

Parliamentary Joint Committee on Corporations and Financial Services
Australian Securities and Investments Commission
Answers to Questions on Notice
Public hearing: 15 July 2020

QoN No: 015
Topic: Sterling
Committee member: Senator Pratt
Reference: Hansard pages 21 and 22

Question:

Senator PRATT: You will recall that, at the last ASIC hearing that I participated in with you, I was asking some questions about the Sterling Group.

Mr Shipton: Yes.

Senator PRATT: Back at that time, your advice was that consumers who'd been affected by their investments with Sterling Group were to go through the complaints mechanism at AFCA.

Mr Shipton: Yes, I think I recollect that. That's correct.

Senator PRATT: You'd also be aware that people did indeed reach out to AFCA and lodge those complaints only to have AFCA hit the pause button on processing those complaints. The issue therefore is: you advocated that they needed to contact AFCA in order to have their complaints processed, but just a few weeks after people did that AFCA put a pause on the processing of those complaints. Are you aware of why AFCA did that?

Mr Shipton: I'm not aware of why that is the case. I will ask my colleague Mr Crennan to see if he is aware. Otherwise we can take that on notice.

Mr Crennan: I'm not aware specifically of their answer to that question. Most recently, in April, on our website we did refer investors to recent AFCA media releases, but we'll have to take on notice the specific question as to AFCA's apparent pausing.

Senator PRATT: So you're not aware of that pausing. Are you therefore still referring people to AFCA, or do you have alternative advice for them?

Mr Crennan: I'm not currently aware of alternative advice. I will take that question on notice and revert to you quickly.

Answer:

On the ASIC key matters website for the Sterling Group investigation published on 15 April 2020, ASIC referred Sterling investors to two recent AFCA Media Releases on the AFCA website.

The first is AFCA's Media Release dated 27 March 2020 entitled '[Statement on Sterling Complaints](#)'.

ASIC notes AFCA's comments in that Media Release regarding:

- the recent withdrawal of a number of Sterling complaints; and
- the potential for these withdrawals to hamper complainants' potential access to any compensation scheme of last resort that is ultimately able to be established by the Federal Government (Compensation Scheme of Last Resort).

AFCA on 14 April 2020 provided a [further update on its website](#) in relation to its consideration of complaints relating to insolvent companies (such as Theta and most of the companies within the Sterling Group of Companies, including the Silverlink entities) and a Compensation Scheme of Last Resort being considered by the Federal Government.

ASIC notes particularly the following advice from AFCA:

'AFCA acknowledges that the COVID-19 pandemic has subsequently become the key priority and focus for the Government, and as a result it is unclear what the impact will be on the establishment of a compensation scheme of last resort.

Until there is certainty provided about the scope and timing of the Compensation Scheme, AFCA has reviewed and put in place appropriate arrangements for dealing with any complaints it receives against insolvent financial firms. AFCA will put a pause on processing complaints against insolvent firms, this includes existing and new complaints. AFCA will accept future complaints about insolvent financial firms, but we will hold them over until there is more clarity about the Compensation Scheme, and the parameters of the scheme.'

Taking into account this latest advice from AFCA, ASIC remains of the view that it is in the interests of investors in the Sterling Group of Companies to continue to lodge and maintain complaints with AFCA, as it is only by doing so that such investors could be considered for compensation under any potential future Compensation Scheme of Last Resort that is ultimately able to be established.