

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

31 May – 2 June 2011

Question No: BET 192

Topic: Centrebet

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Senator Xenophon asked:

Senator XENOPHON: So ASIC's concerns expressed in their correspondence to Centrebet back in April 2010 are maintained?

Mr Price: We are concerned where there is the marketing of financial products, and there will always be a fine matter of judgment whether some of these products are financial products. You need to make an assessment, for example, about whether the purpose of these arrangements is making a financial investment or managing a financial risk. You also need to make an assessment about whether someone in accepting these bets is carrying on a business of doing that activity. When we come across these situations we bring our concerns to the attention of the parties involved and indicate that the law requires them to make an assessment about whether they are in compliance with the act. If we have remaining concerns after we have looked at those issues then it is open for us to take further action.

Senator XENOPHON: So at this stage it is not on for Centrebet to offer bets on interest rate rises or the ASX 200?

Mr Price: What I have just said is that it is really a matter of judgment about whether these things are a financial product. But clearly when there was that media report saying that ASIC had somehow approved or endorsed the issue of these products, that media report was incorrect.

Senator XENOPHON: You say it is a matter of judgment. What is the current judgment? Can Centrebet offer bets on interest rate rises or the ASX 200?

Mr Price: Well, are those products being offered with the purpose of making a financial investment or managing a financial risk? These are issues that—

Senator XENOPHON: I am asking you. Can they offer it or not? It is a simple question.

Mr Price: The rhetorical question I posed to you is simply to indicate that—

Senator XENOPHON: I do not have time for rhetorical questions, sorry.

Mr Price: I understand what you are saying. But to make it clear, we would need to understand what the position is in answer to those questions before I could answer your question. I cannot answer your question at the moment. So I am happy to take it on notice

Answer:

ASIC's view is that a bet based on the closing price of the ASX S&P 200 Index or on a movement in the official Reserve Bank of Australia interest rate may well be a "derivative" under section 761D of the *Corporations Act 2001* and as such, Centrebet may need an AFS License to offer such products.

However as we previously noted, the definition of a "derivative" under the Act is complex and wide. Further, even if the products are not derivatives it is still possible they are other types of financial products depending on their purpose.

ASIC will be asking Centrebet to provide advice from Counsel on whether their index and interest rate bets are financial products and thus requires them to hold an AFS license.

If the view is that an AFS Licence would be required, ASIC's role would be to ensure that the entity is appropriately licensed (under the AFS licensing regime) and that it complies with the requirements and conditions that come with that AFS licence.