

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Supplementary Budget Estimates

2016 - 2017

**Division/Agency:** Australian Taxation Office

**Question No:** 265

**Topic:** Franking credits on hybrid debt-equity securities

**Reference:** Written (19 October 2016)

**Senator:** Whish-Wilson, Peter

**Question:**

1. Can the ATO confirm that it has made a ruling allowing Australian banks to issue hybrid debt-equity securities through offshore branches without franking credits? If so, has this ruling been made public; and has this ruling been communicated to all authorised deposit-taking institutions?
2. Did the ATO consult with members of the Council of Financial Regulators regarding this ruling, particularly in relation to any financial stability implications? If so, what was the response from members of the Council of Financial Regulators?

**Answer:**

1. Section 215-10 of the *Income Tax Assessment Act 1997* allows banks to issue certain hybrid securities via their offshore branches without attaching franking credits. The ATO issued public guidance on the operation of section 215-10 in 2012 (Tax Determination TD 2012/9). The ATO received feedback about difficulties in the practical application of TD 2012/9 and withdrew the determination in 2014. The ATO is developing a new guidance product.
2. The ATO invited stakeholders to provide input into the new guidance on section 215-10 and worked with banks and industry. ATO records indicate that the Council of Financial Regulators was not involved in this consultation.