

PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES
INQUIRY INTO THE REGULATION OF AUDITING IN AUSTRALIA

APRA QoN1 – 3: Westpac

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Senator O'NEILL: Is three years too long in between reporting to APRA? These reports, I understand, are being done annually. They are being given to the board annually. Yet we saw a very long delay in action from the board of Westpac on the AUSTRAC matters. Do they need to be actually required to report to you annually to provide enough sunlight in this area?

Ms Richards: Let me clarify. I guess there are a number of different reports, and that gets a little confusing because there are quite a few. There is actually an annual report to the board of the institution on the risk management framework, which is a more operationally focused report. The three-yearly report, again, is a report to the board; it's not a report to APRA. Separately, the board makes a declaration to APRA about their compliance with prudential standards, so that's based on those annual and triennial reviews.

Ms HAMMOND: How often do they make that?

Ms Richards: An annual declaration. There's also reporting directly from the auditors, which is something we haven't really explored here. It's a limited assurance review over things like compliance and data reporting. That again is a report to APRA.

Senator O'NEILL: So all this reporting was going on, and, while all this reporting was going on, 23 million instances of failure happened in Westpac. I think that's a problem! Something's not right there. Can I go to some questions more pointedly about: when was APRA made aware of the anti-money-laundering and antiterrorism breaches from Westpac? (1)

Ms Richards: We'd have to take that on notice. We're not in a position to comment on those. There is an ongoing investigation, so it's a bit difficult to comment.

Senator O'NEILL: When Westpac released its governance, culture, remuneration and accountability report in July this year, did it raise with APRA these breaches? (2)

Ms Richards: Again, I'd have to take that on notice.

Senator O'NEILL: What did you do with any information with regard to this that you received from Westpac? (3)

Ms Richards: I think we'll take that on notice.

Answer:

1. APRA was made aware of potential anti-money laundering issues at Westpac in late 2018. This did not include the full extent of the breaches detailed in the AUSTRAC statement of claim, however.

2. As noted above, at the time Westpac published its Governance, Culture and Accountability report in July 2019, APRA was already aware of the breaches and that Westpac was engaging with AUSTRAC on them.

3. After APRA was made aware of the breaches, its focus was to understand how AUSTRAC's investigation was developing and the status of Westpac's remediation work. This was done through both liaison with AUSTRAC and discussions with Westpac (including through monitoring the latter's internal management reports).

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APRA QoN4: APRA/ASIC MoU

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Senator O'NEILL: Have you given any thought to recommendations of options for this committee to improve the timely communication of information between APRA, ASIC and Austrac as well as with the public?

Ms Richards: In terms of APRA, ASIC and Austrac, we have significantly increased our collaboration with those agencies over even the past year. We recently updated our MOU with ASIC. There are certainly improvements that can be made there, and that will be ongoing. That's actually been very positive over the past year or so.

Senator O'NEILL: Could you speak to and provide a copy of the MOU so that we get a sense of what's changed?

Ms Richards: Absolutely. It is on our website.

Answer:

An updated APRA-ASIC Memorandum of Understanding (MoU) was released on 29 November 2019 and reflects the agencies' commitment to closer collaboration and information sharing. The objectives and engagement principles established under this MoU will guide ongoing engagement between the agencies.

The MoU is only one part of how APRA and ASIC are establishing closer cooperation. Led by APRA Members and ASIC Commissioners, both agencies are regularly meeting under a revised engagement structure supported by committees dedicated to banking, insurance, superannuation and enforcement. These new arrangements have resulted in a significant increase in engagement on areas of common interest.

A copy of the MoU is available here: <https://www.apra.gov.au/sites/default/files/APRA-ASIC%20Memorandum%20of%20Understanding%202019.pdf>.

The Government is also currently consulting on new legislation that would strengthen the information sharing arrangements between APRA and ASIC.

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APRA QoN5: NAB EY CPS220 Engagement

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Senator O'NEILL: I'm sure you note things that happen in the public space. I think Adele Ferguson's articles around the NAB-EY iterative process were quite disturbing but also quite enlightening for the many of us who don't get to see the inner workings of what's going on. Has APRA expressed concerns, arising from that series of reports, to either NAB or EY about the currency of CPS 220 reports after the media flurry of activity? Did you interact with the boards following that reveal?

Ms Richards: I would probably have to take that on notice in terms of the details. We do have interactions with institutions around those reports regularly, so I wouldn't want to say we didn't have any interaction. But, as to the specifics of that, I would have to take that on notice.

Answer:

EY conducted a comprehensive review of NAB's risk management framework, as required under Prudential Standard CPS 220 Risk Management (CPS 220), in 2018. The review identified deficiencies in some aspects of NAB's risk management, which have informed the supervision of the bank's risk governance. APRA has also discussed these issues at Board level on multiple occasions, including most recently at a meeting with NAB's Chair and the chairs of several board committees in December 2019.

In APRA's view, the EY review of NAB was conducted in a manner that complied with the prudential requirements of CPS 220. This includes the requirement for the review to be conducted by operationally independent staff. However, APRA is considering clarifying and strengthening its audit related requirements, as set out in the relevant prudential standards.

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APRA QoN6: Employment history of APRA staff

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Senator O'NEILL: Do you have people on your staff who are former members of the big four auditing companies?

Ms Richards: We'd have to take that on notice. I don't know.

Senator O'NEILL: If you could. What are your processes around potential conflict of interest for them?

Mr Kohlhagen: To clarify, are we talking about former partners or about anyone who has been employed by—

Senator O'NEILL: Thank you for a nice clean question. Can we have both? In particular, with regard to partners—if you do have any—are any of them currently retired partners from PwC or Deloitte?

Answer:

The bulk of APRA staff are recruited from the financial services sector, and a number of would have worked for the big four auditing companies at various stages of their careers.

APRA currently does not have any retired partners from a Big 4 accounting firm on its staff engaged in the supervision of a regulated institution. APRA does, however, utilise a former partner of a Big 4 auditing firm as an independent member of its audit and risk committee.

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APRA QoN7: Engagement with ASIC and AUSTRAC

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Senator O'NEILL: ... I have a final question, which will be one on notice: might you do some work around the intersectionality—which I think you've articulated, very helpfully, for the committee today—between APRA, ASIC and AUSTRAC? I asked a similar question of ASIC at the end. It is not that I want you to deliver us a policy platform to go forward. That'd be nice too, but I doubt that you'd give it to us. I'm interested in where you see pressure points that failed in the context of the AUSTRAC disaster that's being explored right now, what remedies might have prevented that, and how ASIC, APRA and AUSTRAC might be better served, in terms of intersectionality, particularly with regard to audit but also in any other ways that you think might inform the broad financial services sector that we see audit as part of.

Mr Kohlhagen: Okay.

Answer:

The alleged breaches by Westpac were of the Anti-Money Laundering (AML) and Counter-Terrorism Financing (CTF) regime which is administered by AUSTRAC. Moreover, APRA does not have the expertise to form judgements about, or investigate, the adequacy of an entity's compliance with their AML-CTF obligations.

Hence, while it is important in cases such as this that information is appropriately shared between the financial sector regulatory agencies, it is also important that there is clarity of responsibility for supervision, investigation and (if needed) enforcement action. For matters affecting APRA-regulated entities, there are periodic discussions between APRA and AUSTRAC at which matters of common interest can be shared, and areas of cooperation identified.

As announced in December last year, APRA has commenced a formal investigation into possible breaches of the *Banking Act 1959* by Westpac. These do not relate to the specific issues in the AUSTRAC statement of claim (which remain before the Courts), but rather Westpac's broader prudential obligations. Further information regarding APRA's investigation can be found in the media release here: <https://www.apra.gov.au/news-and-publications/apra-launches-westpac-investigation-and-increases-capital-requirement-add-ons>.

ASIC has also announced it is examining whether there have been any breaches of the Corporations Act. While each agency's action is discrete and reflects each agency's specific statutory responsibilities and powers, there is a need for close cooperation and coordination between the agencies to ensure that the actions of one do not jeopardise the potential actions of another. There are also, at times, barriers to information sharing which may slow or complicate enforcement action. This only reinforces the need for all agencies to have strong and cooperative relationships.

Reflecting this, one of APRA's strategic priorities is to continue to strengthen our engagement with peer regulators. We have recently implemented an updated Memorandum of Understanding with ASIC and have also instigated more regular operational level meetings with both ASIC and AUSTRAC with a heightened focus on information sharing.