

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

31 May – 2 June 2011

Question No: BET 117

Topic: S13 and s19

Hansard Page: Written

Senator Bushby asked:

- To what extent does an examination under s19 need to be relevant to an investigation commenced under s13? Does ASIC consider it has the power during a s19 examination to ask questions on matters beyond that relevant to an investigation commenced under s13?

Answer:

ASIC may only exercise its powers under section 19 of the *Australian Securities and Investments Commission Act 2001* if it suspects or believes, on reasonable grounds, that a person can give information relevant to a matter that it is investigating, or is to investigate. ASIC does not consider that it has the power to ask questions on matters beyond that relevant to an investigation.

In determining whether a question is relevant it is important to note that the power granted by section 19 is an investigation power exercised for the purposes of gathering information. Accordingly, ASIC is not fettered by the rules of evidence in conducting examinations. Questions can be based on hearsay or suspicion and, providing the questions are relevant, inspectors may ask questions of a speculative nature. Questions may also be directed to eliciting information that might lead to other lines of inquiry which could produce information relevant to the investigation.