

**Answer to question on notice:**

**HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS**

**REVIEW OF THE ASIC ANNUAL REPORT (SECOND REPORT) 2019**

**QoN: ASIC36QON**

**Member: Mulino**

**Reference: Hansard, 23 October 2020, p. 40-41**

**Dr MULINO:** ... I'm just wondering if you could provide an update on where the implementation of the royal commission's anti-hawking legislation is up to.

**Ms Chester:** I'll take that question. As you'd be aware, the government announced during the COVID-19 period that there was going to be a six-month delay with implementation for the legislation that was yet to enter the House. With respect to the anti-hawking provisions, they were caught up in those delays and, as we understand it, the government is on track for the exposure drafts and the new legislation to enter the House by the end of this year.

**Dr MULINO:** Do you see the potential for anti-hawking to interact with the stapling measures that have been proposed?

**Ms Chester:** Can you expand on how you would see them interacting, Dr Mulino?

**Dr MULINO:** For example, if anti-hawking wasn't strong enough, you could potentially see people put into products that weren't suitable that they're then stapled to. Obviously, we haven't seen all the details of the stapling measures, but I'm just wondering again—

**Ms Chester:** So the stapling measures relate to when somebody has defaulted into a super account, so there wouldn't be hawking involved. I might pause there and see if Commissioner Danielle Press has anything further to add to that.

**Ms Press:** I don't actually see the connection between stapling and anti-hawking. As Deputy Chair Chester said, the stapling is really when someone's been defaulted into the fund. However, I'd be happy to take it on notice and come back to you, if possible, because I'm struggling to see the connection.

**Answer:**

The Member's question in respect of the relationship between anti-hawking and stapling concerns the Government's *Your Future, Your Super* package announced in the 6 October Federal Budget. ASIC is not in a position to comment in any detail because the legislation for this package is still being developed.

The Government's *Your Future, Your Super* publication of October 2020 states that "The Government will ensure that when you move jobs your account will be 'stapled' automatically to you, to protect your retirement savings being drained by the costs of unintended multiple accounts". The expected consequence of implementation of this principle is that employees will be less likely to have new default superannuation accounts created by employers and will instead be more likely to have contributions paid into an existing account (being an account which they have chosen or have been defaulted into by a previous employer).

The aims of the anti-hawking legislation, according to the exposure draft of the Explanatory Memorandum for the Financial Sector Reform (Hayne Royal Commission Response – Protecting Consumers (2020 Measures) Bill 2020, are to give consumers greater control over their decisions to acquire financial products and to strengthen prohibitions on consumers being offered financial products as a result of unsolicited contact. To the extent that the anti-hawking legislation provides additional protections for consumers in choosing a fund it could be said that the anti-hawking reforms complement the stapling reforms.

More generally we note that the stapling reforms will form part of a broad regulatory framework and the impact of the reforms for consumers depends on the way in which the overall regulatory framework operates.