

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Oversight of ASIC, the Takeovers Panel and the Corporations Legislation

2022 - 2023

Division: Foreign Investment Division
Topic: Security of Critical Infrastructure Act
Reference: Spoken
Senator: Alex Hawke

Question:

CHAIR: Could I go to financial market infrastructure? What consideration does Australia's financial market infrastructure receive in the Foreign Investment Review Board's processes as part of the national interest or national security issue?

Ms Kelley: I think that goes to the point that Dr Evans raised before, which is that we do like to understand in lots of detail the actual commercial aspects of an investor—not only the ownership but also how it's all set up.

CHAIR: These were the comments about the full reveal of the company structure on application?

Ms Kelley: That's right. In that instance, that's where we may go to some of our partner agencies to get some further information around whether there is an impact on the market. Sorry, I should have mentioned ACCC as one of our consult partners too. So we do, and we work through, particularly if they have obligations, particularly in the ACCC space as well. That is part of the considerations that we look at.

CHAIR: Okay. On notice, we will have more around that.

Mr HAWKE: Just on the back of that, I want to ask a second question, because the chair has asked the right question and I want to follow it up. Maybe it's a slightly different one. When the government implemented the critical infrastructure legislation, did Treasury or you submit about Australia's financial infrastructure within that process? Do you have a view about that? This is about the protection of significant critical infrastructure such as ports, power grids and other things that have been deemed critical. I'm just wondering, in terms of our financial infrastructure within Australia, what processes you're aware of that have gone into the financial infrastructure.

Ms Kelley: We may have to take that one on notice, because I think it's a different part of Treasury. You're talking about the Security of Critical Infrastructure Act?

Mr HAWKE: Yes, indeed.

Ms Kelley: We might take that on notice.

Answer:

Financial market infrastructure, including financial markets, clearing and settlement facilities, financial benchmarks, and derivative trade repositories, is regulated under the banking and financial services sector definition in the expanded *Security of Critical Infrastructure Act 2018* (SOCI Act).

The Department of Home Affairs engaged with Treasury and other Council of Financial Regulators agencies on the application of the SOCI Act reforms to financial market infrastructure. This included the SOCI Act obligations that would apply to financial market

infrastructure and their interactions with existing obligations under financial sector regulatory frameworks. The Department of Home Affairs also undertook public consultation on the application of SOCI Act obligations to the financial sector.