

Chapter 2

Treasury portfolio

2.1 This chapter summarises certain key areas of interest raised during the committee's consideration of additional estimates for the 2017–18 financial year for the Treasury portfolio. This chapter of the report follows the order of proceedings and is an indicative, not exhaustive, account of issues examined.

2.2 On 28 February and 1 March 2018, the committee heard evidence from Senator the Hon. Mathias Cormann, Minister for Finance and Senator the Hon. James McGrath, Assistant Minister to the Prime Minister, along with officers from the Department of the Treasury (Treasury) and agencies of the Treasury portfolio, including:

- Australian Charities and Not-for-profits Commission;
- Productivity Commission;
- Commonwealth Grants Commission;
- Australian Securities and Investments Commission;
- Australian Competition and Consumer Commission and the Australian Energy Regulator; and
- Australian Prudential Regulation Authority.

2.3 Senators present over the course of the two days of hearings included Senator Hume (Chair), Senator Ketter (Deputy Chair), Senators Burston, Bushby, Colbeck, Georgiou, Hanson, Keneally, Leyonhjelm, Lines, Ian Macdonald, McAllister, O'Neill, Patrick, Rhiannon, Siewert, Steele-John, Watt, Whish-Wilson, and Williams.

Macroeconomic Group and Corporate Group

Departmental Secretary

2.4 The opening statement made by the Treasury Secretary, Mr John Fraser, commented on the state of both the global and Australian economics. In particular, Mr Fraser's statement addressed the global economy, the United States (US) tax reform package, China's growing economy, Australian wage growth and household debt, the housing market, Australia's energy system, and the budget outlook to 2020–21.

2.5 Mr Fraser commented in detail on the 2017–18 Mid-Year Economic and Fiscal Outlook (MYEFO), highlighting that this MYEFO was the government's fifth consecutive budget update to maintain a projected surplus in 2020–21. He specified that:

The budget bottom line improved by \$9.3 billion across the forward estimates from last year's budget to MYEFO. Over the forward estimates, the budget is now projected to return to a \$10.2 billion surplus in 2020–21, up on the \$7.4 billion surplus reported in the 2017–18 budget. The result reflects lower payments as well as higher total receipts over the forward

estimates. Compared with the outlook at budget, total payments are \$6.5 billion lower over the four years to 2020-21, while total receipts are up by \$2.8 billion. Payments are expected to fall to 24.9 per cent of GDP by 2020-21, only slightly above the 30-year historical average.¹

2.6 Mr Fraser also spoke of uncertainty in the Australian economy pointing to factors including the current state of the housing market and the national energy system. In relation to housing, Mr Fraser commented that 'after experiencing one of the largest booms in housing construction since Federation, dwelling investment appears to have peaked'.²

2.7 In relation to the national energy system, Mr Fraser summarised that:

The energy sector is in transition, with investment chilled by uncertainty. We have all seen the impact on prices and sometimes on reliability. The government has adopted the Energy Security Board's proposal for a national energy guarantee and the Energy Security Board is developing this proposal through COAG. This policy should increase certainty for investment and address the challenge of designing a market to deliver affordable, reliable and sustainable power.³

2.8 Mr Fraser also commented that the recent 'sluggish pace' of wages growth in Australia has been a constraint on household incomes and spending.⁴ However, he also highlighted a small improvement in this area, noting that:

Last Wednesday's wage price index release showed that wage growth reached 2.1 per cent through the year to the December quarter, slightly higher than the market expected, with the education and health industries being the main contributors to growth. Victoria in particular has seen stronger signs of wage growth, with growth of 2.4 per cent through the year.⁵

2.9 Mr Fraser concluded that he remained optimistic that Australia's economy would continue to strengthen over the medium term, highlighting that this could be achieved through 'sustained fiscal discipline'.⁶

Company tax rate

2.10 The committee discussed the government's policy of reducing the company tax rate in Australia with the Macroeconomic Group as well as with several areas of Treasury over the two days of hearings.

2.11 Mr Fraser explained that he believed a cut to the company tax rate would foster an environment for stronger economic growth:

1 *Proof Estimates Hansard*, 28 February 2018, p. 8.

2 *Proof Estimates Hansard*, 28 February 2018, p. 7.

3 *Proof Estimates Hansard*, 28 February 2018, pp. 7-8.

4 *Proof Estimates Hansard*, 28 February 2018, p. 7.

5 *Proof Estimates Hansard*, 28 February 2018, p. 7.

6 *Proof Estimates Hansard*, 28 February 2018, p. 8.

My belief is that you also have higher real wages because it encourages productivity growth. The modelling for this directionally points that way. In terms of the precision of the modelling, my own view is that the modelling—it's a bit beyond the modelling that we do, that others do all round the world. It's what Keynes said, it's about animal spirits. The reaction to the US Trump measures—so far it does seem to be a clear positive.⁷

2.12 The committee asked the Macroeconomic Group about the proposed lowered company tax rate of 25 per cent would have an impact on the budget deficit. Mr Fraser acknowledged that the company tax cut would be a cost to the budget, however also pointed out that the cut is fully costed and funded, and would still see the budget return to surplus in 2020–21.

2.13 Mr Fraser also noted that Australia was not alone in deciding to revise its company tax rate downwards. Other countries including the US, Belgium and France also plan to lower their rates to below 30 per cent. Mr Fraser emphasised the importance of this move, pointing out that if Australia does not keep up, that it will have one of the highest corporate tax rates amongst advanced economies. He noted that 'in a competitive world for corporate capital flows, this represents a challenge'.⁸

Skilled migration

2.14 The committee also discussed the potential macroeconomic effects of attracting young skilled migrants to Australia. Mr Fraser pointed out that the migration of skilled workers to Australia was critical in part due to our ageing population:

For Australia, the quality of the immigration is critical, I think, in terms of not totally offsetting the ageing impacts—that's still a huge issue for us and other countries. Wherever you go in Australia, you see the benefits of the quality of industrious, intelligent immigrants. You see it in the cities and you see it in the rural areas.⁹

2.15 Mr Fraser highlighted the economic contributions that migrants make through the establishment of small and medium-sized businesses in Australia.

2.16 The committee also discussed a Freedom of Information (FOI) request, which led to the release of a document by Treasury on 5 January 2018 that contained modelling and advice relating to Labor's negative gearing and capital gains tax policies. This topic was raised with several areas within Treasury.

Markets Group

Foreign Investment Review Board

2.17 The committee sought information from the Markets Group in relation to an announcement made by the Treasurer on 1 February 2018, which foreshadowed the

7 *Proof Estimates Hansard*, 28 February 2018, p. 12.

8 *Proof Estimates Hansard*, 28 February 2018, p. 5.

9 *Proof Estimates Hansard*, 28 February 2018, p. 11.

introduction of new rules supporting Australians wanting to purchase Australian agricultural land. Officials from the Treasury advised the committee that:

The Treasurer more specifically noted that, subject to exceptional circumstances, foreign investors will need to demonstrate that agricultural land they intend to acquire has been part of a public sale process and marketed widely to potential Australian bidders for a minimum of 30 days and that Australian bidders have had an opportunity to participate in the sales process. Subsequent to that media release, there has also been the issuing of guidance on the Foreign Investment Review Board website which provides some further information as to those requirements.¹⁰

2.18 Departmental officers also highlighted that this measure, in conjunction with the agricultural land register, would provide 'a lot more transparency' by allowing the community to have access to data on where and how much Australian land is foreign owned.¹¹

Royal Commission

2.19 The committee discussed the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. Treasury advised that it provided the terms of reference for the Royal Commission to the Treasurer on Tuesday 28 November 2017. The Royal Commission was then announced on Thursday 30 November 2017.

2.20 Treasury officers confirmed that the Royal Commission has:

...been a matter of public importance for some time. It has been raised by numerous political parties. It's something that we have given a great deal of thought to in the advice that went to the government in terms of the scope, what it would look like, how it might mesh with existing things that were underway—a whole range of factors.¹²

Revenue Group with the Australian Taxation Office

Commissioner's opening statement

2.21 The Commissioner of Taxation, Mr Chris Jordan AO, highlighted a number of the Australian Tax Office's (ATO) activities in his opening statement, including the 2016–17 tax time, the Tax Avoidance Taskforce, and investigations following the \$165 million tax fraud in 2017.

2.22 The Commissioner advised the committee that Dr Simon Longstaff had commenced his new role as the executive director of the Ethics Centre, and explained that this appointment was part of the ATO's assurance to the committee and the community that their integrity is 'very much intact'.¹³

10 *Proof Estimates Hansard*, 28 February 2018, p. 49.

11 *Proof Estimates Hansard*, 28 February 2018, p. 49.

12 *Proof Estimates Hansard*, 28 February 2018, p. 51.

13 *Proof Estimates Hansard*, 28 February 2018, p. 63.

2.23 Mr Jordan also highlighted the results of the 2016–17 tax time, noting that it was the 'most successful [they've] ever had in terms of ease of experience, client satisfaction and speed of return processing and that important thing: issuing of refunds'.¹⁴ Mr Jordan also reported that complaints were down 'by around 30 per cent'.¹⁵

Multinational Anti-Avoidance Law

2.24 The committee sought information on the number of foreign-owned multinational companies in Australia. The ATO was able to advise the following breakdown of foreign-owned companies in Australia:

I can confirm that there were 1,073 foreign-owned companies published in the 2015-16 transparency report. That was out of 2,043 in total. Of those 1,073 companies, 667 paid tax; 406 did not. So less than 40 per cent did not pay tax, or, putting it the other way, more than 60 per cent did pay tax. That is comparable with the level of Australian public companies which did pay tax and slightly lower than the number of Australian private companies which paid tax in that year.¹⁶

Freedom of Information request

2.25 The committee discussed, with the Revenue Group, the processes used for costing policies in relation to the FOI on negative gearing. Treasury officials confirmed that they are requested to cost policies by the Treasurer, and that in relation to this particular request they were asked to cost eight separate measures:

We costed a policy to limit negative gearing to new housing from 1 July 2018. We costed a policy to halve the capital gains tax discount on all assets purchased after 1 July 2018 from 50 per cent to 25 per cent. We costed a policy to change the thin-cap rules to only allow deductions for interest at the multinational group's worldwide gearing ratio from 1 July 2018. We costed a policy to introduce a \$3,000 cap on the amount that individuals can deduct under the 'cost of managing tax affairs' label from 1 July 2018. We costed a policy to increase the top marginal tax rate by two per cent for individuals with taxable income over \$180,000 from 1 July 2018. We costed a policy to impose a minimum non-refundable withholding tax rate of 30 per cent on distributions from certain discretionary trusts to individuals from 1 July 2019. We costed a number of superannuation proposals that were lowering the annual non-concessional contributions cap, further lowering the high-income superannuation contribution threshold to \$200,000, reversing the introduction of catch-up concessional contributions, reversing changes to tax deductibility for personal superannuation contributions. And we costed a policy to limit the Enterprise Tax Plan to entities below \$2 million.¹⁷

14 *Proof Estimates Hansard*, 28 February 2018, p. 62.

15 *Proof Estimates Hansard*, 28 February 2018, p. 62.

16 *Proof Estimates Hansard*, 28 February 2018, p. 84.

17 *Proof Estimates Hansard*, 28 February 2018, p. 102.

2.26 Treasury confirmed that this process was carried out in the usual way and that this was in line with the Charter of Budget Honesty.¹⁸

Australian Charities and Not-for Profits Commission

2.27 On 11 December 2017, The Hon Dr Gary Johns commenced his new role as the Commissioner of the Australian Charities and Not-for-profits Commission (ACNC). This was his first appearance at the committee's estimates hearings.

2.28 The committee discussed the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017 (the bill), noting that a number of charities could be affected by the potential reform.¹⁹ In particular, the committee expressed that the definition of political expenditure, and how to identify those charities which are having an influence on political discourse were two key issues raised by the bill.

2.29 The bill is currently before the Joint Standing Committee on Electoral Matters which is due to report on 28 March 2018.

Fiscal Group

National Housing and Homelessness Agreement

2.30 The committee sought an updated from Treasury's Fiscal Group in relation to the progress of negotiations on the National Housing and Homelessness Agreement (NAHA). Officers from Treasury advised that:

We have had bilateral discussions now with most other jurisdictions, and we'll continue to roll through a series of those discussions and get into more detail as we negotiate how each jurisdiction will implement the multilateral. We're also continuing to work on the performance indicators that will support assessment and achievement under the new agreement.²⁰

2.31 The committee discussed some of the issues around states and territories having to create housing and homelessness strategies and provide the Commonwealth with that information. Treasury officials confirmed that this was the case, however, pointed out that 'there is no subjective assessment that the Commonwealth would be making about those strategies' and suggested that this issue may be 'the real sticking point with the states'.²¹

2.32 Treasury advised that the proposed timeline for the new arrangement would hopefully see the agreements with all jurisdictions in place by 30 June 2018.²²

18 *Proof Estimates Hansard*, 28 February 2018, p. 84.

19 *Proof Estimates Hansard*, 28 February 2018, p. 94.

20 *Proof Estimates Hansard*, 28 February 2018, p. 108.

21 *Proof Estimates Hansard*, 28 February 2018, p. 108.

22 *Proof Estimates Hansard*, 28 February 2018, p. 108.

Australian Securities and Investments Commission

Chairman's opening statement

2.33 On 1 February 2018, Mr James Shipton became the new Chair of the Australian Securities and Investments Commission (ASIC). In his opening statement, Mr Shipton highlighted the important role that ASIC plays in protecting the financial interests of Australians. He emphasised that ASIC must 'never forget that financial risks can and often are catastrophic to real people'.²³

2.34 Mr Shipton also noted the establishment of the Australian Financial Complaints Authority (AFCA), which will serve as a single scheme for all financial services and superannuation complaints.

Walton Construction

2.35 The committee sought an update on ASIC's case against Walton Construction. ASIC advised the committee that when Walton Construction collapsed in 2013, it owed 'about \$86 million to 1,400 unsecured creditors'.²⁴ In their assessment of the company, ASIC determined that the voluntary administrators appointed by the Walton group were not independent. ASIC took action in 2014 and, following an appeal, independent administrators were appointed. ASIC pointed out that:

One of the challenges for those [new] liquidators was, when they started to look into the company, there wasn't actually the funds there that would be sufficient for them to carry on the necessary work, to work out what had gone wrong.

We provided Assetless Administration funding to the liquidators who came in as a result of our court action. The liquidators were appointed on July 2014. In July 2016, we received a supplementary report by those new liquidators about the reasons for the failure of Walton Construction. We carefully considered the report that was provided and that included whether or not there was any criminal action that was available to us based on that report. We decided that there was not sufficient evidence that would lead to a criminal prosecution and so we decided not to pursue a criminal investigation.²⁵

2.36 The committee also asked ASIC about a number of investigations it is conducting including into Mr Clive Palmer, employer decision-making in relation to superannuation default funds, the Radio Rentals breach, and car insurance.

Productivity Commission

Inquiry into Horizontal Fiscal Equalisation

2.37 The Productivity Commission (PC) is currently undertaking an inquiry into Australia's system of horizontal fiscal equalisation (HFE). HFE is the mechanism

23 *Proof Estimates Hansard*, 28 February 2018, p. 113.

24 *Proof Estimates Hansard*, 28 February 2018, p. 116.

25 *Proof Estimates Hansard*, 28 February 2018, p. 117.

through which the Australian Government distributes GST revenue to the states and territories. A draft report was released on 9 October 2017. The committee noted that the PC had originally intended to table its final report for this inquiry on 31 January 2018. The final report is now due to be handed to the Australian Government by 15 May 2018.

2.38 In discussing some of the potential outcomes of the final report, officers of the PC commented that there is a difference between fiscal equality and equitable outcomes for individuals:

HFE is only a very small component part of the way the Commonwealth government works with states and territories to deliver fiscal equity and equitable outcomes when you look at issues like aged pension, which are done on the needs of the individual, as distinct from HFE, which is done on the fiscal needs of an individual state or territory.²⁶

Commonwealth Grants Commission

Inquiry into Horizontal Fiscal Equalisation

2.39 The committee also discussed the PC's inquiry into HFE with the Commonwealth Grants Commission (CGC), which is the body responsible for the distribution of GST between the states and territories.

2.40 When asked about the PC's suggested model for equalisation to the second strongest state, described in the draft report, the CGC expressed, as they did in their supplementary submission to the inquiry:

...that would result in all other states, other than the strongest state, having less GST share than they would under current arrangements. Current arrangements work on the basis that states are equalised so that they all have the same fiscal capacity to provide the average standard of services. If, under the alternative proposal floated by the PC in its draft report, seven jurisdictions were to have less GST, then they would, indeed, have less money to provide the average standard of services.²⁷

2.41 For example, CGC officers explained that Queensland currently receives \$14.963 billion of GST revenue. If the PC's proposed model were to be introduced, Queensland would receive only \$14.235 billion in GST revenue, leaving the state to raise the difference of \$729 million through other avenues.²⁸

2.42 Officers from the CGC pointed out though that it is a 'matter for governments as to what form of equalisation the commission should be charged to implement'.²⁹ The committee also noted that the final report would provide more information on how the approach to GST might change in the future.

26 *Proof Estimates Hansard*, 28 February 2018, p. 130.

27 *Proof Estimates Hansard*, 1 March 2018, p. 4.

28 *Proof Estimates Hansard*, 1 March 2018, p. 4.

29 *Proof Estimates Hansard*, 1 March 2018, p. 4.

Australian Competition and Consumer Commission and the Australian Energy Regulator

2.43 The committee discussed a wide range of topics with representatives from the Australian Competition and Consumer Commission (ACCC) and the Australian Energy Regulator (AER) including, the Australian energy market, the National Broadband Network (NBN), Takata airbags, petrol prices, and electricity and gas prices.

2.44 The committee particularly focused on the Takata airbag issue. ACCC informed the committee that there had been 23 deaths, one of which was in Australia, and 230 serious injuries that were caused by the incorrect deployment of Takata airbag inflators.³⁰

2.45 ACCC officers confirmed that five manufacturers were voluntarily recalling the airbags and that there are currently approximately 25 000 remaining in Australia. Officers also noted that they have been working with the car manufacturers concerned and commented that:

we were satisfied with the performance of those voluntarily recalling manufacturers in relation to the alpha airbags. They were conducting extensive communication campaigns. For instance, I know that Honda had got to the point where it was using private investigators. It was doorknocking to locate various consumers who might have vehicles with the alpha inflator.³¹

2.46 ACCC officers also explained that a mandatory recall was not necessary in this situation given the proactive response of the car manufacturers. Mr Rod Sims, the Chairman of the ACCC explained that a mandatory recall 'requires that you feel that a mandatory recall could add something to what was happening, and that part of the test couldn't be satisfied'.³²

Australian Prudential Regulation Authority

2.47 In his opening statement to the committee, Mr Wayne Byres, the Chair of Australian Prudential Regulation Authority (APRA) highlighted the agency's recent work in several areas including APRA's crisis resolution powers, increasing visibility of APRA's work program, and additional scrutiny from the Royal Commission and the International Monetary Fund as part of the Financial Sector Assessment Program.³³

2.48 The committee asked APRA about the work it is doing in relation to lending practices. Mr Byres commented that APRA is looking at lending practices across the board, and particularly the controls that banks have to make sure they get accurate

30 *Proof Estimates Hansard*, 1 March 2018, p. 13.

31 *Proof Estimates Hansard*, 1 March 2018, p. 13.

32 *Proof Estimates Hansard*, 1 March 2018, p. 13.

33 *Proof Estimates Hansard*, 1 March 2018, pp. 25–26.

information from borrowers in order to make a reasonable assessment of a borrower's ability to repay.³⁴

2.49 The committee also discussed the Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017 with APRA. The committee raised the issue of the safety of depositors' savings in the event that a financial institution fails. Mr Byres confirmed that depositors' savings are protected by the Financial Claims Scheme and further stated that: 'We do not have the power to bail in—as is the sort of the common-language term—depositors' money'.³⁵

Other topics raised

2.50 The committee discussed a wide range of topics during the two days of hearings with the Treasury portfolio. The above reporting of discussions is not complete. Other topics discussed by the committee included:

- Comparison of the US and Australian models for corporate tax cuts
- Enterprise tax plan
- Tasmania's economic position
- RBA's economic forecasting
- Wages growth and investment
- Impacts of negative gearing policy
- Household balance sheets (debt)
- Wages growth and rising employment rates
- ABC article written by Emma Alberici
- Advertising and marketing—media platforms used to promote government tax policies
- Foreign direct investment
- Mandatory comprehensive credit reporting—security and provisions for financial hardship
- Whistleblower Protections legislation—Parliamentary Joint Committee on Corporations and Financial Services report recommendations and progress of government response
- ATO's 'crackdown' on fraudulent tax claims
- Multi-national Anti-Avoidance Law
- Transfer pricing
- Callaghan review

34 *Proof Estimates Hansard*, 1 March 2018, p. 30.

35 *Proof Estimates Hansard*, 1 March 2018, p. 35.

- Real estate and tax evasion
- Outages on the ATO website
- Taxable status of trade unions
- Board of Taxation inquiry
- Sanitary pads and tampons and their tax status
- National Energy Guarantee
- Phoenixing activity and associated prosecutions
- Storm Financial determination and penalty
- ASIC's Statement of expectations
- Review of ASIC's RG97
- Crowd-funding regime
- Interim report on Financial Sector Competition
- NBN report by the Productivity Commission (report no. 83)
- ACCC report on communications systems (NBN)
- Fuel pricing
- Electricity prices
- South Australian gas supply
- Rules around APRA's disclosure
- Comparison of industry and retail super funds
- Development of an APRA Member Outcomes package

