



RULE OF LAW
INSTITUTE OF AUSTRALIA

Senate Estimates Survey No 7

Treasury Portfolio

May 2014

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www.ruleoflaw.org.au

About the Institute

The Rule of Law Institute of Australia (RoLIA) is an independent, politically non-partisan, not-for-profit organisation that promotes the rule of law in Australia. RoLIA delivers education programs in schools and universities, and



makes submissions to Government about rule of law issues. RoLIA has conducted a series of surveys on responses to questions taken on notice. You can find them on our website at: www.ruleoflaw.org.au/priorities/checks-and-balances/

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Collection and presentation of data by **Nick Clark, Education Coordinator.**

Thanks to **Jean-Luc** for his assistance in the parsing of data for this survey.

Acronyms for Agencies in the Treasury Portfolio:

- Australian Bureau of Statistics (ABS)
- Australian Competition and Consumer Commission (ACCC)
- Australian Government Actuary (AGA)
- Australian Office of Financial Management (AOFM)
- Australian Prudential Regulatory Authority (APRA)
- Australian Securities and Investments Commission (ASIC)
- Australian Tax Office (ATO)
- Commonwealth Grants Commission (CGC)
- Corporate Services Group (CSG)
- Corporate Strategy and Services Group (CSSG)
- Fiscal Group (FG)
- Inspector General of Taxation (IGT)
- Macroeconomics Group (MEG)
- Markets Group (MG)
- Productivity Commission (PC)
- Reserve Bank of Australia (RBA)
- Revenue Group (RG)

Introduction

Senate Estimates Hearings are held three times a year for the purpose of Senate Committees examining the budgets for Commonwealth government departments and agencies, including the economic regulators. Senators are entitled to ask questions of regulators' head personnel according to Senate Standing order 26(5), which provides that the Committees 'may ask for explanations from ministers in the Senate, or officers, relating to the items of proposed expenditure.' This is done after the budget comes out in May/June, again after the supplementary budget (October/November), and if necessary after additional estimates come out (the following February). These questions are known as "questions on notice". The Senate Estimates Hearings for the Treasury Portfolio following the most recent budget commence on 2 June 2014.

Senate Standing Order 74(5), which came into effect in 1988, provides that if questions are not answered within 30 days of the due date, the senator asking the question may ask the minister for an explanation, move that the Senate take note of the explanation provided, or move a motion with regard to a failure to provide an answer or explanation ([See Appendix 1](#)).

This Survey analyses the response time of agencies in the Treasury Portfolio to questions on notice asked by the Senate Standing Committee on Economics. The hearings surveyed are itemized in the table below. The table shows for each round of estimates the due date for questions on notice, the date Standing Order 74(5) comes into effect, and the date the data was collected from the Australian Parliament House's website.

Table 1: Dates of hearings, due dates for questions on notice and date of data collection.

Estimates	Due Date	30 Days after Due Date	Date of Data Collection from APH Website
November 2013	17 January 2014	16 February 2014	9 April 2014
June 2013	19 July 2013	18 August 2013	9 April 2014
February 2013	5 April 2013	5 May 2013	9 April 2014

Findings

All the surveyed Estimates have attracted a significant number of questions on notice.

Continuing serious lateness in responding to questions on notice

The Survey has again revealed that the overwhelming majority of answers was provided by the Agencies after the due date. As the Tables on page 6 show, no questions were answered on time from the June 2013 Estimates, only 6% from the November 2013 Estimates, and 27% from the February 2013 Estimates. All Agencies experience difficulties complying with the due date - without consequences it appears. This is in marked contrast to the position of regular citizens and businesses who, in their interactions with regulators, often have to comply with inflexible deadlines and can be fined in some cases for non-compliance.

This continuing pattern of lateness has twice, in 2002 and 2005, led the Parliament to consider the appropriateness of extending the 30 day period after which Standing Order 74(5) comes into effect. The proposals for extending the time period were supported on the basis that the complexity and volume of questions makes it impossible for the Agencies to provide the answers within the required time frame. The proposals did not succeed. It was Parliament's decision that the existing time limits should be complied with.

Unanswered questions

There are still some questions that remain unanswered at the time of the Survey. Although during the February 2013 Estimates the Agencies replied reasonably promptly to the questions asked, there are still 40 questions (i.e. 3.4%) that remain unanswered despite nearly 12 months passing since the due date. The June and November 2013 Estimates' results have improved and only 1.5% and 0.6% of questions respectively have remained unanswered to date.

Agencies that fail to respond on time or at all

The continued failure of the Australian Investments and Securities Commission (ASIC) to respond on time is particularly concerning. The performance of ASIC is currently the subject of a Senate Inquiry due to report on 30 May 2014. The Inquiry was prompted by ASIC's alleged failure to act on complaints about alleged fraudulent practice of financial advisers that resulted in considerable numbers of elderly people losing their homes or their life savings. The Inquiry has received 462 submissions, including a submission by RoLIA. In reporting on the Inquiry the Senate Standing Committee on Economics will consider 'the accountability framework to which ASIC is subject and whether this needs to be strengthened'.

Recommendations to Enhance Accountability

RoLIA considers that Senate Estimates are one of the most critical elements of the checks and balances between the Legislature and the Executive arms of government. The hearing transcripts and written responses to questions on notice from Estimates are also a significant indicator that government agencies are transparent and accountable in their operation.

Since government regulators are independent agencies with extensive powers and responsibilities in administering the law in Australia, monitoring and analyzing Estimates hearings provides key indicators as to their accountability. RoLIA's survey of responses to questions taken on notice by Government agencies promotes awareness of the rule of law in government.

Odgers' Australian Senate Practice 12th Edition describes the Estimates in the following manner:

The estimates process provides the major opportunity for the Senate to assess the performance of the public service and its administration of government policy and programs... Its effect is cumulative, in that an individual question may not have any significant impact, but the sum of questions and the process as a whole, as it has developed, help to keep executive government accountable and place a great deal of information on the public record on which judgments may be based.

Recommendations:

RoLIA reiterates its recommendation made in previous Surveys that the Senate require agencies and departments to maintain a register of compliance with Senate Orders, including compliance with Orders relating to Estimates questions taken on notice, and that the register be published in each agency's and each department's annual report.

Noting that the Parliament has specifically rejected the proposal that the period of time for response be increased, and the continuing failure of regulators to respond in time, **RoLIA recommends that Senators apply Standing Rule 74(5) to require an explanation for lateness to be given or move a motion concerning that failure to comply.**

Summary of Key Figures from 2013 Estimates

February 2013		% of Total Questions
Questions not answered	40	3%
Answered on time	816	69%
Total answered late	324	27%
More than 30 days late [#]	231	20%

Total Questions Asked: 1180

- Some Agencies left a very high percentage of questions unanswered: Macroeconomics Group – 71%, Fiscal Group – 67%, Markets Group – 50%
- All of Senators Boyce, Nash and Urquart's questions remain unanswered.

June 2013		% of Total Questions
Questions not answered	21	1%
Answered on time	0	0%
Total Answered late	1382	99%
More than 30 days late [#]	1292	92%

Total Questions Asked: 1403

- No Agency provided a single answer on time.
- 30% of Fiscal Group's questions remain unanswered at the survey date – the highest proportion within the group.
- Although the ATO answered the questions in the most timely fashion, it has left the highest number of unanswered questions – 16 questions.
- 66% of Senator Edward's questions remain unanswered at the survey date.

November 2013		% of Total Questions
Questions not answered	7	1%
Answered on time	64	6%
Total Answered late	1019	93%
More than 30 days late [#]	375	34%

Total Questions Asked: 1090*

- 8% of Revenue Group's questions remain unanswered at the survey date.
- The number of answers provided on time did not exceed 20% and more than half (56%) of the Agencies have not provided the answers on time at all.
- 2 of Senator Dastyari's, and 5 of Senator Wong's questions remain unanswered at the survey date.

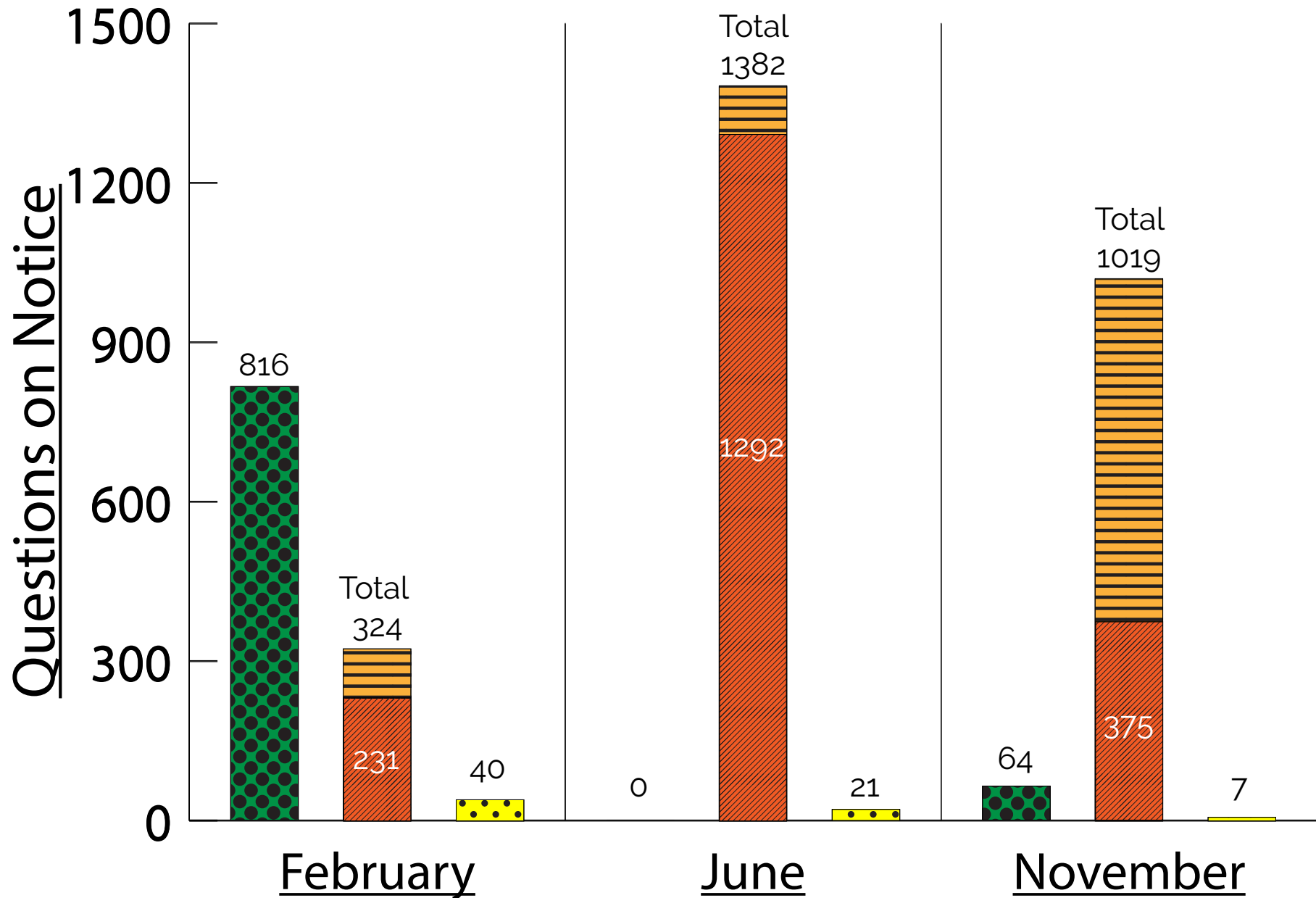
***Questions no 894–903 are not included as they were transferred to Austrade Portfolio**

when the Standing Order 74(5) takes effect

Estimates	Due Date	30 Days after Due Date	Survey Date
November 2013	17 January 2014	16 February 2014	9 April 2014
June 2013	19 July 2013	18 August 2013	9 April 2014
February 2013	5 April 2013	5 May 2013	9 April 2014

All data collected from Senate Estimates pages on aph.gov.au find the full links in Appendix 2.

Figure 1: Summary of Key Figures from 2013 Estimates Hearings



February 2013

Table 2: February 2013 - Answers given by Agency on time, late or still missing at the time of the survey.

Agency	On time*	% On time	Late	% Late	30+ days late**	% 30+ days late	Total Answered	Not answered
ABS	85	83%	18	17%	13	13%	103	-
ACCC	136	100%	-	-	-	-	136	-
AOFM	87	89%	11	11%	11	11%	98	-
APRA	102	100%	-	0	-	-	102	-
ASIC	-	-	96	87%	96	87%	110	14
ATO	11	7%	158	93%	72	43%	169	-
CGC	95	98%	2	2%	2	2%	97	-
CSG	105	86%	14	11%	13	11%	122	3
FG	2	22%	1	11%	1	11%	9	6
IGT	97	100%	-	-	-	-	97	-
MEG	2	14%	2	14%	2	14%	14	10
MG	1	8%	5	42%	5	42%	12	6
PC	85	87%	13	13%	12	12%	98	-
RBA	5	100%	-	-	-	-	5	-
RG	3	38%	4	50%	4	50%	8	1

* Answered on or before 5 April 2013

** Answered after 5 May 2013 when the Standing Order 74(5) came into effect

Note: data in the 30+ days late column is included in the Total Late column, not in addition to it.

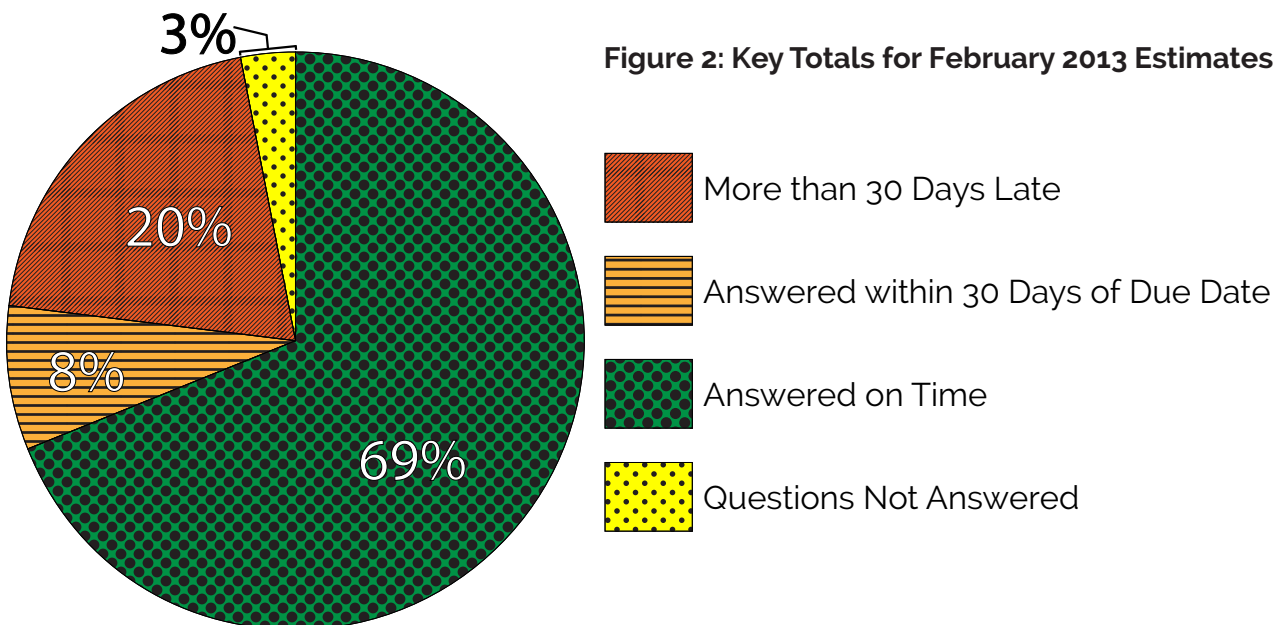


Table 3: February 2013 - Answers given to individual Senators on time, late or still missing at the time of the survey.

Senator	On Time*	% on time	Total Late	% of Total Late#	30+ days late**	% 30+ days late	Not Answered	Total asked
Bushby	3	>1%	979	97%	883	87%	15	1013
Edwards	37	95%	2	5%	2	5%	-	39
Ryan	-	-	37	100%	-	-	-	37
Williams	-	-	10	67%	5	33%	5	15
Cameron	-	-	12	100%	10	83%	-	12
Cormann	3	25%	4	33%	3	25%	5	12
Xenophon	-	-	9	100%	9	100%	-	9
Rhiannon	-	-	8	100%	8	100%	-	8
Abetz	5	71%	2	29%	1	14%	-	7
Bernardi	-	-	5	100%	5	100%	-	5
Nash	-	-	-	-	-	-	4	4
Sinodinos	-	-	1	25%	1	25%	3	4
Whish-Wilson	-	-	2	50%	2	50%	2	4
Boyce	-	-	-	-	-	-	2	2
Fifield	-	-	-	-	-	-	2	2
Madigan	-	-	2	100%	2	100%	-	2
Siewert	-	-	1	50%	1	50%	1	2
Heffernan	-	-	1	100%	1	100%	-	1
Ronaldson	-	-	1	100%	1	100%	-	1
Urquhart	-	-	-	-	-	-	1	1

* Answered on or before 5 April 2013

** Answered after 5 May 2013 when the Standing Order 74(5) came into effect.

Note: data in the 30+ days late column is included in the Total Late column, not in addition to it.

June 2013

Table 4: June 2013 - Answers given by Agency on time, late or still missing at the time of the survey.

Agency	On time*	% On time	Late	% Late	30+ days late**	% 30+ days late	Total Answered	Not answered
ABS	-	-	117	100%	117	100%	117	-
ACCC	-	-	125	100%	125	100%	125	-
AOFM	-	-	107	100%	107	100%	107	-
APRA	-	-	108	100%	108	100%	108	-
ASIC	-	-	306	100%	306	100%	306	-
ATO	-	-	123	88%	33	24%	123	16
CGC	-	-	105	100%	105	100%	105	-
CSG	-	-	131	98%	131	98%	131	2
FG	-	-	7	70%	7	70%	7	3
IGT	-	-	108	100%	108	100%	108	-
MEG	-	-	3	100%	3	100%	3	-
MG	-	-	5	100%	5	100%	5	-
PC	-	-	108	100%	108	100%	108	-
RG	-	-	29	100%	29	100%	29	-

* Answered on or before 19 July 2013

** Answered after 18 August 2013 when the Standing Order 74(5) came into effect.

Note: data in the 30+ days late column is included in the Total Late column, not in addition to it.

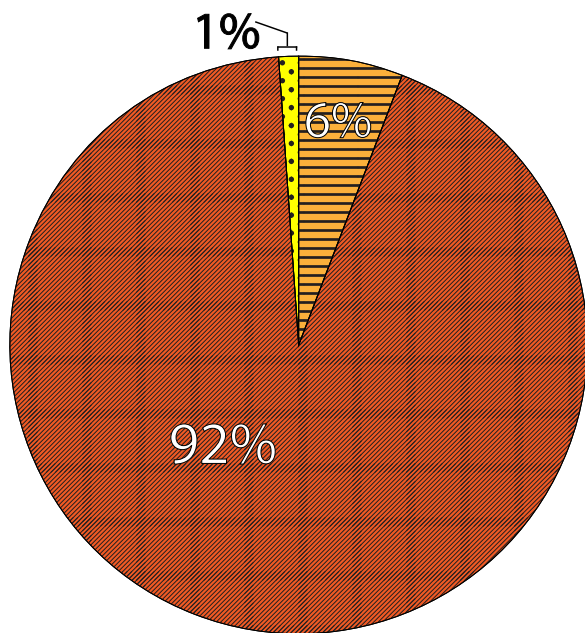


Figure 3: Key Totals for June 2013 Estimates

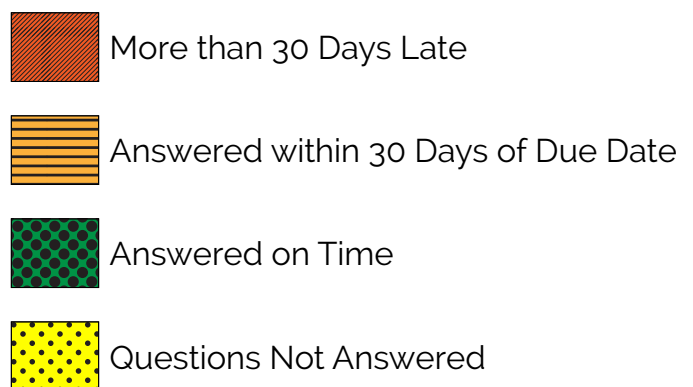


Table 5: June 2013 - Answers given to individual Senators on time, late or still missing at the time of the survey.

Senator	On Time*	% on time	Late	% late	30+ days late**	% 30+ days late	Not Answered	Total asked
Bushby	-	-	1074	99%	989	91%	7	1081
Williams	-	-	124	100%	124	100%	-	124
Boyce	-	-	37	100%	37	100%	-	37
Cormann	-	-	18	95%	17	95%	1	19
Edwards	-	-	5	100%	5	33%	10	15
Abetz	-	-	14	100%	14	100%	-	14
Milne	-	-	11	85%	11	85%	2	13
Waters	-	-	13	100%	11	85%	-	13
Cameron	-	-	12	100%	12	100%	-	12
Boswell	-	-	11	100%	11	100%	-	11
Eggleston	-	-	10	100%	10	100%	-	10
Johnston	-	-	6	100%	6	100%	-	6
Xenophon	-	-	6	100%	6	100%	-	6
Fifield	-	-	5	100%	4	80%	-	5
Ludlam	-	-	5	100%	5	100%	-	5
Birmingham	-	-	4	100%	4	100%	-	4
Humphries	-	-	4	100%	4	100%	-	4
Madigan	-	-	3	100%	3	100%	-	3
Payne	-	-	3	100%	3	100%	-	3
Rhiannon	-	-	3	100%	3	100%	-	3
McKenzie	-	-	2	100%	2	100%	-	2
Siewert	-	-	2	100%	2	100%	-	2
Bishop	-	-	1	100%	1	100%	-	1
Colbeck	-	-	1	100%	1	100%	-	1
Cormann/ Birmingham	-	-	1	100%	1	100%	-	1
Crossin	-	-	1	100%	1	100%	-	1
Heffernan	-	-	1	100%	1	100%	-	1
Kroger	-	-	1	100%	1	100%	-	1
Mason	-	-	-	-	-	-	1	1
Parry	-	-	1	100%	1	100%	-	1
Ryan	-	-	1	100%	1	100%	-	1
Sinodinos	-	-	1	100%	1	100%	-	1
Wright	-	-	1	100%	1	100%	-	1

* Answered on or before 19 July 2013

** Answered after 18 August 2013 when the Standing Order 74(5) came into effect.

Note: data in the 30+ days late column is included in the Total Late column, not in addition to it.

November 2013

Table 6: November 2013 - Answers given by Agency on time, late or still missing at the time of the survey.

Agency	On time*	% On time	Late	% Late	30+ days late**	% 30+ days late	Total Answered	Not answered
ABS	5	6%	77	94%	10	12%	82	-
ACCC	16	13%	110	87%	48	38%	126	-
AGA	-	-	4	100%	4	100%	4	-
AOFM	1	1%	75	99%	13	17%	76	-
APRA	5	7%	69	93%	18	24%	74	-
ASIC	-	-	99	100%	97	98%	99	-
ATO	-	-	90	98%	21	23%	90	2
CGC	12	16%	63	84%	8	11%	75	-
CSG	-	-	120	100%	67	56%	120	-
CSSG	-	-	2	100%	2	100%	2	-
FG	-	-	34	100%	14	41%	34	-
IGT	16	18%	74	82%	3	3%	90	-
MEG	-	-	9	100%	2	22%	9	-
MG	-	-	36	100%	18	50%	36	-
PC	9	8%	101	92%	26	24%	110	-
RG	-	-	54	92%	23	39%	54	5

*Answered on or before 17 January 2014

** Answered after 16 February 2014 when the Standing Order 74(5) came into effect.

Note: data in the 30+ days late column is included in the Total Late column, not in addition to it.

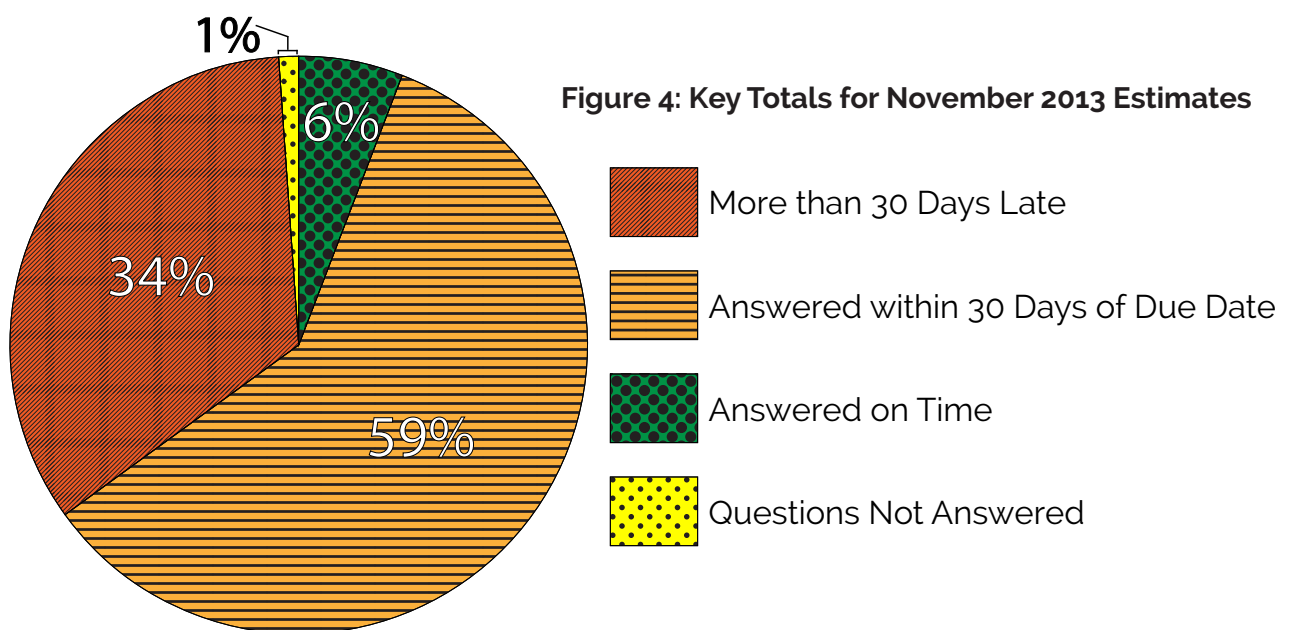


Table 7: November 2013 - Answers given to individual Senators on time, late or still missing at the time of the survey.

Senator	On Time*	% on time	Late	% late	30+ days late**	% 30+ days late	Not Answered	Total asked
Ludwig	26	7%	373	93%	108	27%	–	399
Wong	21	7%	267	91%	110	38%	5	293
Ludwig/ Wong	13	5%	270	95%	102	36%	–	283
McKenzie	–	–	20	100%	12	60%	–	20
Madigan	–	–	18	100%	18	100%	–	18
Dastyari	1	7%	11	79%	7	50%	2	14
Williams	–	–	13	100%	11	85%	–	13
Pratt	–	–	12	100%	7	58%	–	12
Urquhart	–	–	6	100%	6	100%	–	6
Bushby	–	–	5	100%	2	40%	–	5
Bilyk	–	–	4	100%	4	100%	–	4
Di Natale	–	–	4	100%	1	25%	–	4
Rhiannon	–	–	4	100%	1	25%	–	4
Ludlam	–	–	3	100%	2	67%	–	3
Heffernan	2	100%	–	–	–	–	–	2
Ruston	–	–	2	100%	1	50%	–	2
Xenophon	–	–	2	100%	–	–	–	2
Bushby/ Heffernan	1	100%	–	–	–	–	–	1
Siewert	–	–	1	100%	1	100%	–	1
Wish-Wilson	–	–	1	100%	1	100%	–	1
Wong/ Pratt	–	–	1	100%	–	–	–	1
Wright	–	–	1	100%	1	100%	–	1

* Answered on or before 17 January 2014

** Answered after 16 February 2014 when the Standing Order 74(5) came into effect .

Note: data in the 30+ days late column is included in the Total Late column, not in addition to it.

Methodology

Data regarding questions on notice is available on the Australian Parliament House website in list form and provides the following general information:

- Question number
- Senator who asked the question
- Division/agency
- Broad topic
- Date answered

Questions are often grouped in a single row for example:

QON No.	Senator	Agency OR Group	Broad topic	Date answered	View
1-4	Bilyk	AGA	Australian Government Actuary Report: Commonwealth Expenditure Associated with Retirement (Subclass 410) Visa	18/02/2014	(PDF 241KB)
5-10	Williams	ASIC	Travel by ASIC Chairman	18/02/2014	(PDF 171KB) Attachment (PDF 431KB)
11-20	Madigan	ACCC	ACCC Investigation into Plywood	07/02/2014	(PDF 175KB)
21-28	Madigan	ACCC	ACCC Investigation into Plywood	07/02/2014	(PDF 175KB)

RoLIA parses the groups of questions into individual rows so counts could be made by Senator, date answered and agency. Summary tables organizing the data by agency and Senator present information on:

- questions answered on time
- questions answered late
- questions answered after the Standing Order 74(5) came into effect
- percentage of question answered on time
- percentage of questions answered late
- percentage of questions answered after the Standing Order 74(5) came into effect
- questions not answered at the time of the Survey (9 April 2014)

Appendix 1 - Standing Order 74(5)

Senate Standing Order 74(5)

If a minister does not answer a question on notice asked by a senator within 30 days of the asking of that question, or if a question taken on notice during a hearing of a legislative and general purpose standing committee considering estimates remains unanswered 30 days after the day set for answering the question, and a minister does not, within that period, provide to the senator who asked the question an explanation satisfactory to that senator of why an answer has not yet been provided:

- (a) at the conclusion of question time on any day after that period, the senator may ask the relevant minister for such an explanation; and
- (b) the senator may, at the conclusion of the explanation, move without notice – That the Senate take note of the explanation; or
- (c) in the event that the minister does not provide an explanation, the senator may, without notice, move a motion with regard to the minister's failure to provide either an answer or an explanation.

Appendix 2 - Links to Raw Data

Estimates	Date of Data Collection from APH Website	Links to Raw Data on APH website
November 2013	9 April 2014	http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/economicsccte/estimates/sup1314/Treasury/index
June 2013	9 April 2014	http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/economicsccte/estimates/bud1314/Treasury/index
February 2013	9 April 2014	http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/economicsccte/estimates/add1213/Treasury/index

