

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates, 16 February 2006

Question: AT 23

Topic: *Provide a copy of the response to the ASIC audit inspection powers consultation paper*

Hansard Page: **E11**

Senator WONG asked:

I understand that there is a current Treasury review process. A consultation paper was issued last year in relation to ASIC's audit inspection powers. Do you have any concerns regarding the proposed modifications of ASIC's domestic inspection powers?

Mr Lucy—No. Our attitude is that aspects of the profession have misread what was initially intended, but we are comfortable with the proposed amendments.

Senator WONG—In terms of the suggestions that are set out in the consultation paper, does ASIC have any concerns about the thrust of those proposals?

Mr Lucy—No. We think that this is an important piece of legislation and, to the extent that there need to be changes made to accommodate concerns of others, we are comfortable with those changes.

Senator WONG—Have you responded in writing to the consultation paper?

Mr Lucy—I would have to take that on notice. Certainly we have had a very close level of dialogue with Treasury. To the extent that we have formally responded in writing, I would have to take that on notice.

Senator WONG—Okay. If you have, I ask that you provide a copy of that.

Answer:

Letter in response to Treasury consultation paper on *Audit Inspection Powers of ASIC*, dated 18 November 2005 and signed by Jeffrey Lucy, see attachment.

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18 November 2005

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**Audit Inspection Powers of the Australian Securities and Investments Commission:
Consultation paper (September 2005)**

The Australian Securities and Investments Commission (ASIC) welcomes Treasury's Consultation Paper *Inspection Powers of the Australian Securities and Investments Commission* (September 2005).

ASIC strongly supports the proposals to amend the *Australian Securities and Investments Commission Act 2001* (ASIC Act) to give ASIC:

- Sufficient powers to assist the Public Company Accounting Oversight Board (PCOAB), and other overseas audit regulators, in carrying out their audit inspection functions;
- Information gathering powers that are better tailored to ASIC's audit inspection function, and
- Consistent powers for use in the domestic and international audit inspection context.

Reduction of duplicative audit inspections

The proposed amendments should assist Australian auditors by reducing the likelihood that they will be subjected to duplicative audit inspections. Such audit inspections can create significant costs for auditors. This in turn should lead to reduced audit costs for entities whose auditors are required to meet regulatory requirements in more than one jurisdiction in respect of the audit of an Australian based entity.

The amendments will enable ASIC to conduct, or assist in the conduct of, audit inspections in Australia that are intended to determine whether Australian auditors comply with foreign regulatory requirements. If ASIC were not able to conduct, or assist in the conduct of, these audit inspections a significant number of Australian auditors would be subject to more extensive regulatory inspections. For example, the PCAOB is required, under the Sarbanes-Oxley Act 2002, to conduct a continuing programme of audit inspections of a number of Australian auditors. ASIC and the PCAOB have agreed in principle that, if the proposed amendments are made, they will conduct joint inspections thereby reducing the inspection burden for Australian auditors.

The discussions between ASIC and the PCAOB are at an advanced stage and the proposed legislation is needed to enable the finalisation of the proposed arrangements between ASIC and PCAOB with respect to inspections that the PCAOB will be obliged to perform in the next twelve to eighteen months. More broadly, ASIC has been engaging with discussions about audit and audit regulation issues both with its counterparts in IOSCO and with the newer specialist audit regulators that have emerged as a result of reform of regulation of the audit process in many countries. Given the global nature of capital markets, it is likely that other foreign audit regulators may also want inspections that examine compliance with their audit laws by Australian auditors. It would be better for the Australian audit profession if ASIC could conduct or assist in the conduct of these inspections, and if there is a clear

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capacity for ASIC to share information with its audit regulator counterparts in other countries.

In short, ASIC regards the proposals in the draft Bill as an essential contribution to Australia's ability to participate in a more effective means of regulating, on a cross-border basis, the global audit of global entities. This in turn will contribute to Australia's reputation in global capital markets as a well regulated, but efficient, place to do business.

Efficiency of ASIC audit inspections

Additionally, the proposed amendments will enhance the efficiency of ASIC's audit inspections, both in relation to compliance with Australian corporations legislation and under an agreement or arrangement with a foreign regulatory body.

The current powers in s30 and s37 of the ASIC Act are cumbersome and hinder ASIC's ability to gather targeted and limited information about general policies and practices of an auditor. This increases the costs and time of audit inspections for both ASIC and auditors. These costs would be increased if ASIC's inspection powers differed according to whether the inspection related to compliance with Australian corporations legislation or compliance with foreign requirements.

Jeffrey Lucy AM
Chairman