether or not an enforcement power should be exercised; a recommendation to exercise the power will be made to the delegate ahead of the execution of the power.

Prior to exercising a power, a delegate would be expected to consult with colleagues who have an interest in the making of the decision to exercise the power. There is an internal process to achieve consistency in decision-making and oversight of enforcement decisions. Where an enforcement power is sought to be exercised, the matter will come before APRA's Resolution and Enforcement Committee. APRA's Resolution and Enforcement Committee will be asked to endorse the strategy to exercise an enforcement power, ahead of a delegate exercising any of APRA's powers. The guiding principles and criteria for the exercise of enforcement powers are set out in the publication *APRA's Enforcement Approach*, which is found on the APRA website.

b)

| Month | Number of enforcement decisions recommended internally | Subsequent progress or status of recommendation |
|--------|--|---|
| Jan-17 | 0 | |
| Feb-17 | 0 | |
| Mar-17 | 0 | |
| Apr-17 | 1 | Apr-17 Court Enforceable Undertaking accepted by APRA |
| May-17 | 0 | |
| Jun-17 | 0 | |

| Month | Number of enforcement decisions recommended internally | Subsequent progress or status of recommendation |
|--------|--|---|
| Jul-17 | 0 | |
| Aug-17 | 0 | |
| Sep-17 | 0 | |
| Oct-17 | 0 | |
| Nov-17 | 0 | |
| Dec-17 | 1 | Dec-17 Notice to produce books issued |
| | 1 | Dec-17 Notice requiring information issued |
| Jan-18 | 0 | |
| Feb-18 | 2 | Feb-18 Directions issued on 2 entities |
| | 1 | <i>Subsequent action</i> Mar-18 Notice requiring information issued |
| Mar-18 | 0 | |
| Apr-18 | 1 | Apr-18 Appointment of a person to investigate an entity (<i>investigation ongoing</i>) |
| | 1 | Apr-18 Court Enforceable Undertaking accepted by APRA |
| May-18 | 0 | |
| Jun-18 | 0 | |
| Jul-18 | 0 | |
| Aug-18 | 0 | |
| Sep-18 | 0 | |
| Oct-18 | 0 | |
| Nov-18 | 1 | Nov-18 Show cause notice for a statutory investigation issued on entity |
| | 15 | <i>Subsequent action</i> Jan-19 15 x notices of investigations issued (<i>investigations ongoing</i>) |
| Dec-18 | 1 | Dec-18 Commencement of disqualification proceedings against five individuals |
| | 1 | Dec-18 Notice of Investigation to entity to commence statutory investigation (<i>investigation ongoing</i>) |
| | 1 | Dec-18 Appointment of Authorised Person as Investigator (<i>investigation ongoing</i>) |
| | 1 | Dec-18 Notice to produce records issued on entity |

| Month | Number of enforcement decisions recommended internally | Subsequent progress or status of recommendation |
|--------|--|--|
| | 2 | Dec-18 Licence conditions imposed on 2 entities |
| | 1 | Dec-18 Direction issued on entity |
| Jan-19 | 0 | |
| Feb-19 | 1 | Feb-19 Direction issued on entity |
| | 15 | Feb-19 15 x Notices requiring production of books issued |
| | | <i>Subsequent actions</i> |
| | 14 | Apr-19 14 x Notices requiring production of books issued |
| | 8 | Apr-19 8 x Notices requiring information issued |
| Mar-19 | 15 | Mar-19 15 x notices expanding scopes of investigations |
| Apr-19 | 1 | Apr-19 Notice requiring production of documents issued |
| May-19 | 2 | May-19 Directions issued on 2 entities |
| | 1 | May-19 Notice to produce records issued on entity |
| | | <i>Subsequent actions</i> |
| | 2 | Jun-19 Directions issued on 2 entities |
| | 2 | Jun-19 Licence conditions imposed on 2 entities |
| Jun-19 | 0 | |
| Jul-19 | 5 | Jul-19 5 x Notices Requiring Information issued |
| | 8 | Jul-19 8 x Notices Requiring Production of Books issued |
| | 8 | Jul-19 8 x Notices Requiring Reasonable Assistance issued |
| Aug-19 | 1 | Aug-19 Notice Requiring Information issued |
| | 1 | Aug-19 Notice Requiring Production of Books issued |
| | 3 | Aug-19 3 x Notices Requiring Reasonable Assistance issued |
| | 1 ¹ | Aug-19 715 x Infringement notices issued |
| Sep-19 | 1 | Sep-19 Notice to Produce Records issued |
| Oct-19 | 1 | Oct-19 Notice of Investigation issued (<i>investigation ongoing</i>) |
| | 1 | Oct-19 Notice requesting information issued |
| Nov-19 | 1 | Nov-19 Notice requiring information issued |

¹ In total 715 infringement notices were issued to Westpac in respect of FSCODA breaches in August 2019. It was necessary to issue this number of notices due to the way the statute is written.

| Month | Number of enforcement decisions recommended internally | Subsequent progress or status of recommendation |
|--------|--|---|
| | 1 | Nov-19 Notice requiring production of books issued |
| Dec-19 | 1 | Dec-19 Licence conditions imposed on entity |
| | 2 | Dec-19 2 x recommendations for enforcement decisions to go to delegate(s) |