

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2014 - 2015

Department/Agency: Australian Prudential Regulation Authority)

Question: BET 89

Topic: Bank Disputes

Reference: Hansard page no. 59 - 03 June 2015

Senator: Xenophon, Nick

Question:

89. **Senator XENOPHON:** Thank you. I go to a second, broader issue. You were good enough to sit down and discuss this with me. I do not want to go into too much detail. If an individual customer has a dispute with a bank, whether or not it ends up in the courts, and it relates to arguably ethical conduct of a bank—and that is obviously a matter for the ACCC or, within the courts, for specific contract litigation—does APRA have a role there if it might point to systemic governance issues in the bank? For instance, it is not providing interest-rate statements to customers and it is behaving in a way that most people would objectively say is pretty outrageous. Do you have an ability—I am trying to keep this in general terms—not so much to look at individual cases but to say there is something wrong with this particular bank's record-keeping or the way that they provide information to customers?

Mr Byres: That is exactly the way that we deal with customer complaints, because we are not of ourselves a consumer protection agency or a dispute resolution agency. We do, nonetheless, get complaints from members of the public. Depending on the nature of those complaints, there are bodies better placed to handle them. For retail consumers, there is the Financial Ombudsman Service and there are various other measures. For commercial customers, it tends to be something that has to be pursued through the courts.

We do not, though, just pass on those sorts of complaints to other organisations. They are directed to our supervisory teams who then use them as a little bit of intelligence to see whether—going to your point—there is something systemic here and that this might be an example of a broader problem in governance or internal controls or in risk management. Obviously, we are very alert and very concerned if that is the case. If we then use that as a trigger to look into an issue and we find there was a problem that was more widespread then obviously we would seek to have the issues rectified. But that is rectified in the sense of asking the bank to take corrective action to improve governance, fix systems, improve risk management. It is not to the point of saying we are arbitrating on restitution for the customer.

Senator XENOPHON: I understand that. It may be that for the particular entity that I spoke to you about that there may be some other complaints coming forward. Can I go finally, with the indulgence of the chair, to issues of the Arab Bank? On 22 September 2014 the US District Court in Brooklyn found that the Arab Bank's parent company, Arab Bank plc, had breached the US Antiterrorism Act 1990 by providing material support to Hamas through knowingly maintaining accounts for Hamas operatives and financing millions of dollars in payments for families of suicide bombers. An appeal by the Arab Bank against the verdict was dismissed by an appellate court in the US in April 2015. Is it your understanding, Mr Byres, that the Australian-based Arab Bank is a subsidiary of the parent company that has been the subject of the US court proceedings?

Mr Byres: Yes, it is a subsidiary.

Senator XENOPHON: Can you advise when and how APRA became aware of this matter?

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Was it through media reports or was there some other conduit in information?

Mr Byres: I would have to take that specific question on notice. Clearly, we were aware of it. Whether we found out through Arab Bank informing us, whether we found out through other regulators or whether we found out through other means I am not 100 per cent certain, but I will come back to you on that.

Answer:

89. The Australian Prudential Authority (APRA) first became aware of matters surrounding the New York branch of Arab Bank plc (**ABNY**) that eventually became the subject of the US District Court proceedings against the ABNY, from the parent company of Arab Bank Australia Ltd (**ABA**) in 2004. The Australian subsidiary only conducts limited retail and wholesale business within Australia.

The ABA notified APRA of the matter and informed APRA that Australian Transaction Reports and Analysis Centre (AUSTRAC) conducted an audit in 2003 of ABA's compliance with anti-money laundering and counter-terrorism financing requirements. APRA has been kept informed of developments in the matter through its ongoing prudential supervision of ABA.

On 25 May 2015 APRA was informed by AUSTRAC that it (AUSTRAC) had conducted a compliance assessment of ABA in February 2014 and there were no adverse compliance issues of note reported in relation to anti-money laundering or counter-terrorism financing procedures.