

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2016 - 2017

Division/Agency: Australian Securities and Investment Commission

Question No: 226

Topic: National Australia Bank investigation

Reference: Written

Senator: Ketter, Chris

Question:

- 1) After 20 months from your investigation into NAB, why is there still no update on your investigation?
- 2) You will be releasing a report later in the year on the big financial advice institutions, including NAB. Will this include the red flags in terms of poor systems?
- 3) Documents leaked to Fairfax Media last year said NAB had recurring ""red"" levels of risk on a number of critical issues on a traffic-light rating system:
- 4) ""The overall NAB Wealth risk profile is ... high, requiring significant management attention,"" a February 2014 risk and compliance report states. By March 2014, NAB's breach notifications to ASIC and APRA had surged from 3 in the first half of 2012-13, to 29 in the first half of 2013-14.
- 5) ""While some are in the nature of technical and formal ... there is evidence that long-standing events are being discovered,"" a May report to NAB Wealth's risk management committee explained.
- 6) Has your investigation looked into this, particularly in light of the outages NAB keeps experiencing?
- 7) NAB sacked 37 financial planners and only breached 5 of them. All those planners went to work at other operations.
- 8) Have you tracked these planners down?
- 9) How many have you breached?
- 10) NAB quietly paid compensation to a few victims.
- 11) What does ASIC think of NAB's remediation process?
- 12) Why does it lack transparency?

Answer:

1. The Advice Compliance Project (which forms part of the broader Wealth Management Project) commenced in July 2015 and included the work commenced in February 2015 relating to NAB. The Advice Compliance Project includes NAB, Westpac, ANZ, CBA and AMP. We expect to report our findings on that work across all of the institutions within the next few months. We have reported outcomes in relation to NAB as part of the broader Wealth Management Project. For example, in October 2015 we reported that NAB commenced the first phase of its large scale customer remediation work. In October we reported on outcomes in relation to the fees for no service issue (REP499 Financial Advice: Fees for no Service) which included findings in relation to NAB. We have also publicly reported 5 banning outcomes against NAB advisers.¹ (within a

¹ Media releases of the banning of NAB advisers- <http://asic.gov.au/about-asic/media-centre/find-a-media-release/2016-releases/16-124mr-asic-permanently-bans-former-nab-financial-planner/> - <http://asic.gov.au/about-asic/media-centre/find-a-media-release/2016-releases/16-059mr-asic-bans-former-nab-adviser-for-five-years/> -

cohort of 25 banning outcomes across all of the banks and AMP) achieved to date as part of the Wealth Management Project. Further action to ban advisers identified by NAB is being undertaken and will be reported upon as outcomes are achieved.

2. The Advice Compliance Project has focussed on a number of key areas of risk relating to the monitoring and supervision of financial advisers. The areas are common to all of the four largest banks and AMP and include:
 - a. The adequacy of reference checking processes when recruiting new advisers or responding to requests for information about a former adviser;
 - b. Testing audit processes to identify advice quality issues/non-compliance.
 - c. The identification and remediation of customers at risk of having received non-compliant advice.
 - d. Notification to ASIC or other appropriate authorities where adviser serious non-compliance is identified.
- 3-5. Items 3-5 appear to be background to the question at 6.
6. The breach reports considered by the Wealth Management Project have focussed on those which relate to the provision of personal advice to retail clients. To the extent they fit within the scope of the Advice Compliance Project the breach reports are being dealt with as part of the report referred to in the response to question 1. Breach reports relating to the suspected conduct of particular financial advisers have been assessed. Action has been finalised in relation to some advisers (5 advisers banned to date) and is underway in a number of other instances. In relation to NAB's breach report relating to charging advice fees without providing the relevant service, as referenced above, that has been reported upon (Report 499 Financial Advice: Fees for no Service). Other NAB breach reports have been considered in the context of work that ASIC is undertaking in its Wealth Management Project.
- 7-9. We have undertaken work to assess the conduct of each of the 37 advisers reported to us by NAB in the context of ASIC's Advice Compliance Project. One of the NAB advisers was banned before the Wealth Management Project commenced and we have since banned 5 former NAB advisers. Further action is underway in relation to a number of other advisers either as an enforcement activity or via further surveillance activity. We will report on further outcomes as they occur. As a general observation, not every adviser whose conduct comes to ASIC's attention has action taken against him or her. Relevant considerations include the age and seriousness of the misconduct, the available evidence, whether the adviser is still in the industry and other competing priorities.
- 10-12. As part of the Advice Compliance Project we have worked with NAB to develop a large scale remediation program which is effective, fair and transparent. ASIC and NAB publicly announced the commencement of NAB's remediation work, known as the Customer Response Initiative, in October 2015. The design of that work has been

assured by Deloitte as independent expert. NAB has agreed with ASIC that Deloitte will continue to assure the implementation of the CRI until the work is completed. We will report publicly on the remediation programs undertaken by the entities included in our Advice Compliance Review project in the report we intend to publish in the next few months.