

Inquiry	Parliamentary Joint Committee on Corporations and Financial Services, Oversight of the Australian Securities and Investments Commission, the Takeovers Panel and the Corporations Legislation No. 1 of the 46th Parliament
Agency	Australian Securities and Investments Commission
Question No.	014
Reference	Spoken, 18 June 2021, Hansard page reference 43 & 44
Committee member	Mr Georganas

Question

Mr GEORGANAS: ASIC has investigated proxy advisors twice, I think, and you've only found—from the report you did, you recommended to the government there was no case for regulatory change because you only had two cases. It was two or three from what I read.

Ms Armour: We did some work in 2017 and put out a public report on the results of that work. We haven't done any detailed work like that since that period of time. But, yes, we put out a public report in 2018

Mr GEORGANAS: And when was ASIC first consulted by Treasury about the consultation paper? There's an FOI which shows that Treasury first consulted ASIC by email on Friday the 30th, just as the Treasurer's press release went out.

Ms Armour: I'm sorry, Mr Georganas, I will have to take it—

CHAIR: Mr Georganas, if you want to take the witness to a document that you've FOIed, can you actually show the witness the document?

Mr GEORGANAS: It's an FOI thing. I don't currently have it with me, but we know that Treasury first consulted ASIC about the consultation paper. I want to know when it happened. In the FOI document, it shows that you were first consulted at 3.41 pm on Friday the 30th, at the same point in time that the press release was going out. What I'm trying to get at is: were you surprised that there was no consultation on this issue?

Ms Armour: Mr Georganas, I apologise; I had to take the same question on notice at Senate estimates a week or so ago. I don't have the details yet. There could have been discussions between us and Treasury at various times. I apologise, but I need to take that on notice again.

Mr GEORGANAS: So, did you advise Treasury or the government that the proposals contradict the longstanding ASIC policy in relation to investment research and releasing that information before it goes to a particular client?

Ms Armour: I'm not aware of the discussions that occurred. We'd have to look at what exchanges there were. I will have to come back to you on notice. I'm not sure—I think our work that you refer to is very public.

Mr GEORGANAS: In terms of public, there's a press release that's put out by the Treasurer that contradicts ASIC's position on this issue. What I'm trying to get at is this: did you advise Treasury of your long-held view in this area?

Ms Armour: I'd have to take it on notice and check to see what the discussions were. But, as I mentioned earlier, we did our work in 2017; we put out our report then. We haven't done any work like that again.

Answer

Refer also to SQ21-000284. ASIC was not consulted prior to release of the Treasury consultation paper. However, ASIC was notified by telephone the night before the Treasury consultation paper was released (on 29 April 2021) that it would be released the following day. After the release of the paper, ASIC had teleconferences with Treasury on 12 May 2021 and 28 May 2021 to discuss the proposals in the paper. During those meetings, Treasury's proposals in the consultation paper were discussed. ASIC noted its recommendation in REP 578 *ASIC review of proxy adviser engagement practices* that if a proxy adviser wished to provide a draft report to a company, it should do this in a controlled way, for example without communicating recommendations or opinions, to avoid any perception of conflict of interest and independence, which is also our position in relation to investment research reports in RG 79 at paragraph 141.