

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2014 - 2015

Department/Agency: ASIC

Question: AET 160-164

Topic: NAB

Reference: Written - 6 March 2015

Senator: Dastyari, Sam

Question:

Two recommendations from the Senate Inquiry into the performance of ASIC:

Recommendation 32

19.53 The committee recommends that ASIC publish on its website information about its secondment programs and the policies and safeguards in place that relate to these programs.

Recommendation 33

19.56 The committee requests that the Commonwealth Ombudsman consider undertaking an own-motion investigation into the allegations related to the process that resulted in ASIC granting regulatory relief for generic online calculators in 2005. An investigation undertaken by the Ombudsman should, in particular, consider whether the process was undermined because ASIC did not adequately manage a conflict of interest identified by a person on secondment from a financial services firm.

Questions

160. Are there any secondees from private industry working at ASIC today?
161. Where is there public disclosure about the identity of secondees from private industry into ASIC and the type of work that they are doing over the course of their secondment?
162. What are the identities of secondees from private industry to ASIC; who are their employers; and what functions have these secondees performed within ASIC, for the past ten years.
163. Which other financial regulators around the world that host secondees from private industry?
164. Has any secondee from private industry has ever been involved in an ASIC matter that directly involves a conflict of interest with their employer? If so, how?

Answer:

160. Are there any secondees from private industry working at ASIC today?

Yes, see table below.

Location	Organisation coming from	Business Unit	Start Date	End Date
Melbourne	ANZ	Financial Advisers	25/08/2014	21/08/2015
Melbourne	Telstra	Corporations	10/11/2014	3/04/2015

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- 161. Where is there public disclosure about the identity of secondees from private industry into ASIC and the type of work that they are doing over the course of their secondment?**

ASIC's secondment policy is published on the ASIC website and advises that ASIC may engage in secondments from the private sector. It does not disclose the identity of the secondees or the work that they do.

- 162. What are the identities of secondees from private industry to ASIC; who are their employers; and what functions have these secondees performed within ASIC, for the past ten years.**

Secondment records have been provided below.

These records relate to the last ten years to the best of our knowledge. Secondments have only been recorded in our HRIS since 2010. Prior to this, secondments were managed at business unit level, so this list may be incomplete prior to 2010.

Our preference is not to provide names of individuals so as not to breach our obligations under the Privacy Act. Please note that individuals from ASIC's legal and accounting services panels also work onsite ASIC from time to time.

- 163. Which other financial regulators around the world that host secondees from private industry?**

The most recent information we have available is data collected in November 2013, when ASIC conducted a survey of international securities regulators on behalf of the International Organization of Securities Commissions (IOSCO).

Fifty-nine (59) international securities regulators advised in this survey that they had engaged in secondments in the years between 2008-2013. This included secondments into the regulators and secondments out. The respondents did not advise whether their secondment partners were private, public or both.

The Financial Conduct Authority (FCA) in the United Kingdom has recently confirmed that they engage in secondments with the private sector – inbound and outbound.

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164. Has any secondee from private industry has ever been involved in an ASIC matter that directly involves a conflict of interest with their employer? If so, how?

Our secondments and conflicts policies and procedures have the effect of neutralising this type of conflict.

There is potential for conflict in secondment scenarios however ASIC employs screening, contractual and structural measures to address these potential risks.

Secondment candidates are required to disclose their prior and current employment and other relevant interests in the lead up to confirming a secondment agreement.

Potential conflicts (such as between the secondee's duties to their home employer and their duties in ASIC) are contractually addressed in a secondment agreement between the home employer and ASIC.

Secondees are supervised by senior ASIC staff and they are not placed in roles where they are able to make decisions or exercise powers that would place them in a conflict of interest situation.

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Secondment records for past 10 years

Organisation coming from	Position / Business Unit	Location	Start Date	End Date
ANZ	Financial Advisers	Melbourne	25/08/2014	21/08/2015
Telstra	Corporations	Melbourne	10/11/2014	3/04/2015
Clayton Utz	Markets Enforcement	Melbourne	10/03/2014	13/09/2014
ANZ	Chief Legal Office	Melbourne	4/02/2013	17/09/2013
Greenfields	Investment Managers and Superannuation	Melbourne	3/01/2012	26/12/2012
AMP	Fin Advisers	Sydney	24/10/2011	23/04/2012
Gilbert & Tobin	Corporations	Sydney	6/06/2011	13/12/2011
McCullough Robertson Lawyers	Emerging Mining Resources	Brisbane	10/01/2011	11/07/2011
Blake Dawson Waldren	National Insolvency Coordination Unit	Brisbane	15/02/2010	12/11/2010
Greenfields	Super Funds	Melbourne	3/08/2009	2/08/2010
Colonial First State	Financial Advisers	Melbourne	15/06/2009	14/06/2010
McGrath Nicol	National Insolvency Coordination Unit	Sydney	20/07/2009	19/03/2010
PPB	National Insolvency Coordination Unit	Melbourne	22/06/2009	24/12/2009
Pricewaterhouse Coopers	Credit Taskforce	Melbourne	25/06/2009	30/09/2009
Pricewaterhouse Coopers	Credit Taskforce	Melbourne	25/06/2009	30/09/2009
Mallesons Stephen Jaques	Investment Banks	Not indicated	2/03/2009	30/06/2009
Freehills	Investment Mgrs	Not indicated	19/01/2009	27/05/2009
Freehills	PMR - Regulatory Policy	Not indicated	30/06/2008	30/12/2008
Mallesons Stephen Jacques	Commission	Not indicated	21/04/2008	17/10/2008
Minter Ellison	Not recorded	Not indicated	18/08/2008	10/10/2008
Minter Ellison	Not recorded	Not indicated	18/08/2008	10/10/2008

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Organisation coming from	Position / Business Unit	Location	Start Date	End Date
Clayton Utz	Human Resources	Not indicated	1/07/2008	3/10/2008
APD Consulting - Private	National Insolvency Coordination Unit	Melbourne	1/07/2007	30/06/2008
Deloitte	National Insolvency Coordination Unit	Sydney	16/07/2007	29/02/2008
KordaMentha	National Insolvency Coordination Unit	Melbourne	9/07/2007	5/01/2008
Taylor Woodings	National Insolvency Coordination Unit	Perth	10/04/2007	5/10/2007
Ferrier Hodgson	National Insolvency Coordination Unit	Sydney	22/01/2007	20/07/2007
Grant Thornton	National Insolvency Coordination Unit	Sydney	9/10/2006	8/07/2007
APD Consulting - Private	National Insolvency Coordination Unit	Melbourne	19/03/2007	30/06/2007
KordaMentha	National Insolvency Coordination Unit	Melbourne	2/10/2006	29/06/2007
APD Consulting - Private	National Insolvency Coordination Unit	Melbourne	18/09/2006	16/03/2007
KordaMentha	National Insolvency Coordination Unit	Perth	19/09/2006	14/03/2007
Ernst & Young	National Insolvency Coordination Unit		30/06/2006	19/01/2007
Allens Arthur Robinson	National Insolvency Coordination Unit	Sydney	9/01/2006	8/01/2007
ITSA	National Insolvency Coordination Unit	Melbourne	26/06/2006	24/12/2006
PPB	National Insolvency Coordination Unit	Perth	22/03/2006	20/12/2006
Deacons	Not recorded	Melbourne	1/05/2006	31/10/2006
Greenfields	Compliance & Regulation	Melbourne	24/04/2006	23/10/2006
Deloitte	National Insolvency Coordination Unit	Sydney	23/01/2006	20/10/2006
Ferrier Hodgson	Enforcement	Sydney	16/05/2006	15/08/2006
Ferrier Hodgson	Enforcement	Sydney	16/05/2006	15/08/2006
McGrath Nicol	National Insolvency Coordination Unit	Melbourne	6/02/2006	11/08/2006
Ferrier Hodgson	National Insolvency Coordination Unit	Brisbane	6/02/2006	5/08/2006
Sims Partners	National Insolvency Coordination Unit	Brisbane	30/01/2006	28/07/2006

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McGrath Nicol	Enforcement	Sydney	22/07/2005	21/07/2006
Horwaths	National Insolvency Coordination Unit	Melbourne	16/01/2006	14/07/2006
Sims Partners	National Insolvency Coordination Unit	Sydney	1/09/2005	14/07/2006
PPB	National Insolvency Coordination Unit	Melbourne	9/01/2006	7/07/2006
Deloitte	National Insolvency Coordination Unit	Melbourne	1/12/2005	30/06/2006
Minter Ellison	Enforcement	Perth	27/09/2005	30/06/2006
Deloitte	Enforcement	Sydney	22/03/2006	21/06/2006
Ernst & Young	Enforcement	Melbourne	17/10/2005	16/04/2006
Pitcher Partners	National Insolvency Coordination Unit	Perth	5/09/2005	22/02/2006
Deloitte	Enforcement	Sydney	21/11/2005	20/02/2006
Taylor Woodings	National Insolvency Coordination Unit	Sydney	1/08/2005	31/01/2006
Horwaths	National Insolvency Coordination Unit	Melbourne	23/02/2005	14/12/2005
Deloitte	Enforcement	Sydney	21/11/2005	1/12/2005
Deloitte	National Insolvency Coordination Unit	Sydney	10/01/2005	25/11/2005
National Wealth Management Services	PMR - Regulatory Policy	Sydney	29/03/2005	28/10/2005
PPB	National Insolvency Coordination Unit	Sydney	27/01/2005	30/09/2005
Henry Davis York	Enforcement	Sydney	4/02/2005	31/08/2005
Pricewaterhouse Coopers	National Insolvency Coordination Unit	Perth	23/02/2005	22/08/2005
National Australia Bank	PMR - Regulatory Policy	Melbourne	24/01/2005	23/07/2005
Bentleys MRI	National Insolvency Coordination Unit	Melbourne	21/02/2005	20/06/2005
McGrath Nicol	National Insolvency Coordination Unit	Brisbane	13/09/2004	13/05/2005
Allens Arthur Robinson	PMR - Regulatory Policy	Melbourne	4/10/2004	3/04/2005

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National Wealth Management Services	PMR - Regulatory Policy	Sydney	27/09/2004	24/03/2005
Deloitte	National Insolvency Coordination Unit	Sydney	21/10/2004	31/12/2004
McGrath Nicol	Enforcement	Sydney	13/10/2005	
Henry Davis York	Enforcement	Sydney	25/06/2005	