

Parliamentary Joint Committee on Corporations and Financial Services

ANSWERS TO QUESTIONS ON NOTICE

19 November 2019

Question No: 008
Topic: Money Laundering/ Financial Action Task Force
Reference: Hansard page 26

Question:

Senator WHISH-WILSON: I will follow that up later. I won't get into whether you can enforce the code of conduct, because I understand you can't, but I'm sure you will look into it, Mr Shipton, and we'll look forward to any feedback in future.

There was an article in the *Fin Review* today on the Huang files called, 'International body suspends anti-money laundering law evaluations'. I just wanted to ask you about the Financial Action Task Force, and you may have to take some of this on notice. That article today said that the Financial Action Task Force has been assessing Australia in relation to its anti-money-laundering activities over the last couple of years. I was just wondering whether they met with you when they were out here in Australia.

Mr Price: We might take that on notice if we could. AUSTRAC is the primary money laundering regulator.

Senator WHISH-WILSON: I am aware of that.

Mr Price: But it is a good question as to whether FATF have actually met with us as part of that process.

Senator WHISH-WILSON: The reason I ask whether they met you—I am well aware of AUSTRAC and the need to give them more powers in this regard—is you may remember the Financial Action Task Force in 2015 did make many comments about ASIC in its mutual evaluation report. It raised a number of shortcomings. That is why I was wondering if they had actually met with you and followed up on your response to their 2015 report?

Mr Price: Typically the issue here is, in many instances, money-laundering constitutes criminal conduct. In some instances, limited instances, there may also be a breach of director's duties and obligations. That tends to be civil litigation. The issue is that really, in terms of how litigation works, you can't have the two things operating at the same time typically, so what tends to happen is that the criminal action is brought first and then the civil action is brought later on, because if you bring the civil action it just gets stayed in the courts anyway. But if we could take all of that on notice, it would help.

Senator WHISH-WILSON: If you could. Specifically, one of the major issues they raise in the 2015 report, which they are following up, I understand, based on the article today, is that 80 per cent of your company registrations are made online and '... raise concerns as to the veracity and accuracy of the information recorded in ASIC registers and potential misuse of companies for ML/TF purposes.' Is there anything you could and what remedies have you taken to address that?

Mr Price: I think it is really important for members of the committee to understand that the company registration process is just that—a registration process. We do not test identity data about directors of companies. That is not provided for in the legislation we have at the moment. The government is looking at a program of work called registry modernisation. It may well be as part of that, and the introduction of what is known as director identification numbers will be an authentication process for director identity when that is introduced.

Senator WHISH-WILSON: Would that be an international standard? This is obviously an international body.

Mr Price: Well, I am not aware that it is an international standard in terms of corporate regulation but I am not sure as to whether there is an international standard as regards money-laundering, and that would probably be question that you would need to test with AUSTRAC.

Senator WHISH-WILSON: They also identified in the report that trusts and company service providers, lawyers, accountants and the real estate industry are exempt from anti-money-laundering laws. Has ASIC been involved in any discussions to remedy this either with government or with other agencies?

Mr Price: Not that I am aware of. We can, again, take that on notice and check but, as I say, the key policy issues in relation to this matter really do sit with AUSTRAC and the Attorney-General's Department—sorry, Home Affairs, if I can correct the record.

Answer:

Representatives of the Australian Securities and Investment Commission met with a delegation of the Financial Action Taskforce (FATF) on the following dates:

- Monday 4 August 2014
 - o FATF Immediate Outcome 2 and Immediate Outcome 5
- Tuesday 5 August 2014
 - o FATF Immediate Outcome 3 and Immediate Outcome 4

The Australian Securities and Investment Commission also provided written submissions to form Australia's response to the FATF Mutual Evaluation.

Since publication of the FATF Mutual Evaluation report, the Australian Securities and Investment Commission have provided written submissions on Australia's progress in relation to FATF recommendations, collated by the Attorney General's Department and most recently the Department of Home Affairs.

These written submission occurred on the following occasions:

- Australia's first follow up report (June 2016)
- Australia's third year follow up report (December 2017)
- Australia's fifth year follow up (July 2019)

ASIC has communicated with the following agencies in relation to the FATF recommendations both for coordination of written submissions and consideration of the recommendations:

- The Treasury
- The Department of Home Affairs
- The Attorney General's Department
- The Department of Foreign Affairs and Trade

The communications were in relation to Immediate Outcome 5 and Recommendations 24 and 25 in relation to beneficial ownership and Immediate Outcome 10 in relation to terrorist financing and preventative measures.