

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 2021 - 2022

Agency: Australian Securities and Investment Commission
Question No:
Topic: ASIC legislative powers
Reference: Spoken p.9-10 (28 October 2021)
Senator: Nick McKim

Question:

Senator McKIM: I understand that, but this involved over 1,000 partners and staff at KPMG Australia. The cheating happened in Australia by over 1,000 partners and staff of an Australian company. If the legislation is inadequate, why has ASIC not gone to government and asked it to improve the legislation to provide ASIC with a regulatory mandate in these areas? Or is it just going to be, 'Just let it go. It's fine' for one of the big four accounting firms in Australia to blatantly cheat in the way that over a thousand of them did?

Mr Hughes: I don't think anything in my answers would suggest that it was okay. In fact, we viewed the conduct with the same disappointment that you've expressed. It would be unfair or inaccurate to say there's been no response. The PCAOB is the appropriate body that has exercised its jurisdiction to take action against the individuals involved, and KPMG itself has responded to that in terms of its own internal staff disciplinary action. I can only repeat: it did not relate to the conduct of an audit or other matters over which ASIC has jurisdiction. We don't have the power. Whether we should have the power is a question for the government and ultimately the parliament.

Senator McKIM: I appreciate that. Has ASIC asked the government to create that power for ASIC by legislative amendment?

Mr Hughes: I'm not aware, but I'd like to take that on notice and confirm back to you so that I can give you an accurate answer.

Answer:

ASIC's remit under the *Corporations Act 2001* (the Act) includes:

- (i) the registration of individuals as 'registered company auditors' for the purposes of audits of financial reports under Chapter 2M; and
- (ii) compliance with the auditing standards in individual audits of financial reports under Chapter 2M.

The Act requires an individual in an audit firm who is the lead auditor or review auditor (if any) for the audit of a financial report to be a registered company auditor.

The Act requires the individual who is the lead auditor to ensure that an audit firm's audit of a financial report is conducted in accordance with auditing standards. ASIC may refer a registered company auditor to the Company Auditors Disciplinary Board in connection with deficiencies in the conduct of an audit or under a fit and proper person test.

The staff of an audit firm would not be registered company auditors (except in very rare and unique circumstances). ASIC's remit does not extend to the conduct and behaviours of the staff of an audit firm ~~who are not registered company auditors when undertaking the a firm's internal training program, as staff are not acting in their role as registered company auditors.~~ Nor does Likewise, the Act does not extend to firm-wide quality management ~~in relation to~~

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| ~~such an~~ for internal training programs. ASIC has not asked the Government to amend the *Corporations Act 2001* to give ASIC powers to regulate in this area.

Commented [HA1]: Do accounting bodies have disciplinary processes that may cover this? If so it would be worth noting.

Commented [DN2R1]: Please refer to covering email.